

MINUTES  
BEECH MOUNTAIN TOWN COUNCIL  
October 9, 1991

CALL TO ORDER

Mayor Miller called the Regular Meeting of the Beech Mountain Town Council to order at 6:03 PM on Tuesday, October 9, 1991, in the Council Chamber at Beech Mountain. Other Council Members present were Kakii Handley, Charlie Burleson, Alan Holcombe and Reub Mooradian. Also present were Town Manager Al Greene, Town Attorney David Paletta, Public Works Director Joe Perry, Chief of Police Jay Hefner, Town Engineer Ed Powell and Code Enforcement Officer Don Fulkerson. Present in the audience were Greg Brown, Leslie and John Hoffman, Ellen Anderson, Bill Sposato, Roger and Ramona Bullock, Tim Holland, Luke Copeland, Jim Swinkola, Shiela Fletcher, Jim Lindquist and Calder Smoot.

1. Public Hearing, Proposed Changes to the Zoning Ordinance and Subdivision Regulations

Mayor Miller declared the Public Hearing open. Don Fulkerson outlined the reasons for each suggested change, primarily to streamline both ordinances and make them more efficiently enforceable. Kakii Handley questioned the words "terrain permitting" in the Section of the Zoning Ordinance on storage receptacles. Roger Bullock explained that the suggested changes were prompted by a presentation given by a local LP gas distributor in which he indicated the strong possibility that the EPA will require that any buried tank be dug up every five years and inspected. The Planning Board felt this would create a hardship for owners to be required to bury their tanks. Mr. Bullock also suggested that the words "which may be gated" be added after the description of the three foot opening. Tim Holland said he felt gates tend to get locks, and during heavy snows a gate might be impossible to open.

Reub Mooradian said he was going to suggest that the opening be in the front of the fence. Ellen Anderson suggested that the opening be on one end, if the tank is parallel to the roadway. It was pointed out that in cases where these types of tanks explode, they blow out on each end, so the end is not the direction from which one wishes to approach the tanks. Kakii Handley asked if buried tanks were more safe and both Reub Mooradian and John Hoffman replied they were. Ellen Anderson pointed out that the purpose of the fencing and screening were to make the tanks less objectionable from the road and neighbors, and placing the opening in the front would negate what Council is trying to accomplish. Reub Mooradian pointed out that the plantings could be staggered at the opening so as to hide the tank from view.

There being no further comments, the Public Hearing was closed at 6:47 PM.

2. Approval of Minutes, September 10, 1991

Kakii Handley noted that paragraph c. on page 6 was incorrect in that the time and date for the public hearing on proposed Zoning Ordinance and Subdivision Regulation changes was 6:00 PM on Wednesday, October 9, 1991. She moved Council approve the minutes with that change. Reub Mooradian seconded the motion and it passed unanimously.

3. Proclamation: Farm-City Week

Kakii Handley moved that Council approve the proclamation. Reub Mooradian seconded the motion and it passed unanimously.

4. Committee Reports

- a. Recreation Committee: Kakii Handley reported that the Watauga County Recreation Department is currently very concerned about insurance for children taking part in sports events.
- b. Region D: Rick Miller reported that the annual banquet had been held after which no meetings have occurred.

5. Persons Wishing to Address the Council

- a. Jim Swinkola, Grandfather Home: Mr. Swinkola reported on the Woolly Worm Festival, to be held on October 19 this year and urged the Town's support. Kakii Handley asked how many attendees they had had last year, and was told that 10,000 people attended the event.
- b. Luke Copeland, Auditor: Mr. Copeland went over the annual audit report for the year ending June 30, 1991 in some detail and pronounced the Town in a healthy fiscal condition, and praised the financial accounting. Charlie Burleson asked if Mr. Copeland would recommend establishing a fund designated for accrued vacation and sick leave pay for departing employees, and Mr. Copeland suggested it be left as it is.
- c. Bill Elder, Request for Easement: As Mr. Elder was not present, and Al Greene felt the Council might wish to consider his request after the planned Executive Session, the matter was deferred.
- d. Bob Cantrell, Request for Utilities Extension: There was a good deal of discussion about Mr. Cantrell's request. It was suggested that Ed Powell find the earlier studies which had been done on the extension of water and sewer to that area, and that cost estimates for the various options be prepared for Mr. Cantrell. It was the consensus of the Council that it would want Mr. Cantrell to put in both water and sewer, not just sewer. The primary question was the sophistication of the systems installed (i.e., that which would service Mr. Cantrell only or that which would be sufficient to service surrounding properties as developed).

