

BEECH MOUNTAIN TOWN COUNCIL
MINUTES
Public Hearing
February 14, 1991

The Public Hearing on proposed amendment to Chapter 12 of the Beech Mountain Code of Ordinances, "Cable Television System Ordinance," was called to order by Mayor Rick Miller at 6:00 PM on Thursday, February 14, 1991 in the Council Chamber. 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 and Public Works Director Joe Perry. Present in the audience were Bill Sposato, Jan Holland, Leslie and John Hoffman and Pattie Pacifico.

Al Greene went over the basic reasons for changing the Ordinance to bring it into line with the Town's authority in light of previous deregulation. Kakii Handley asked if the currently franchised cable company was providing free cable to all public buildings, to include the fire station, and was assured that it was.

Mrs. Handley asked about the clause in the proposed amendment which indicated that the Town could cancel the franchise if the company was sold without asking Town approval. David Paletta indicated that the currently franchised company had been sold two or three times and in each instance had asked for Town approval, which had been granted. Mr. Paletta went on to say that during the process of considering approval of a pending sale the Town would be in a position of gathering quite a bit of information on the incoming company, but that there really was no practical way for the Town to disapprove the sale. The Act of 1984 was basically passed to protect the cable companies, and limits severely a Town's control.

There were no comments from the public. The Public Hearing was adjourned at 6:12 PM.

Respectfully submitted,

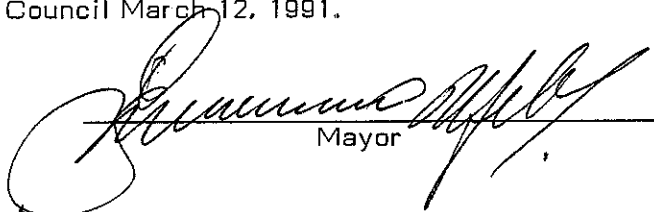


Barbara L. Mooradian
Town Clerk

BLM/hs

Approved by Beech Mountain Town Council March 12, 1991.

ATTEST:


Town Clerk
Mayor

MINUTES
BEECH MOUNTAIN TOWN COUNCIL
Regular Meeting, February 14, 1991

CALL TO ORDER

Mayor Miller called the Regular Meeting of the Beech Mountain Town Council to order at 6:13 PM on Thursday, February 14, 1991, in the Council Chamber. 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 and Public Works Director Joe Perry. Present in the audience were Bill Sposato, Jan Holland, Leslie and John Hoffman and Pattie Pacifico.

Mayor Miller asked if there were any changes to the proposed agenda, and Al Greene asked that item 4,D be removed, to be taken up at the March regular meeting. Reub Mooradian so moved, Kakii Handley seconded the motion and it passed unanimously. Mayor Miller asked that discussion of a proposed animal ordinance be placed under "Other Business."

1. Consent Agenda.

Reub Mooradian moved that the Consent Agenda be approved. Kakii Handley seconded the motion and the following items were unanimously approved:

- a. Minutes of the January 8, 1991 Regular Meeting.
- b. Minutes of the January 29, 1991 Public Hearing.
- c. Audit Proposal for FY 90/91 submitted by Holder, Copeland and Associates.

2. Committee Reports.

- a. Chamber of Commerce. Alan Holcombe reported that the Chamber had implemented a program similar to "welcome wagon" for new property owners at its last meeting. He reported that the ski resort had committed to extending the ski season as it had last year, and felt they were to be commended for this decision.
- b. Avery County Commissioners. Charlie Burleson reported that the Commissioners had not approved any funds for the Humane Society in Avery County, so the facility will probably close. At the present time, they are not taking any more animals. He pointed out that the Town had not budgeted any funds for the Society in this year's budget. He said he felt that the Town should try and fund this facility to some degree.

Reub Mooradian indicated he did not recall the Humane Society being discussed during the budget work sessions. He then moved that the Town make a donation in the amount of \$1,000 to the Humane Society from contingency funds. Charlie Burleson seconded the motion. Rick Miller said he felt that amount

be only a "band aid" solution, especially if the Society was going to close. Mr. Burleson indicated that while they were not taking any animals at present, he felt they would again request funding during the upcoming budget process.

Kakii Handley asked if the Humane Society had made a request to the Town for funding, and Mr. Greene replied that he was not aware of any. Mrs. Handley said she felt that if the Town gave \$1,000 to the Avery Humane Society it would open the door to giving an even greater amount to Watauga's Society.

