

MINUTES  
BEECH MOUNTAIN TOWN COUNCIL  
Special Meeting, May 1, 1992

CALL TO ORDER

Mayor Miller called the Special Meeting of the Beech Mountain Town Council to order at 12:08 PM in the Council Chamber. Council Members also present were Tim Holland and Greg Brown. Members absent were Kakii Handley and Reub Mooradian. Also present were Town Manager Al Greene, Public Works Director Joe Perry and Town Clerk Barbara Mooradian.

1. Consider Bids for Construction of Bear Branch Sewer Outfall Line.

Mr. Greene referred Council to a letter from the Town Engineer providing a breakdown of the project. He pointed out that the amount included for contingency was tight, but necessary to keep the amount within the budgeted amount of \$300,000 (\$225,000 from State loan, \$75,000 from Water and Sewer Fund Balance). He stated that Mr. Perry's department would keep their eyes on the project, and if it seemed in danger of exceeding the budgeted amount, a section of pipe and manhole would be deleted at the end of the projected installation area.

Mayor Miller questioned the amount in the project earmarked for engineering, and Mr. Greene stated that the State required the work be overseen by a professional engineer, but that costs could be kept down if they were only called when absolutely necessary. He indicated the full amount should be budgeted for, and if monies are saved, fine.

Greg Brown asked if the line would match the water line coming up from the lake, and was told it would do so to Woodland Road, after which it would occupy a new line to Thistle Lane. Mr. Brown asked about the possibility of encountering rock which would need to be blasted, and Mr. Perry stated that had been taken into consideration in the bidding.

Tim Holland moved that the contract be awarded to R & G Construction and Omni Southeast, Inc., a Joint Venture, in the amount of \$278,684.75. Greg Brown seconded the motion and it passed unanimously.

2. Consider Budget Amendment and Ordinance to Create the Capital Project Fund for the Project.

Tim Holland moved Council approve the Budget Amendment and Budget Ordinance as presented. Greg Brown seconded the motion and it passed unanimously.

ADJOURN

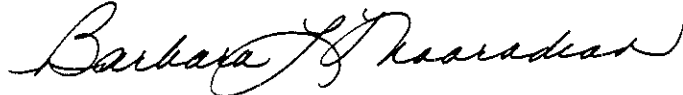
There being no further business to come before the Council, Tim Holland moved the meeting be adjourned. Greg Brown seconded the motion and it passed

MINUTES

May 1, 1992

unanimously. The meeting was adjourned at 12:18 PM.

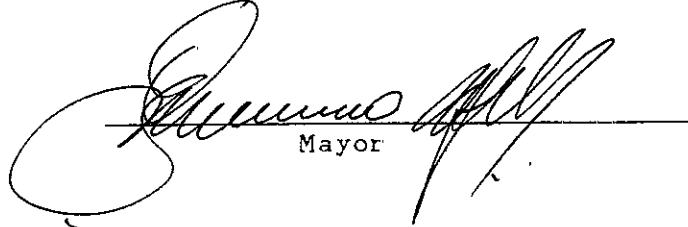
Respectfully submitted,



Barbara L. Mooradian  
Town Clerk

BLM/hs

Minutes approved by Council on MAY 12 1992.

  
Mayor

ATTEST:

  
Town Clerk

MINUTES  
BEECH MOUNTAIN TOWN COUNCIL  
Workshop, May 11, 1992

CALL TO ORDER

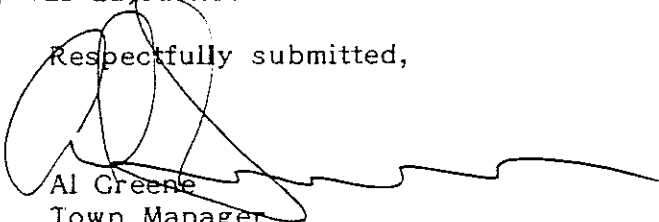
Mayor Miller called the Workshop on the Five Year Capital Improvements Plan to order at 6:10 PM in the Council Chamber. Council Members also present were Tim Holland, Greg Brown, Kakii Handley and Reub Mooradian. Also present were Town Manager Al Greene and Public Works Director Joe Perry.

