



MINUTES

Special Town Council meeting

10:00 AM - Monday, June 24, 2019
Council Chambers

The Special Town Council meeting of the Town of Beech Mountain was called to order on Monday, June 24, 2019, at 10:00 AM, 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
Director of Special Projects Riley Hatch
Director of Infrastructure Robert Heaton
Public Works Superintendent Matthew Clawson
Public Utilities Superintendent Daniel Davis

1. CALL TO ORDER

2. ADOPTION OF AGENDA

2.1. Agenda

Motion

Wendel Sauer made a motion to adopt the agenda and Weidner Abernethy seconded the motion. CARRIED. unanimously.

3. PUBLIC COMMENT- MAYOR CASTIGLIONE ANNOUNCED THE PUBLIC COMMENT PORTION OF THE MEETING

3.1.

Mr. David Conrad of 100 Emerald Forest Lane read from his statement. Mr. Conrad was concerned with the road in question which is used by Skibeech and the Oz Festival and said it has become unsafe. He cited the

problems with the road and vehicle and traveler usage by thousands of vehicles which is not suitable for a gravel road. He noted the activities such as the 5506 Ski Resort bar, the downhill biking, and all of the visitors at Oz as well as the opening of the Emerald Outback trail for hikers, all of which he said, has caused unsafe conditions.

Mr. Conrad was concerned that now Oz is considering opening more events throughout the year. The road has deteriorated and suffers from high traffic volume. The problem will increase with the growth of more events which gives the Town money from occupancy tax from visitors, lodging and restaurants benefit but investors in homes on the mountain want a peaceful, relaxing and quiet road. Mr. Conrad requested that the substandard gravel road be paved by the Town due to his reasons given.

- 3.2.** Ms. Susan Wall of 102 Emerald Forest Lane said that on the south ridge, the owners agreed to pave the road. Ms. Wall said two owners in Fox Crest agreed to the road paving assessment. Ms. Wall explained which residents were away out of the country and who she believed would agree to the road paving. She discussed the traffic from vehicles, hiking, biking and said there is now commercial vehicle concerns on the gravel road. What was sufficient for only 15 houses now has buses travelling 20-times a day on the gravel road.

Ms. Wall believed that the cost for the maintenance of a gravel road would be money saved if the road were paved. She was concerned with the dangers from delivery trucks to the 5506 bar. She said it is the Town's obligation to pave the road since the town permits commercial vehicles on the road. Ms. Wall added that along the ridge, there it is 100% agreement for participation towards paving the road, but the Town should pay more than the 50% portion.

- 3.3.** Ms. Mary Johns of 107 Oz Circle said she owns the lot and is trying to sell the lot. Ms. Johns explained that they live in Roan Mountain. Ms. Johns was concerned with Summer Road and the Summer Road closure and the access that they lost. She was concerned with the dust and traffic created by the Oz events. Ms. Johns suggested that Oz should charge the patrons and visitors \$1, which should go towards the road paving. The tax payer wants value she said.

- 3.4.** Mr. LD Austin of 420 Oz Road said he owned his summer home and he reviewed his history of moving to Beech Mountain. Mr. Austin was concerned with traffic, dust and noise. Mr. Austin calculated his taxes he has paid to Beech Mountain in the hundreds of thousands. He said he is a developer and he questioned the 9-foot width of road by his house. Mr. Austin has issues with cars from Oz and/or the bar parking in his driveway. He said his mailbox was knocked down. He was concerned with the Ski resort activity and requested the Town to pave the road.

- 3.5.** Ms. Sharon Huffman of 122 Oz Circle was concerned with bus traffic, vehicle speed, dust and potholes. Ms. Huffman said the town should pay to pave the road as her taxes are enough. She added that Oz and the ski resort should pay for the road paving as they impact the road.

4. TOWN OF BEECH MOUNTAIN ROAD PAVING POLICY - §160A-216 -

4.1. Oz Road Paving and Maintenance

Councilman Marquardt addressed Ms. Johns' concerns and he noted that Summer Road has never been a town road, it is a private road. There was further discussion of the easement and ownership of the road.

Councilman Marquardt said the Oz facility doesn't benefit the Town and he expressed his opinion of Oz and said he was not in favor of the operation. He said negative reviews impact the town and wishes Oz to be legislated out of operation. The Ski resort has traffic summer and winter. He was concerned that if the road is paved it benefits one person. Improving the road, such as paving increases the traffic volume for the commercial entities. We can however, stop everyone that speeds. Councilman Marquardt has lived on a gravel road since 1974, so he is aware of conditions on a gravel road.

In response to the question of financing the project, Mr. Holloman said by his calculation, the road improvement is \$18,000 short for funding it, which includes the Foxcrest area. Planning Director, Preston Yates continued to answer questions as to the procedures and responses from the area residents up on Oz. He acknowledged those property owners not willing to provide the affidavit of support for the road improvements. He reviewed those that didn't or chose not to provide the written form in order to meet the 50% participation requirement of the ordinance. The Town cannot continue with the property assessments if we don't receive the necessary property owner involvement.

In response to Councilman Abernethy's questions regarding the process, Attorney Eggers reviewed the procedure for a special assessment. He further explained the difference between the voluntary assessment and involuntary special assessment in order to fund the road improvements according to the General Statute. Director of Infrastructure, Robert Heaton estimated the final costs for the whole project including the full area may be \$161,000.