Alan Holcombe said he felt this would be a frivolous expenditure of funds unless someone from the Humane Society gives the Town some idea of how the funds would be spent. Mr. Burleson said he tended to agree and asked Mr. Mooradian to table his motion until the next meeting, to which a representative of the Society can be invited. Mr. Mooradian agreed to table his motion until the March meeting.

- c. Watauga County Commissioners. Reub Mooradian reported that the Commissioners have gone on record in saying that the County does not have to provide fire protection to the county's citizens. This attitude is in response to a request from the Firemen's Association to assist local fire department in purchasing needed equipment through a matching State grant. The commissioners feel that each community should support its own fire department and that the County does not have that responsibility. The commissioners have been pushing for a fire tax in each fire district, which has proven unpopular in each case. The Chairman asked what would be the result if the fire departments could not receive the required monies, and was told that they then could not get adequate equipment to safeguard the firefighters, training would suffer, some departments would lose their fire insurance rating as a result, which would cause fire insurance rates to rise, and that structures and no doubt lives would be lost. His response was that maybe that is what we need to have happen so that communities will come to their senses and start paying for what they get. Mr. Mooradian felt there was a possibility the commissioners might initiate a service district tax for the entire county in the future, which funds would be distributed among the fire departments.

3. Unfinished Business.

- a. Consideration of 9-1-1 Subscriber Fee Ordinance.

Al Greene noted that the proposed ordinance, if adopted, would take effect in a little over four months time, as the enabling legislation requires 120 days to elapse. The proposed ordinance has been worded so that the fee would be set from time to time by Council Resolution to cover the costs of start up equipment, subscriber notification, addressing, billing and both non-recurring and recurring service supplier charges, but that it would be capped at no more than \$2.00 per access line.

He asked that the exact amount of the subscriber fee be left open for the next few months until the staff and Council have more information on actual costs.

Mayor Miller referred to a letter from David Paletta stating his opinion that neither Avery nor Watauga County could legally charge 387 exchange subscribers a fee on top of a Beech Mountain 9-1-1 fee if/when the county(s) installed their own 9-1-1 systems. He stated there was not yet any case law on this point, since the statute was a fairly new one, but that if the courts give a "plain reading" to the statute, it clearly would tie the subscriber fee to the telephone prefix.

Charlie Burleson said he disagreed, and felt very certain that the county(s) would indeed superimpose a charge on Beech Mountain subscribers, and felt that the courts would allow such a charge. There was a great deal of discussion on whether or not such an action would or could be done. Mr. Burleson suggested Council consider the possibility of leasing the equipment, rather than purchasing it, so that in the event the county(s) included the 387 exchange in their system(s), the equipment could be returned to the lessor and no further funds expended. He also suggested that the Council look at the possibility of funding the 9-1-1 system out of the General Fund, through collection of ad valorem taxes, as being a more equitable distribution of costs. He felt that the lot owner who would build a home in the future, and have the benefit of the 9-1-1 system, should share somewhat in the funding for the system. Al Greene said he would put together figures on this possibility so that the Council could consider it at their next meeting.

Kakii Handley suggested that perhaps Watauga and/or Avery County could be contacted to find out if they are including Beech Mountain in their planning, and that she was not in favor of increasing taxes to pay for the 9-1-1 system as opposed to the subscriber fee, which she felt everyone understood and expected. She suggested tabling further discussion until the next meeting so that Council would have the figures.

b. Proposed Amendment to Section 1112 of the Zoning Ordinance - Storage Receptacles.

Al Greene indicated that Ellen Anderson had suggested a change to the proposed amendment, to wit, required screening should be both the fence, as suggested, and native evergreen shrubs, as opposed to either/or. After general discussion on this point, the second paragraph of the proposed amendment was changed to read "Fuel tanks, LP gas tanks and similar storage receptacles shall be buried underground. In the event that the fuel tank must be raised above the ground to provide gravity feed to the structure, or in cases where rock or other natural barriers prevent burying, the Building Inspector shall approve plans for an above-ground tank that has been screened by a wood fence at

least six (6) feet in height. Additional screening in the form of native evergreen shrubs at least six (6) feet in height and planted no more than three (3) feet apart is required, terrain permitting."

Reub Mooradian moved that the proposed amendment as amended be approved. Charlie Burleson seconded the motion and it passed unanimously.

c. Amendments to Sections 602 and 604 of Zoning Ordinance - Rules of Conduct and Meetings of Board of Adjustment.

Al Greene suggested, at the request of Ellen Anderson, that references to the feminine gender be removed from the proposed amendment, but otherwise recommended approval. Reub Mooradian moved that Council approve the proposed changes, as amended. Kakii Handley seconded the motion and it passed unanimously.

d. Discussion of Cable TV Ordinance Revision.