After going through the Plan in detail, the consensus of Council was to cut the 92/93 Recreation Trail and increase Hydrant Replacement to \$3,000 for FY 93/94. Council also decided to proceed with the 92/93 budget process, amend the base year in the Capital Improvements Plan to reflect actual 92/93 budgeted figures, and adopt both simultaneously.

ADJOURN

There being no further business to come before the Council, Reub Mooradian moved that the meeting be adjourned. Tim Holland seconded the motion, which passed unanimously. The meeting was adjourned at 8:35 PM.

Respectfully submitted,

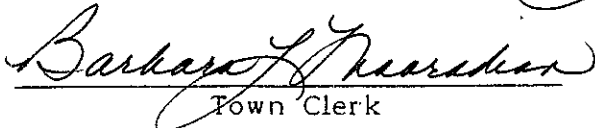
  
Al Greene  
Town Manager

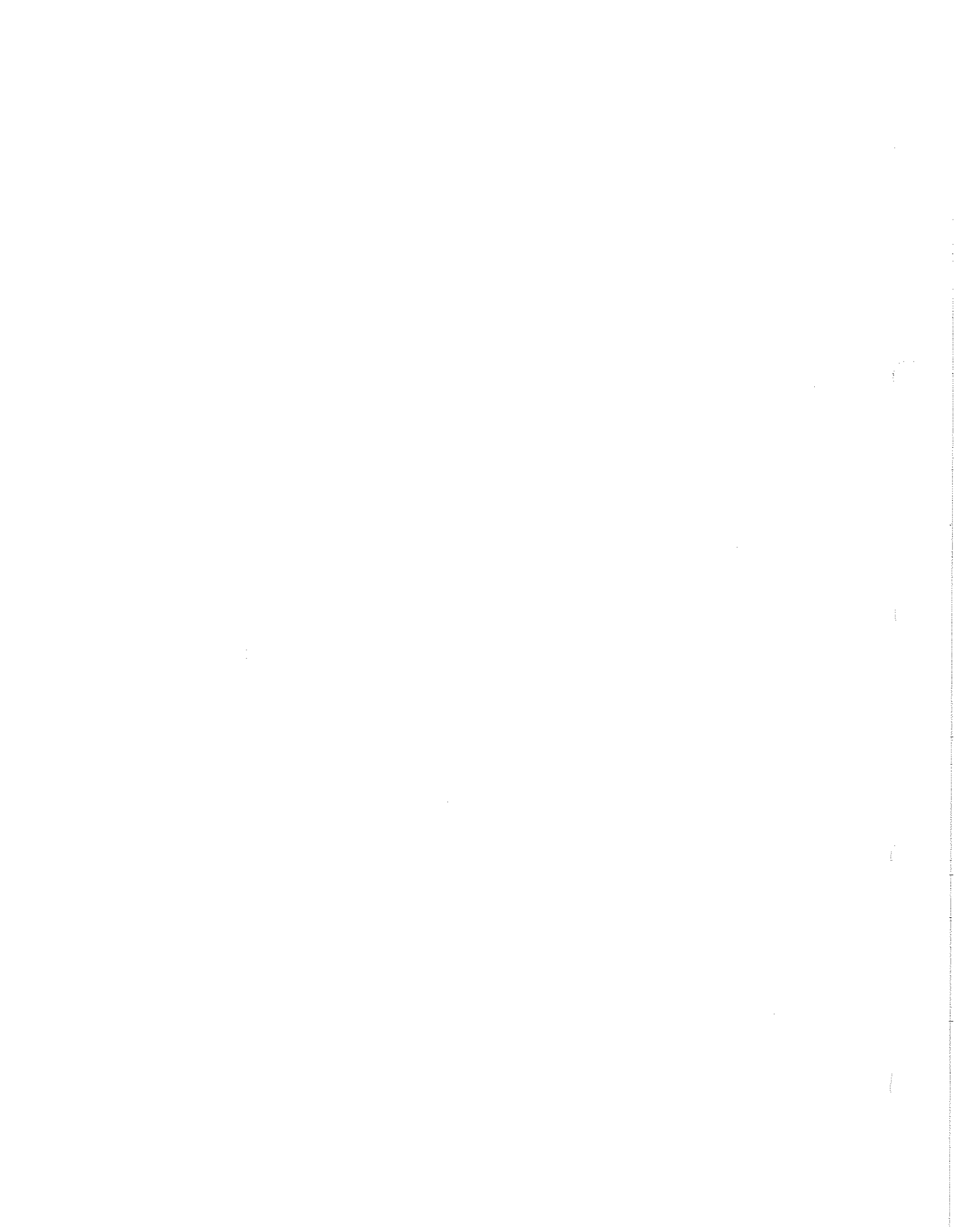
AG/blm

Minutes approved by Town Council on MAY 12, 1992.

  
Mayor

ATTEST:

  
Town Clerk



MINUTES  
BEECH MOUNTAIN TOWN COUNCIL  
May 12, 1992

CALL TO ORDER

Mayor Rick Miller called the regular meeting of the Beech Mountain Town Council to order at 6:03 PM. Other Council Members present were Tim Holland, Greg Brown, Kakii Handley and Reub Mooradian. Also present were Town Manager Al Greene, Town Attorney David Paletta, Town Engineer Ed Powell, Public Works Director Joe Perry, Chief of Police Jay Hefner and Code Enforcement Officer Don Fulkerson. Present in the audience were Ellen Anderson, Ed Calvin, Phil and Norma Buchanan, Katherine and Eric Danio, Clifford Sprague, Pattie Pacifico, John and Leslie Hoffman and Vern Holland.

Mayor Miller asked if there were any additions or changes to the Agenda, and Al Greene asked that the minutes of the May 11, 1992 Workshop on the Five Year Capital Improvement Plan be added to the Consent Agenda.

1. Consent Agenda.

Kakii Handley moved Council approve the Consent Agenda as amended. Greg Brown seconded the motion and the following items were unanimously approved:

- a. Minutes of the regular meeting of April 21, 1992.
- b. Minutes of the special meeting of May 1, 1992.
- c. Minutes of the workshop of May 11, 1992.

2. Committee Reports.

- a. Watauga County Parks and Recreation. Kakii Handley reported that Parks and Recreation had just completed its budget for FY 92/93.
