



# MINUTES

## Regular Council Meeting

4:00 PM - Tuesday, January 8, 2019  
Council Chambers

The Regular Council of the Town of Beech Mountain was called to order on Tuesday, January 8, 2019, at 4:00 PM, in the Council Chambers, with the following members present:

**COUNCIL PRESENT:** Mayor Renee Castiglione  
Vice-Mayor Barry Kaufman  
Councilman Carl Marquardt  
Councilman Weidner Abernethy  
Councilman Wendel Sauer

**COUNCIL EXCUSED:**

**STAFF PRESENT:** Town Manager Tim Holloman  
Attorney Stacy Eggers, IV  
Town Clerk Tamara Mercer  
Fire Chief Bob Pudney  
Chief of Police Tim Barnett  
Director of Infrastructure Robert Heaton  
Town Planner Preston Yates  
Police Captain Renee Carpenter  
Building Inspector John Merritt  
Public Works Superintendent Matthew Clawson  
Public Utilities Superintendent Daniel Davis  
Finance Officer Steve Smith  
Director of Tourism and Economic Development Kate Gavenus  
Director of Special Projects Riley Hatch

1. **CALL TO ORDER**
2. **ADOPTION OF AGENDA**
  - 2.1. Adopt agenda

### **Motion**

Wendel Sauer made a motion to adopt the January 8, 2019 Town Council meeting agenda. Weidner Abernethy seconded the motion. CARRIED. unanimously.

### **3. INVOCATION- TIM HOLLOMAN**

### **4. PLEDGE OF ALLEGIANCE**

### **5. CONSENT AGENDA**

5.1. Adoption of Minutes- December 11, 2018

5.2. Fire Department Contract

#### **Motion**

Wendel Sauer made a motion to adopt the consent agenda. Barry Kaufman seconded the motion. CARRIED. unanimously.

### **6. PUBLIC COMMENT**

#### **6.1.**

Mr. Wilson King of 405 Beech Mountain Parkway said he is ambivalent about the proposed dog ordinance. He does fear running over loose dogs but the efficient killers on the mountain are cats. He was concerned with cats killing birds.

Mr. King paid tribute to Mr. Vernon 'Vern' Holland and said Vern's eulogy should note that he was instrumental in the genesis of the town and the resort and was the first mayor. Mr. King stated the growth and prosperity was due to Mr. Holland's real estate and land sales and his keen awareness for business. Mr. Holland established the government. He was a real character and described Vern as 'irascible' and a man who will be sorely missed. Peace be with Mr. Vern Holland.

Mr. Michael Holland of 1004 Beech Mountain Parkway recounted his unpleasant encounters with dogs and said that a few weeks ago on Skiway Circle it was a leashed dog that barked and snapped at him. Mr. Holland said the dog was not running or roaming free, but he was in danger anyway, so he questioned the need for a restraining device in this example. The problem can still be with an owner who does not have control of the dog. Mr. Holland is against passing more regulations and said the current ordinance addresses this issue.

Ms. Cindy Keller of 100 Village Creek Road believes her dogs have the right to be a dog. Ms. Keller said a walk-about allows dogs to be emotionally healthy. Ms. Keller is opposed to a leash rule and suggested the town address this issue on a case by case basis.

Mr. Frank Steel of 107 Christie Way spoke about issues at the trash dump. Mr. Steel discussed craters and potholes in the road as you drive up the hill. The snow and ice will create more craters and we need to fix the potholes and clean the dump.

## **Motion**

Barry Kaufman made a motion to open the Public Hearing for the proposed animal leash restraint ordinance. Wendel Sauer seconded the motion. CARRIED. unanimously.

## **7. PUBLIC HEARING-ANIMAL RESTRAINT PROPOSED ORDINANCE**

7.1. Mr. Frank Steel introduced a copy of a letter he had read at the previous Town Council meeting and had emailed to Council. Mr. Steel reiterated his position that he was opposed to dog leash ordinance. He had requested a complete comprehensive review of the last two years of complaints, enforcement and issues related to animal restraint from the police department. He noted that Chief Barnett provided this document and in five years, Mr. Steel said there have been eight complaints regarding dogs. He believes this is not life threatening. The Town has the current animal and bird ordinance which addresses this and other methods such as euthanizing a dangerous animal. He suggests adding a paragraph to the ordinance for a repeat offender, and for that case offender to be held accountable and must restrain their dog not force everyone in the community to restrain good dogs.

There was further discussion regarding the police report and police procedures. Councilman Marquardt said he was opposed to the proposed new language, but the report as stated by Mr. Steel was misrepresented, the 8 counts in the report were for people who have been charged and did not include the 134 incidences. There was further back and forth conversation regarding this point.