Alan Holcombe moved that the Cable TV Ordinance be revised as proposed. Kakii Handley seconded the motion and it passed unanimously.

4. New Business.

a. Consideration of Easement Proposal, Mr. Alderson/Summit Tract.

Al Greene reported that the Planning Board had approved the subdivision of a tract of land in The Summit Subdivision owned by Mr. Tom Alderson subject to Mr. Alderson granting the Town an easement across the property for construction of an access road and erection of a water tank. Mr. Alderson had agreed to provide the easement, but upon reflection, wished some assurance that if the Town did not start construction within a reasonable period of time, the easement would be abandoned. He proposed that the easement be for a period of three years, during which the Town would have to begin construction or the easement would become null and void. Mr. Greene said he felt this was a reasonable request and recommended approval.

Charlie Burleson asked to be excused from discussion and voting on this matter due to a possible conflict of interest. Kakii Handley moved that Mr. Burleson be excused. Alan Holcombe seconded the motion and it passed unanimously.

Kakii Handley moved that Council approve the recommendation of the Town Manager and allow the easement to be placed under a three-year limitation. Reub Mooradian seconded the motion and it passed unanimously.

Kakii Handley moved that Mr. Burleson be readmitted to the meeting. Alan Holcombe seconded the motion and it passed unanimously.

b. Request for Release of Letter of Credit - Emerald Mountain.

Al Greene stated that the Town had received a request from the developer of Emerald Mountain that it release the letter of credit for Block C, Phase 1. He indicated that the Town's Subdivision Regulation required that before the letter of credit be released, the developer post a 25% performance bond or letter of credit to provide for maintenance of the improvements for the first year. The Town Engineer estimates the 25% would be about \$40,000.

Reub Mooradian moved that the Council approve release of the letter of credit upon posting of a 25% performance bond or letter of credit to provide for maintenance of the improvements for the first year, as called for in the Subdivision Regulation. Alan Holcombe seconded the motion and it passed unanimously.

c. Discussion of Water and Sewer Use Ordinance.

Mr. Greene proposed a change to the Water and Sewer Use Ordinance which would allow the Town to charge the consumer a cutoff fee when the water is turned off at the meter because electric power to the structure has been disconnected. Charlie Burleson moved that the suggested amendment be approved. Reub Mooradian seconded the motion.

Kakii Handley asked if Mountain Electric Cooperative always notifies the town when they are disconnecting electric power, and Joe Perry indicated it has been their practice to do so during the winter season.

Mrs. Handley asked if the Town would be liable if, for some reason it did not turn off the water when electric power was disconnected. David Paletta suggested that the phrase "water service will be disconnected by the Town..." be changed to "water service may be disconnected by the Town" to avoid any appearance of such disconnection being a duty of the Town. Mr. Burleson and Mr. Mooradian so amended the motion and second, and the motion passed unanimously.

d. Consideration of Offer to Donate Lots LG-183 and LG-220 to the Town made by Mr. Ted Samuel.

David Paletta indicated that this offer had come about during the process of foreclosure due to non payment of ad valorem taxes. The costs to be borne by the Town if they accept the gift would be taxes of \$182 and \$276 respectively, plus legal and court costs in the amount of \$390. Should the Town continue foreclosure proceedings, and the lots not be purchased, the Town would incur probably an additional \$1,000 in legal fees. After general discussion, Reub Mooradian moved tha the Town accept the lots. Charlie Burleson seconded the

the motion and it passed, four votes to one, with Mayor Miller dissenting.

f. Tax Matters.

Mr. Greene referred Council to information and requests provided it by the Tax Administrator. Reub Mooradian moved that Council approved the requested tax releases and refunds, with the exception of any interest owed by Frank Steele. Alan Holcombe seconded the motion and it passed unanimously.

Alan Holcombe moved that the Tax Administrator be directed to advertise delinquent taxes in the Watauga Democrat on March 1, 1991, and post a notice of the liens at Town Hall. Reub Mooradian seconded the motion and it passed unanimously.

Alan Holcombe moved that Council reject Frank Steele's request for a waiver of interest due on his discovery tax notices. Reub Mooradian seconded the motion and it passed unanimously.

5. Town Engineer's Report.

Ed Powell was not present, so there was no report.

6. Public Works Director's Report.

Joe Perry indicated he had no formal report. Kakii Handley asked if any progress had been made on the installation of the 100,000 gallon water tank at Emerald Mountain, and was told that no action has been taken. Mr. Perry indicated his understanding was that the Town would start its work in the spring if the developer provides a performance bond or a letter of credit guaranteeing installation of the tank.