- b. Avery County Commissioners. Greg Brown reported that the Board's main concern had been the 14 violations at the landfill. The Board had received numerous offers of volunteer help to assist in correcting the violations.
- c. Watauga County School Board. Greg Brown reported that the School Board was going ahead with two bond issues, one for all schools in the county and one for improvements at Watauga High School. Most of the public comment at the meeting had been favorable.
- d. Region D. Rick Miller reported that the last meeting had consisted of budget discussions. It appears that some agencies and programs, such as Meals on Wheels, will suffer cutbacks.

MINUTES

May 12, 1992

3. Persons Wishing to Address the Council.

- a. Vern Holland. Mr. Holland came before the Council to urge that the Town, acting as a property owner in various subdivisions, take steps to enforce the Declaration of Restrictions. He stressed the restrictions against "For Sale" signs and requiring two car off-road parking for every dwelling. He stated that he felt a letter from the Town to violators, indicating the intent to sue to force compliance if necessary, would be sufficient in 90% of the cases. Whether or not the Town actually initiated suit would be up to the Council.

David Paletta indicated he had not heard this approach brought before Council before, but saw no reason why the Town could not act as a property owner to enforce the Declaration. He said he felt the "For Sale" sign restriction was unique, and the one restriction which could pose the most problems.

Tim Holland commented that inadequate parking areas had long been a concern of his, and he thought the Council should look into the possibility of doing as Mr. Holland asks. David Paletta said one aspect which would be relevant is the age of the property, since at some point the statute of limitations on violations will have run out, though he did not know exactly what the statute was on Beech Mountain's restrictions. Vern Holland said he felt the last paragraph of the restrictions, which stated that the non-prosecution of a violator for a period of time did not affect the ability to do so at a later date nullified any statute of limitations. Mr. Holland urged an open work session and/or public hearing on the issue.