Mr. Jeff Fabri of 113 Black Birch Lane, agreed there is a current leash law and enforcement of the ordinance should be followed. Mr. Fabri believed we need to actively enforce the existing regulation before adding additional rules and he was opposed to the proposed leash restraint.

Mr. Gary Berthold of 103 Upper Grouse Ridge Road said he has lived there since 1995 and he had been concerned with stray dogs. Mr. Berthold recounted several stories of dogs loose on Pond Creek Road and other areas. His dogs are restrained, and other people's dogs should be restrained for the safety of the dog and people. He has raised dogs and been around animals his entire life, and dogs should not be allowed to run indiscriminately and loose. Mr. Berthold is in favor of an animal restraint ordinance. He relayed an occurrence about a stray dog and how it attacked his dog on the leash. He has filed police reports regarding incidents and the owners should be responsible for any attacks as they are irresponsible owners and they should not allow dogs to run loose.

Ms. Susie Knepka of 1409 Beech Mountain Parkway stated that her dog is not on a leash but if he is a problem, people can let her know and she will put her dog on a leash. He was at the meeting greeting people and she said he is not vicious but friendly. If the Town passes a leash law for every dog, then she will comply with the regulations if they are passed. Ms. Knepka thanked Vice mayor Kaufman for letting her know when her dog was a

nuisance.

Ms. Kelly Melang of 1032 Charter Hills Road, recounted an emotional story when her dog was attacked on her own property, but it was an irresponsible owner's fault. The veterinary bill was over \$3,000 but she is not in favor of passing the proposed restraining ordinance.

### **Motion**

Barry Kaufman made a motion to close the Public Hearing. Weidner Abernethy seconded the motion. CARRIED. unanimously.

## **8. NEW BUSINESS**

- 8.1.** Proclamation- Paying tribute to Mr. Vernon Holland's contributions as he was instrumental in the creation and support for the incorporation the Town of Beech Mountain. The Proclamation was read by Mayor Castiglione and presented to Mr. Holland's family; Tim and Jan Holland and their son, Michael Holland. Vern will be dearly missed may he rest in peace, said Mayor Castiglione.
- 8.2.** Proclamation- National Mentoring Youth Month is recognized across the County and State and the proclamation to encourage citizens to volunteer as a youth mentor was read by Mayor Castiglione.
- 8.3.** Avery County Strategic Plan: Presentation by County Manager Philip Barrier

Mr. Barrier reported that Avery County is visiting towns, boards and citizens in order to receive input to formulate the Avery County Strategic Plan. He noted that the County currently has a plan for Planning, Economic Development and Transportation, but they have not adopted a Strategic Plan for government as a whole. He emphasized that citizens can go to their website and can follow the links to participate in forming our goals and how to achieve our goals. Go to [www.averycountync.gov](http://www.averycountync.gov) to complete the online form. Mr. Barrier requested the public let the county seat government know what services are needed in the community and to contribute to the County mission statement.

Mr. Barrier discussed the fiscal year budget and property taxes as well as the Watauga and Avery County sales tax. He noted that the increased 1/4 cent sales tax, would produce an additional \$61,000 a month, and he requested support and a 'yes vote', as a sales tax does not increase property owners' taxes. The deadline for on-line participation is open until May of 2019 and the results will be presented to the County Commissioners. He thanked everyone in advance for helping to establish the Strategic Plan for Avery County.

- 8.4.** FY: 2017-2018 Budget Audit Presentation -

Ms. Misty Watson, CPA stated that she has presented and audited the

Town for the last four years, but as she takes on her new role as Finance Director for Watauga County, Ms. Watson thanked the Council and Town for allowing her to provide the audits throughout the years.

Ms. Watson reviewed the report and said the assets exceeded the Town's liabilities and the deferred inflows of resources at the close of fiscal year was \$24,359,807 (net position) and the government's total net position increased by \$1,125,543 due to expenses being less than budgeted and the local sales tax being actually higher than budgeted. She noted the tax collection rate was 97.55% for 2017-2018, a slight decrease from FY 2016-2017 and the State average collection rate is 98.51 % for a town the size of Beech Mountain. The average tax collection rate across the State was 99.19%.

The unassigned fund balance for the General Fund is \$3,296,690, which is 55% of the General Fund expenditures. The average fund balance available for similar size towns was 118% where as it is 45% across the State.

The water and sewer fund had an increase in net position of \$4,379, leaving the net position at June 30, 2018 at \$10,215,649, while the Sanitation Fund had an increase of \$1,286, leaving the net position on June 30, 2018 at \$649,835.