6. Unfinished Business

- a. Continued Discussion of Emerald Mountain Tank Project: David Paletta stated he had received a facsimile transmission from Mellon Bank indicating they were issuing a standby letter of credit to Ms. Hufty. He is going to ask them to mail him a copy so that he can look it over. Ed Powell announced that the contractor had agreed to complete the site for the tank for the bid price within this calendar year. Council expressed its concern for rising costs, and David Paletta pointed out that the Council could insist that the developer bear any increase in costs, since it was the developer's end of the agreement which was holding up progress.
- b. Update of Chamber Contract: Tim Holland reported that the contract had been discussed at the most recent Chamber meeting, but had not been signed. The main concern of the Chamber Board had been the wording which called for the individual who answers queries to send people to businesses on the mountain whether or not they are Chamber members. Al Greene pointed out the impropriety of using public funds (occupancy tax) to provoke inquiries and then denying certain entities the benefits due to non-membership in the Chamber of Commerce. Alan Holcombe suggested another telephone line be installed, the number of which would appear on all advertising paid for by occupancy tax monies. The person who answers the phone would give referrals of all mountain businesses regardless of affiliation. The same person would, when answering the Chamber of Commerce phone, limit referrals to Chamber members. Al Greene said this is the way it is handled in Boone.

The question arose as to whether the person answering the phone in a Tourist Development Authority, or whatever name the office might be called, could say "Chamber of Commerce," since many visitors expect to be talking to a Chamber. David Paletta said if the Chamber was disbanded completely he saw no problem in answering the phone that way but, of course, the Council cannot dissolve the Chamber, which is a separate entity.

There was general agreement that further research on the problem needs to be conducted, but that in the interim if a contract can be worked out it should be done. Tim Holland felt that if the contract was reworded to include the second telephone line installed and paid for with occupancy tax monies, using the answering procedure outlined above, it would be acceptable to the Chamber Board. Reub Mooradian moved that the contract be so amended. Alan Holcombe seconded the motion and it passed unanimously.

- c. Continued Discussion of Sunrise - Sunset Project: Al Greene outlined the improvements necessary at some of the sites, and indicated some concern about Town employees going onto private property to make improvements. He suggested an agreement or easement, to be executed by the owner of the property. David Paletta said this would be in the form of either a lease or an easement, but the form it took would not affect the liability of the Town. Rick Miller asked what would happen if someone was hurt at one of the overlook sites prepared by the Town on private property, and Mr. Paletta said if he were the attorney representing the injured party he would sue the Town, the Chamber of Commerce and the property owner and let the court decide where the liability lies.

The question of Chamber of Commerce liability, since it is a Chamber project, was addressed, and Joe Perry said the two individuals who own the private property had indicated they felt they were liable already so it wouldn't make that much difference. Mr. Paletta pointed out that there was a very great difference between someone who has been invited onto your property being injured and someone who has entered without permission. At any rate, Al Greene felt the Town's insurance was sufficient to cover its liability. Reub Mooradian moved that all seven sites be prepared for the project. Alan Holcombe seconded the motion and it passed four to one, with Mayor Miller dissenting.