Mayor Miller asked if Council wished to hold a work session on the issue, and the consensus was to have Mr. Paletta investigate the various alternatives, problems which might arise, etc., before having a work session. Mr. Paletta indicated initial discussions would best be held in an Executive Session since it would be a case of planning legal strategy. Greg Brown said he would like to have public input on the question, and noted while he agreed that the issue needed to be addressed, he was not sure the Town was the agency to act on it.

Al Greene said the Town staff would, of course, do whatever told to do by the Council. He urged caution, however, stating that the expense might well be huge. He said he felt if the Town pursued the issue it should do so against all violators, not just a few. He said he was not in favor of a Town sending threatening letters unless the Town was prepared to back them up. Kakii Handley agreed that while an individual property owner could sue another individual property owner, she felt the Town would have to go forward against all violators.

May 12, 1992

The consensus of the Council was to ask David Paletta to look into the matter before setting up any meetings on the subject.

- b. Ken Kielbania. Mr. Kielbania was not able to be present, but his daughter, Katherine Danio, read a letter from him into the minutes. (Attached hereto as Appendix A and made a part hereof as if fully set forth herein.)

Al Greene stated he did not feel that the Council could change conditions placed by the Board of Adjustment on a Conditional Use Permit. He said the proper position, if relief is to be found, would be a request for an amendment to the Zoning Ordinance forwarded to the Planning Board, then it would come back to the Council for a public hearing and so forth. After that, if an amendment was passed, Mr. Kielbania could apply for an amendment to his Conditional Use Permit. He said he believed the Planning Board had heard a general request for some type of amendment to the parking requirements some six to eight months ago and declined to act on it.

Don Fulkerson said he recalled that the developer's argument had been that he had different businesses located on the property with different peak hours. For example, the mini-market and the construction business operated during the daytime, and the restaurant and bar's main hours were at night. He said the Planning Board's feeling had been that perhaps there was not a need for this parking at the moment, but the usage of the building could change, necessitating all the parking required by the Ordinance. The Board felt that the parking requirements were reasonable and saw no need for change. The Chairman had told Mr. Sprague that if Mr. Kielbania wanted to pursue an amendment to the Ordinance he should put the request in writing and bring it back to the Board. That was not done. The matter was brought up again to the Board of Adjustment, which seemed to feel the same as the Planning Board with regard to the parking requirement.

Mrs. Danio stated they were ready to cut the trees, but since they were so large, it had been hoped to preserve them as long as possible. David Paletta said he believed Mr. Greene had pointed out the correct procedure to follow if the owner was to seek relief.

John Hoffman, speaking as a Planning Board member, pointed out that the Ordinance had recently been changed to lower the size of parking. Speaking as a private citizen, he complained that Kats' lower parking lot was never used. He said he had seen numerous parking violations along the Parkway, which seemed to indicate the establishment did not have adequate parking now. Clifford Sprague pointed out that one could have adequate parking but could not force visitors to use it if it seemed more convenient to park along the Parkway illegally.

## MINUTES

May 12, 1992

Tim Holland noted that this particular business had already received one break with regarding to parking requirements in being considered a "mall" as opposed to individual businesses.

Greg Brown asked about the legality of allowing a condition of a Conditional Use Permit to be waived for a period of time and then enforced at a later date, and David Paletta said it was not something any Council would want to do on a regular basis, but that he could draw up some guidelines and exceptions thereto. He pointed out that such an action could be subject to interpretation problems.

Mayor Miller asked when the additional parking had to be completed, and Don Fulkerson replied that it had to be done prior to the issuance of a Certificate of Occupancy, which the developer had sought by June 1st.

Mayor Miller stated that it had been his experience, as a prior member of both the Planning Board and the Board of Adjustment, that when the Town started making exceptions it got into trouble. He and asked why the parking area had not been completed before now, and Mrs. Danio said it had just slipped through the cracks due to the enormity of the remodeling being done. Reub Mooradian asked if parking could not be fitted among the trees and Mrs. Danio replied that they were too close together. Don Fulkerson pointed out that there were landscaping requirements on a parking area of the size being discussed, and they will have to have a certain amount of vegetation in their parking lot.

Mayor Miller asked the Town Attorney if any motion was necessary on the matter, and Mr. Paletta indicated that if the Council took no action it would have the effect of rejecting the request. As no Council Member made a motion to return the subject to the Planning Board, Mayor Miller indicated to Mrs. Danio that the conditions of the Conditional Use Permit would have to be complied with.