Ms. Watson added that the revenue bonds decreased in total by \$570,000 and no new debt was issued in the fiscal year. There was a question and answer discussion regarding the capital assets and capital projects such as the Watauga Intake and other construction projects such as the Spruce Hollow to Parkway Waterline projects. Further detailed discussion and goals would be developed by Town Council at the Town Council budget retreat. Ms. Watson again thanked the Town and citizens for allowing her to serve as auditor.

- 8.5.** Water Supply Watershed Overlay Text Amendment- request to schedule a Public Hearing

**Motion**

Barry Kaufman made a motion to set a public hearing date for the next regularly scheduled meeting in February (2/11/19). Wendel Sauer seconded the motion. CARRIED. unanimously.

**9. OLD BUSINESS**

- 9.1.** Sign Ordinance Amendment request for Public Hearing

**Motion**

Wendel Sauer made a motion to set a public hearing date for the next regularly scheduled meeting in February (2/11/19). Weidner Abernethy seconded the motion. CARRIED. unanimously.

- 9.2.** Consider and discuss Animal Restraint text amendment

Councilman Sauer reread the current ordinance and cited the definitions under 92.16. He said we have a current leash law and he noted the verbiage wherein it is a complaint driven process. He said the police can't respond if there is not a complaint. He gave examples of dogs roaming and of owners who don't restrain their animals. He said if a dog gets hit by a car it is the owner's fault, he believes the police report under-states the problem but at this time the current ordinance could be used to address the issues.

Vice-mayor Kaufman posed the question that there is an issue with animal registration. Dogs must be registered and the regulation states if one lives here more than 30 days, the dog must be registered. He said inoculated dogs are registered but if people don't have their animals inoculated then they probably won't comply with registering. He recounted a rabies incident and said he was not in favor of the proposed ordinance but cautioned people to have their animals up-to-date with their shots.

Councilman Abernethy is opposed to the proposed animal restraint ordinance.

Councilman Marquardt stated he has firmly been not in favor of the proposed ordinance, but Mr. Berthold's comments are valid and residents need to be registering their dogs. The additional ordinance is not necessary due to a few problems in the town and we need to uphold the current ordinance.

Mayor Castiglione noted that she believed we needed to address this issue because she got a call regarding an incident with a dog, so she placed it on the agenda, however the new ordinance sounds similar to the current ordinance. She explained why she had considered the leash law but now she is not in favor of the proposed language. She cautioned that these few select dog owners should please consider their neighbors. She reviewed several examples of incidents with roaming dogs and how dangerous it is if a driver has to decide to either hit the dog or harm themselves in an automobile accident. She urged owners to restrain their dogs for the safety of the animal and our citizens.

Chief Barnett explained the police procedures to address complaints. He clarified how citizens can report an incident and help the police enforce the current ordinance and how animal control is processed at the Magistrate's Office.

After lengthy deliberations by Town Council, it was determined that no member was in favor of the proposed amendment and the matter failed for lack of support.

### **9.3. Board and Committee member appointments-**

#### **Motion**

Wendel Sauer made a motion to nominate Brian Barnes and Lee Wittmann to

serve on the Board of Adjustment as full-time members and nominated Cindy Porter, Sarah Welsh, and Karla Lerner as alternate members to the Board of Adjustment. Barry Kaufman seconded the motion. CARRIED. unanimously.

### **Motion**

Carl Marquardt made a motion to nominate Phyllis Winter, James Accardi and Sandy Carr to the TDA (Tourism Development Authority) and added that the removal of Larry Watren was due to absences or lack of attendance at meetings and to nominate Mandy Taylor to finish serving the term of that position. Wendel Sauer seconded the motion. CARRIED. unanimously.

### **Motion**

Carl Marquardt made a motion to nominate Phyllis Winter as Chairman and Jimmy Accardi as Vice Chairman of the TDA board as is the Town Council's authority to appoint the Chair and Vice Chair of this board. Wendel Sauer seconded the motion. CARRIED. unanimously.

### **Motion**

Weidner Abernethy made a motion to nominate Kelly Melang to the Parks and Recreation Committee as well to re-appoint Rory Ellington and Loretta Wagner to continue to serve on the Parks and Recreation committee. Carl Marquardt seconded the motion. CARRIED. unanimously.

### **Motion**

Renee Castiglione made a motion to nominate Jane Miller to the Tree Board as well to re-appoint Tony Hunter, Susie Knepeke and Lear Powell to continue to serve on the Tree Board. Barry Kaufman seconded the motion. CARRIED. unanimously.