- 7 a. Amendment to Solid Waste Management Ordinance. Alan Holcombe moved that the proposed change to Appendix A of the Solid Waste Management Ordinance requiring that all cans fit entirely within the bin provided be approved. Charlie Burleson seconded the motion and it passed unanimously. (NOTE: Proposed change is attached and made a part hereof as if fully set forth herein.)
- b. Amendments to Zoning Ordinance and Subdivision Regulations:
- (1) Zoning Ordinance, Section 401.34: Charlie Burleson moved the ordinance be amended as proposed. Alan Holcombe seconded the motion and it passed unanimously.
  - (2) Zoning Ordinance, Section 401.35: Alan Holcombe moved the ordinance be amended as proposed. Reub Mooradian seconded the motion and it passed unanimously.
  - (3) Zoning Ordinance, Article VIII: Charlie Burleson moved the ordinance be amended as proposed. Kakii Handley seconded the motion and it passed unanimously.
  - (4) Zoning Ordinance, Article IX: Alan Holcombe moved the ordinance be amended as proposed. Charlie Burleson seconded the motion and it passed unanimously.

- (5) Zoning Ordinance, Section 1001.10: Charlie Burleson moved the entire Section be deleted as proposed. Alan Holcombe seconded the motion and it passed unanimously.
- (6) Zoning Ordinance, Section 1112: Reub Mooradian moved the proposed change be amended to read, following the word "fence" in the third from last sentence, "(which may be gated) on the side facing the road directly opposite the filling and control valves to facilitate servicing. In the event that the tank is perpendicular to the road, the opening shall be on the side nearest the residence. Under no conditions may an above-ground tank be located in the street side of the residence. Additional screening...." Alan Holcombe seconded the motion and it passed four votes to one with Mrs. Handley dissenting.
- (7) Subdivision Regulations, Section 401: Alan Holcombe moved the Section be deleted as proposed. Kakii Handley seconded the motion and it passed unanimously.
- (8) Subdivision Regulations, Section 603: Alan Holcombe moved the Section be deleted as proposed. Kakii Handley seconded the motion and it passed unanimously.
- (9) Subdivision Regulations, Section 500: Kakii Handley moved the ordinance be amended as proposed. Alan Holcombe seconded the motion and it passed unanimously.
- (10) Subdivision Regulations, Section 601: Charlie Burleson moved that a new Section 601 be inserted as proposed, and following Sections renumbered accordingly. Alan Holcombe seconded the motion and it passed unanimously.
- (11) Subdivision Regulations, Article IX: Kakii Handley moved the ordinance be amended as proposed. Alan Holcombe seconded the motion and it passed unanimously.
- (12) Subdivision Regulations, Article XII: Alan Holcombe moved Article XII be added as proposed. Kakii Handley seconded the motion and it passed unanimously.
- (13) Subdivision Regulations, Section 1101: Alan Holcombe moved the ordinance be amended as proposed. Kakii Handley seconded the motion and it passed four to one, with Mr. Burleson dissenting.

NOTE: All changes proposed are attached hereto and made a part hereof as if fully set forth herein.

- c. Offer to Purchase Strip of Land Between GL-90 and GL-91: Al Greene referred to an offer to purchase made by Jay Hughes to purchase the strip between GL-90 and GL-91 for \$250.00. Alan

Holcombe asked to be excused due to a possible conflict of interest. Charlie Burleson moved that Mr. Holcombe be excused. Kakii Handley seconded the motion and it passed unanimously.

There was some discussion about the strip's desirability as a possible means of ingress and egress to the golf course, and Bill Sposato pointed out that the cart path was across a fairway from that point, so it would not be a desirable point at which to enter the course. Reub Mooradian moved that the Council approve the sale, by standard non-warranty deed, at the price offered providing the Statutory period of advertisement for upset bids passes without further offers. Charlie Burleson seconded the motion and it passed unanimously.

Reub Mooradian moved that Alan Holcombe be readmitted to the meeting. Rick Miller seconded the motion and it passed unanimously.

- d. Committee Appointments: Alan Holcombe moved that Roger Bullock be reappointed to the Planning Board to serve a three-year term (until December 1994). Charlie Burleson seconded the motion and it passed unanimously.

Ellen Anderson said that she had delayed making her recommendations for Board of Adjustment appointments until one of her members returned home, but that she would have such recommendations prior to the next Council meeting.