#### 4. Unfinished Business.

- a. Ultraviolet Treatment Unit Replacement. Ed Powell indicated that the bid opening on the Ultraviolet unit had been held at 2:00 PM that afternoon. Five bids were received, and the low bid was from R & G Construction and Omni Southeast, a Joint Venture, in the amount of \$47,277. That bid was below the Town's estimate, and they certainly have the ability to construct the project, so he made the recommendation that the contract be awarded to them subject to the State of North Carolina Division of Environmental Management issuing an authority to construct. Kakii Handley so moved. Reub Mooradian seconded the motion and it passed unanimously.



5. New Business.

- a. Tax Release, G III, Inc., for Double Billing. Mr. Greene stated that the memorandum from Mrs. Norwood-Forbes was self-explanatory but that he would be happy to answer any questions the Council might have. Tim Holland moved that Council approve the release as requested. Reub Mooradian seconded the motion and it passed unanimously.
  
- b. Consider Enlarging Town Hall Parking Lot. Al Greene indicated that the Mayor had asked Joe Perry to put together a detailed cost estimate for paving a portion of the recently purchased property adjacent to Town Hall. He had gotten informal bids, the lowest of which was from Smith and Sons for \$2,681. Tim Holland moved that the staff proceed with the parking extension and approve the Budget Amendment therefor. Reub Mooradian seconded the motion. Reub Mooradian said he would like to see something positive done to relieve the accumulation of water in the middle of the parking lot, and Mr. Perry indicated this would be cured by the installation of the drain pipe and catch basin.

Norma Buchanan voiced her desire not to see grass replaced by asphalt. Greg Brown asked if there was any estimate on what the cost would be to just gravel the area and install stops, and Mr. Perry replied they had not looked into that. John Hoffman asked if the landscaping would be moved and Mr. Perry indicated it would. The question was called and the motion passed unanimously.

- c. Discussion of NCLM Lobbying Efforts. Mr. Greene pointed out that the League's main goal for this legislative session was to have H.B. 916 ratified, which would phase back (over a four year period) to the towns and counties the growth in the funds such as inventory taxes, intangibles taxes, franchise taxes, beer and wine sales, etc., taken from the towns and counties to balance the State budget. The League had asked all local officials to do whatever possible to support this bill and urge its ratification.

The Town should also be concerned about the possibility of Avery County getting legislation passed to allow an occupancy tax which could possibly override the Town tax, as well as various resort taxes. Greg Brown stated that Monroe Buchanan had indicated at an Avery County Commissioners meeting that he intended to introduce the bill during the short session this year. Al Greene suggested that members of the Town Council and perhaps Messrs. Rickard and Archer of the Chamber ask Mr. Buchanan for a meeting to discuss the matter. Rick Miller suggested a letter or letters be written for his signature to all our Senators and Representatives expressing the Town's concern about the matter.

MINUTES

May 12, 1992

Mrs. Handley asked that letters be written on behalf of the Town Council to the same Senators and Representatives expressing our support of H.B. 916, and asking for their backing.

- d. Discussion of County Library Options. Al Greene said he had contacted the Watauga County Library at Mrs. Handley's request to see if they would schedule the bookmobile to visit Beech Mountain during the summer months. They had suggested either a visit one day a month, providing we could guarantee 30 to 50 participants, or the placement of books at an acceptable site on the mountain, which would be serviced with new books, etc., once per month. Mr. Greene favored the second suggestion of the two, and said he felt the Town Hall would be the obvious location.

Norma Buchanan pointed out that the Chamber of Commerce has a lending program, and it is a real headache. She said people don't *intend* to pilfer books, but they do forget to return them. Ellen Anderson indicated the Club also has a lending program, strictly on an honor system. Rick Miller questioned whether or not we wanted to put another burden on the Town staff.

Kakii Handley said she did not think either suggestion was viable. Once per month was too seldom for people up on vacation, and having a supply in the Town hall, with the attendant problems of checking them out, insuring they are returned, etc., was also not palatable. She asked that Mr. Greene recontact the Library to ask for the bookmobile once a week, for two hours each visit. The visit should be planned for the same hours and day every week. Ellen Anderson said she felt that was the least the County could do for the amount of tax dollars they receive from Beech Mountain. Mr. Greene said he would recontact the Library.