### **Motion**

Barry Kaufman made a motion to nominate Peter Paton to the Planning Board. It was noted by Councilman Sauer that the rest of the Boards and Committees vote on their own Chair and Vice Chairs, but it is within the Town Council authority, to appoint the Chair and Vice Chairs of the TDA. Wendel Sauer seconded the motion. CARRIED. unanimously.

## **10. TOWN MANAGER AND STAFF REPORTS- SUBMITTED TO TOWN COUNCIL**

- 10.1.** Fire Department Monthly Report
- 10.2.** Planning and Inspections Report 2018-12
- 10.3.** Police Department Monthly Agenda Report
- 10.4.** Utility Department Monthly Report

- 10.5. Tourism Development Authority (TDA) Report
- 10.6. December 2018 Recreation Department Report
- 10.7. PWD Monthly Report

10.8. Mr. Holloman reviewed the upcoming calendar and said there will be a Shane Outpost Park Town Hall meeting on February 28 at 4:00 p.m. in the Town Council Chambers. The meeting will address the Parks and Recreation park grants and applications. Town Council retreat is scheduled for January 15 and possibly the 16th if the extra time is needed and the deadline for submission of ideas and concerns by the public is January 10, 2019. Mr. Holloman encouraged citizens to submit as we only have three submissions currently. There have been 444 completed surveys for the Comprehensive Plan and he encouraged more participation in that survey and said the Town will send out another announcement over the telephone code red system as a reminder. There is a new audio/visual system installed at the Recreation Center for Town Hall and public meetings. We are excited to have this audio/visual full capability for the new year.

## 11. TOWN COUNCIL COMMENTS

11.1. Councilman Sauer addressed Mr. Steel's comment and said the dump has bad drainage issues among other things.

Councilman Abernethy stated that he ran for office to address the issues with the recycling center and he presented photos of the recycling center. He said the Convenience Center needs a face-lift and he had promised voters that the dump would be cleaned up. He presented photos of the Sugar Mountain dump in January and the Beech Mountain dump at the same time. He reviewed many different dates and times, and photos, and he passed out the pictures to the citizens. He has been complaining for months about this issue and we are ineffective. He explained that other facilities have trash compactors. He said he has measured the layout of the area. He reviewed his suggestions as to how we can fix and clean up the problem. He also suggested more cans and to empty them daily. He said his focal point in governing is to make Beech Mountain look better and he asks for citizens' support.

Mayor Castiglione noted that Council would need to add this to the agenda. There was discussion as to how to address Councilman Abernethy's concerns and Attorney Eggers explained several different methods Council could utilize in order to proceed to address this topic. Mr. Robert Heaton said he wanted to comment on Councilman Abernethy's observations and then Council could decide if they wanted to add this to the agenda.

Mr. Heaton, Director of Infrastructure, explained the Sanitation process for removing the garbage. Mr. Heaton understood that in the interim, before we move to the new facility, they could add more cans as suggested by Mr. Abernethy. He reviewed the scheduling of the man-hours and how many garbage truck runs are being done in a week. He clarified the process working with the front-end loader and how it is used to push the trash down. Mr. Heaton explained how the contractors work with the crews and that we bring in

a truck to the dump on Saturdays. He said the blue dumpster is emptied two times a week and they must compact it. He further expounded on the removal and clean-up processes at the Convenience Center and said he would work with the Town Manager and Councilman Abernethy to address these issues and concerns.

It was noted that when the new Public Works facility is built and completed, those solutions will present themselves but in the interim, Public Works will furnish the Council with the costs for a new compactor and new bins. Costs and fee schedules will be assessed and presented to the Council for the residential customers and commercial businesses. Councilman Abernethy also requested prices and costs from hauling contractors, to which Mr. Heaton said he would include in his report. Councilman Abernethy agreed to include the topic on the January 15, 2019 Town Council Retreat agenda.

Councilman Marquardt eulogized Mr. Vern Holland and he asked that we remember Vern's communal aspect of our town. He said honest disagreements are okay, but requested that as a Town, we work together towards less discourse.

- 11.2.** PUBLIC COMMENTS regarding agenda items: Mayor Castiglione announced the public comment portion, and no one elected to speak, therefore she closed the public comment portion of the meeting.

### **Motion**

Barry Kaufman made a motion to adjourn as there was no further business and the meeting adjourned at 5:58 p.m. Carl Marquardt seconded the motion. CARRIED. unanimously.

## **12. ADJOURNMENT**

---

Town Clerk

---

Mayor, Town of Beech Mountain