7. Town Attorney's Report

Mr. Paletta stated he had no report.

8. Town Manager's Report

Mr. Greene reported the staff would begin discussions with GDS the following Monday regarding their proposal to provide the Town with garbage collection services. David Paletta indicated they had taken over Boone's sytem recently so the staff could receive good feedback from that city.

Mr. Greene stated that the company which had advertised it would be bringing cellular phone service to the area will have a representative at the March Council Meeting.

Mr. Greene read a letter from Mrs. Dietz regarding the recent bear wrestling incident, which is attached hereto and made a part of these proceedings.

Mr. Greene asked Council if it desired to see additional demonstrations of 9-1-1 software, and Mr. Mooradian suggested a visit to Kingsport be scheduled and at least one more vendor be asked to make a demonstration. Mr. Greene was to set up the Kingsport visit at the pleasure of those Council Members who wished to go.

Mr. Greene indicated he was making progress on the Chief of Police position. The Town had received 79 applications, which have been reduced to approximately a dozen finalists who have been sent a questionnaire designed to further reduce applicants.

9. Financial Report/Budget Amendment.

The financial report was distributed to Council for their information. Reub Mooradian moved that Council approve a budget amendment in the amount of \$9,240 to cover salaries and benefits accrued by Mike Orr, advertising costs for Police Chief, Dispatcher and Officer positions, and additional costs required for physical examinations and drug tests for the new law enforcement employees. Alan Holcombe seconded the motion and it passed unanimously.

10. Other Business.

Mayor Miller made several announcements: The three accused perpetrators in the autumn break-ins have been indicated by the Watauga County Grand Jury, two are in custody and warrants are out on the third. Kakii Handley asked, relative to the Police Report for January, what the \$2,800 in stolen articles represented, and Mr. Greene said he believed these were items stolen from the several vehicles which had been burglarized, but that he would check on it.

Mayor Miller read two letters of appreciation regarding the helpfulness of the Police Department, commended the Department and asked that the commendation be noted in the minutes.

a. Animal Cruelty Ordinance.

Mayor Miller read a letter which had been sent to the Council by the President of the Chamber of Commerce urging passage of an ordinance to not only prohibit cruelty to animals, but the public display of "animal acts" such as bear wrestling, boxing kangaroos, etc.

Reub Mooradian indicated he felt the answer might be for the Town to license commercial establishments under a strongly worded ordinance, so that such displays could be regulated. There was some discussion, and some confusion, about the license vs. ordinance question. Mr. Mooradian said he believed that the Town of Blowing Rock licensed their businesses and thereby exercised control. Mr. Greene said he believed that the only license they could be granting would be a privilege license, and that Blowing Rock probably had commercial endeavors as a conditional use, which would allow them to act

much in the manner of a Board of Adjustment to require certain conditions be met, etc.

Leslie Hoffman said that the City of Greensboro had a similar ordinance, and volunteered to get a copy of that document to help in the drafting of a Beech Mountain ordinance. David Paletta said he could get the ordinance, but would appreciate whatever documents Mrs. Hoffman had from various animal protection groups which might assist in the wording.

After further discussion, Mayor Miller asked Mr. Paletta to draft a proposed ordinance on the subject for the Council to study at its next meeting. Mr. Mooradian asked that information also be provided regarding licenses, and Mr. Greene said he would do a study for the Council on that subject. Alan Holcombe suggested that the Town also look into licensing automobiles, as well.

ADJOURNMENT

There being no further business to come before the Council, Alan Holcombe moved that the meeting be adjourned. Kakii Handley seconded the motion and it passed unanimously. The meeting was adjourned at 8:25 PM.

Respectfully submitted,

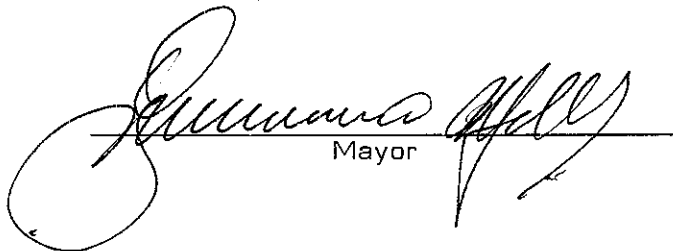


Barbara L. Mooradian
Town Clerk

BLM/hs

Approved by Beech Mountain Town Council March 12, 1991.

ATTEST:



Mayor



Town Clerk