Councilman Abernethy said if the Town were to pave it, it may be cost effective rather than repairing a gravel road. It was estimated the Town spends approximately \$4,000-\$5,000 a year to repair the road. Mayor Castiglione questioned the unintended consequences if we make an exception. She understands the citizen's problems and issues with the commercial entities in the area but making an exception to the policy may create a precedence, then Hawthorne and other roads can make the same request. The residents on Hawthorne can say due to Beech Mountain Club, the Town should pave their roads.

Councilman Marquardt discussed the next several road projects already planned and funded, and he expressed concern over setting a new precedent as well. He said the rest of the tax payers will pay more if Town does not remain with the current policy and budget. We cannot stop buses from using a public road to a commercially zoned business. But we can enforce speeding on a public road. It is zoned and is a matter of property rights. He reiterated his

concern if they make an exception and a snow-ball effect occurs because of the precedent.

Councilman Abernethy explained why he thought this example was an exception due to the road maintenance costs. Vice Mayor Kaufman discussed the issues regarding Winter Road and Summer Road. He added Summer Road is the Resort's road. It is not the Town's, its private, and he believed it is dangerous to travel on. There was further discussion of the Oz operation and the Leidy's property. The Leidy's own such a significant portion of the road linear frontage that because they said 'no' the Town cannot continue with the special assessment. and the

Mayor Castiglione wanted to address the comments made by citizens regarding the sales taxes generated by Oz or by the Ski Resort. She explained how the Town receives sales tax moneys. It is first collected by the State, and based on State distribution of sales tax, the State sends it to the County and the Town receives the tax reimbursements from the county based on the distribution policy. She reiterated the economic benefit is to the commercial businesses and not necessarily the Town's. Councilman Sauer added that the occupancy tax is collected and is under the authority of the TDA, (Tourism Development Authority) which operates separate from the Town.

An audience member called out the suggestion to only pave up to Winter Road. There was further discussion if the Town were to only pave the portion of Oz Road to Winter Road. Again, from the audience, Ms. Wahl stated that then they would have the 50% needed and she also stated that she spoke to Ryan Costin, who agreed to the linear footage up to only Winter Road.

At which point Mr. Heaton interjected and said that to pave only that portion, the costs don't change. The quote for the improvements doesn't become less with less linear footage. The cost of a smaller portion but a shorter amount of road actually increases the costs since it is still a major improvement.

Mr. Holloman said that the street and road maintenance study will be completed by Public Works by October or November. Once the pavement study is completed, Staff can make recommendation and those new costs and projected improvements will be submitted to Council in order for the Council to move forward with the next road improvement plan. He estimated after the preliminary study begins in October, Staff's recommendations will be gathered in January, then by February or March, is the expected date to move forward.

There was further discussion regarding roadway speed limits and it was determined Staff would move forward with reducing the area speed limit to 15 mph. Councilman Marquardt suggested adding Clubhouse Road as well as the Oz area roads to be reduced to 15 mph.

In response to Councilman Sauer's inquiry, Attorney Eggers stated that anyone parking on private property is a trespassing matter enforced by the Police.

Mayor Castiglione said if the property owners in the smaller area have full participation and meet compliance for the linear footage of road frontage, the Town could pave that half stretch of roadway. There was further discussion on the road pavement study and setting a precedence outside of the road paving policy. Attorney Eggers said a legislative decision can't bind future councils. There is not a legal consequence to not adhering to policy, but from a political and consistency standpoint, Council can measure their policy decisions on transparency of the process.

Councilman Abernethy asked if the road study included the buses, to which Mr. Holloman replied the road assessment study is not a roadway traffic count. It does not study volume of traffic just roadway conditions such as measurements and problems. Mr. Holloman further explained how we can attract Powell Bill funding in order to maintain safe roadway conditions. The Public Works pavement and roadway assessment study will help towards the January/February funding submission deadline in order to secure project funding.

In the interim, Mayor Castiglione explained we can lower the speed limit to 15mph. She said any complaints about trespassing can be reported to the police, no parking signs can be mounted and the 50% home owner participation up to the Winter Road will continue by Staff sending out the letters. At that point we can assess the cost and determine how to address the price and funding. Mr. Holloman further explained the process for street maintenance to assess the pavement and road conditions by measuring roads and giving the Town Management a status of the road conditions. He stated this would then be discussed as to how the Town would fund the plan and the list of roads would be prioritized again. He added perhaps by increasing taxes or by some other review source such as the Powell Bill we can determine the funding. There was further question and answer period by the citizens, staff and Council. Mayor Castiglione reviewed the process again for the citizens reiterating the Town would determine if there is 50% participation up to Winter Road which would comply with the Town's policy for paving the road. If the 50% participation requirement is not met; then the roads would be placed on the list for planning and paving condition assessments. Mayor Castiglione said this review process will continue and the street maintenance study which will be reflecting in the budget meeting plan for next year.

5. ADJOURNMENT

5.1. There being no further business the meeting adjourned at 11:20 a.m.

Motion

Wendel Sauer made a motion to adjourn and Weidner Abernethy seconded the motion. CARRIED. unanimously.

Town Clerk

Mayor, Town of Beech Mountain