- e. Consider Amendment to Position Allocation Plan. Al Greene referred to his memo regarding Mrs. Norwood-Forbes' desire to return to school full. Both she and Mr. Greene felt her duties could be adequately performed if she came to the office 20-30 hours per week. He assured them that if this did not seem to be working out, Mrs. Norwood-Forbes would resign and a new Tax Administrator could be hired. Tim Holland said that although the individual should not be considered in matters of this type, he could not help but realize that Mrs. Norwood-Forbes was an excellent Tax Administrator and wanted to do whatever possible to keep her. Reub Mooradian agreed that her remaining on the staff was desirable. Greg Brown moved that the position of Tax Administrator be changed to part-time. Kakii Handley seconded the motion and it passed unanimously.

- f. Occupational Exposure Control Plan. Al Greene explained that OSHA requires the Town adopt an Occupational Exposure Control Plan to include offering training, vaccinations, etc., to those employees most

likely to come into contact with bodily fluids. Region D has drafted an excellent Plan, which Mr. Greene advised that the Council adopt. Reub Mooradian moved that the Region D Plan be adopted. Tim Holland seconded the motion and it passed unanimously. Kakii Handley asked if the vaccinations would be voluntary, and what they would cost. Mr. Greene pointed out that the Town could not force vaccination on anyone, but that when offered, if the employee refused he would sign a paper indicating that he had been offered the vaccinations and declined. The cost would be some \$105 per employee. Greg Brown asked about Firemen and EMT's, and Tim Holland said all EMT's had received their shots at Fire Department expense.

- g. Rescheduling June Regular Meeting. Al Greene asked, since the Resort Towns Association luncheon was scheduled in Raleigh the day of the regular June Council meeting, that the Council reschedule their meeting. After general discussion, Reub Mooradian moved the June meeting be scheduled for 6:00 PM Wednesday, June 10, 1992. Greg Brown seconded the motion and it passed unanimously.

h. Budget Amendments.

- (1) Jeffers Condemnation. David Paletta indicated that after starting the first phase of the condemnation procedure on the Jeffers property along Charter Hills Road, the owner decided to give the Town an easement for \$3,500, the value of the property set by an appraisal. Greg Brown moved the Budget Amendment covering the payment to Jeffers be approved. Kakii Handley seconded the motion and it passed unanimously.
- (2) Tax Collection Department. Al Greene pointed out that, due to unexpected expenses with Region D, the Tax Collection Department was under budgeted for data processing. Tim Holland moved that the budget amendment covering \$3,000 extra in data processing expense be approved. Greg Brown seconded the motion and it passed unanimously.
- (3) Ultraviolet Units. Mr. Greene pointed out that several budget amendments were required to cover the costs of the new Ultraviolet Treatment unit, as well as unexpected expenses in the Water and Sewer Fund. Tim Holland moved approval of all three budget amendments as presented. Reub Mooradian seconded the motion and it passed unanimously.

6. Staff/Consultant Reports.

- a. Town Engineer's Report. Ed Powell reported that the Emerald Mountain Water Tank concrete foundation has been poured. The

MINUTES

May 12, 1992

foundation will be ready to turn over to Emerald Mountain by the end of May as required in the Agreement.

Mr. Powell reported that the Town is in the process of preparing contract documents on the Bear Branch outfall line and force main. We are also completing the paperwork to advise the State so that the Town can begin receiving loan payments.

With regard to the Ultraviolet unit, Mr. Powell anticipates having authorization from the State by the time the contract documents are drawn.

- b. Public Works Director's Report. Joe Perry reported that there are 201 fire hydrants in the Town: 43 2" hydrants, 73 4" hydrants, 63 6" hydrants, 14 8" hydrants and eight 12" hydrants. Reub Mooradian asked about replacements for the 2" hydrants in the Five Year Plan, and Mr. Perry indicated that the 12 on Charter Hills Road would be replaced with 6" hydrants, and approximately six on that portion of Pine Ridge Road which has 2" hydrants.