## 8. Staff/Consultant Reports.

- a. Town Engineer's Report. Ed Powell reported that the application for a revolving State loan on the Bear Branch Outfall project has been resubmitted and will remain under consideration for the next year.

Mr. Powell said the North Pinnacle Ridge Road paving project should be completed by Friday. Charlie Burleson asked about some rather deep ditches and was informed they would be partially filled in.

- b. Public Works Director's Report. Joe Perry stated he had been assured the striping of NC 184 would be done in the following week, and it had been "guaranteed" to be complete by the end of the month. The reflectors are also to be installed by the end of the month.

The temporary employees which Mr. Perry had hired for summer mowing are being retained for a while to work on the inflow and infiltration project. He was asked if there was money in that budget item for these individuals and he replied there was.

- c. Town Attorney's Report. Mr. Paletta had no report.
  - d. Chief of Police's Report Chief Hefner had no report. Jim Lindquist asked about the investigation into allegations he had made at the last Council meeting, and Al Greene told him Chief Hefner had conducted an investigation and would present the results to him.
  - e. Town Manager's Report. Al Greene distributed copies of a resolution proposed by Region D requesting the release of Beech Mountain's share of State funds (\$56 24) to Region D. Reub Mooradian moved the resolution be approved. Alan Holcombe seconded the motion and it passed unanimously.
- Mr. Greene indicated the Town had received very early notice of the school for newly elected mayors and council members put on by the Institute of Government and asked if any members would be attending. Reub Mooradian, Kakii Handley and Greg Brown indicated their desire to attend.
- f. Financial Report The Financial Report was received without questions or comments.

9

#### Other Business.

Reub Mooradian brought up the question of allowing the Police Department to retain keys to homes in the Town which are equipped with burglar/fire alarms to facilitate entry and checking, as well as resetting of alarms. Charlie Burleson asked if this could be viewed as discrimination against the homeowners who do not have an alarm system, and Mr. Paletta said not in this instance. Mr. Mooradian moved that David Paletta be asked to assist in the drawing up of an agreement to be signed by such owners, holding the Town and Fire Department harmless from any liability in the use of the keys, indicating the type of alarm, code, resetting instructions, etc. The agreement should also indicate that the Police Department would not pass out the keys to ANYONE but a Police Officer or Fire Department Member. (Not relatives, friends, renters, repairmen, not even the company which installed the alarm system.) Alan Holcombe seconded the motion and it passed unanimously.

10.

#### Executive Session.

Reub Mooradian moved that take Council go into Executive Session under the provisions of N.C.G.S. 143-318.11 (a) (1) to discuss the possible acquisition of real estate. Alan Holcombe seconded the motion and it passed unanimously. The Council went into Executive Session at 9:40 PM.

The Council came out of Executive Session at 10:05 PM.

## ADJOURN

There being no further business to come before the Council, Reub Mooradian moved the meeting be adjourned. Alan Holcombe seconded the motion and it passed unanimously. The meeting was adjourned at 10:07 PM.

Respectfully submitted,

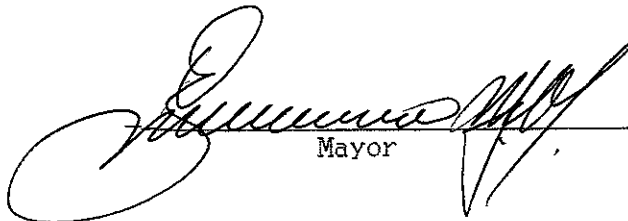
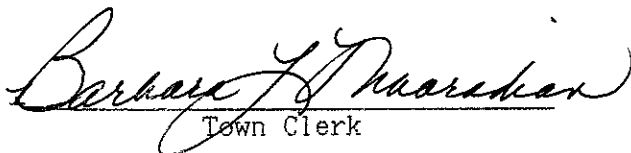


Barbara L. Mooradian  
Town Clerk

BLM/hs

Minutes approved by Town Council on November 12, 1991.

ATTEST:

  
Mayor  
Town Clerk