Mr. Perry reported that all the gravel for the stabilization project has been delivered, and Oak Road, Teaberry Trail, Sourwood Lane, Hickory Lane and Creekridge Road have been stabilized, leaving three loads for use on Pond Creek Lane.

When asked about the "Golf Cart Crossings" Mr. Perry indicated the contractor will be up as soon as possible to do the work.

- c. Town Attorney's Report. David Paletta had no report.
- d. Chief of Police's Report. Jay Hefner stated that InterAct had visited the dispatch office the previous week and worked with the staff on training with the E 9-1-1 system. David Davis, who will be the chief 9-1-1 dispatcher, has a very good handle on the computer and how to program in the necessary information.

Chief Hefner reported that 17 street lights had been reported to Mountain Electric on May 4th. By May 10th none of them had been repaired and three more needed to be added. They will be sent to Mountain Electric again.

- e. Town Manager's Report. Mr. Greene reported that all equipment for the E 9-1-1 system had been installed. One ANI had to be returned, but that will be reinstalled soon and the Lambert Group will come back to do testing.

Mr. Greene reported that the Planning Board had met with TVA and Mountain Electric regarding the planning for the transmission line to the Beech Mountain substation. They will be meeting again at the

May 12, 1992

next Planning Board meeting, and the Board would like as much participation from the Council as possible. Rick Miller advised that an advertisement be made for the next Planning Board meeting to be a special meeting of the Council (June 3, 1992, 9:00 AM). John Hoffman indicated several routes will be proposed, and that TVA was trying very hard to blend in the poles as much as possible. TVA also wants to have a public hearing before making a final decision so as to get as much input from the citizens as possible.

Mr. Greene announced that the final costs on the Dispatch office amounted to \$4,917, or less than originally budgeted. Mr. Miller commented that the contractor had done a very nice job.

With regard to the Pinnacle Inn easement for utilities, Mr. Greene reported that after further study by the staff it was determined that the lines originally proposed for extension are on Pinnacle Inn property and belong to them, so the request for an easement will not be made.

Mr. Greene requested, in light of having a year's experience in working with GDS, the Council authorize the deletion of the requirement for a letter of credit in the upcoming contract negotiations. Reub Mooradian asked what sort of response GDS was giving in response to complaints, and Mr. Greene said they were most responsive. There are still some complaints, and probably always will be, but when informed of a problem they are conscientious about taking care of it. Mr. Mooradian expressed his concern that the summer people will, in many cases, find their trash cans full of water and be unable to lift and dump them. Mr. Greene indicated that anyone who needed help should just call the office and Mr. Perry's employees will take care of it. Mr. Mooradian indicated he was merely trying to shortstop a rash of complaints, and that he still supported GDS.

Miss Anderson reported that, almost without exception, the trash men do not replace her lids firmly, and Tim Holland agreed that his experience was the same, as did Greg Brown. Al Greene pointed out that trash collection individuals are simply not motivated very much to be super careful about replacing lids. Kakii Handley said she felt there would always be such a problem, and the best thing to do was drill some holes in the bottom of the cans so the water can run out and forget about it. Norma Buchanan asked that better arrangements be made for Christmas and New Years than last year, due to the excessive amount of trash generated.

The consensus of the Council was that a letter of credit would not be required.

MINUTES

May 12, 1992

Greg Brown pointed out that the trash container at the overlook is so placed that it is not easily visible from the road, thus people stack their trash near a large post. He also indicated there is no trash receptacle at the dock. Mr. Mooradian asked if the receptacles could be "more than just a can."

f. Financial Report. The Council had no questions or comments about the Financial Report

7. Other Business.

After general discussion the Council decided to have its first budget workshop on Monday, June 1, 1992 at 6:00 PM.

Mayor Miller reported that only 22.4% of Beech Mountain's registered voters had voted, but this was right in the median of the surrounding area.

8. Executive Session.

Tim Holland moved that the Council go into Executive Session under the provisions of N.C.G.S. 143-318.11(a)(4) to receive a brief report from the Town Attorney on pending litigation. Kakii Handley seconded the motion and it passed unanimously. The Council went into Executive Session at 8:33 PM. The Council came out of Executive Session at 8:40 PM.

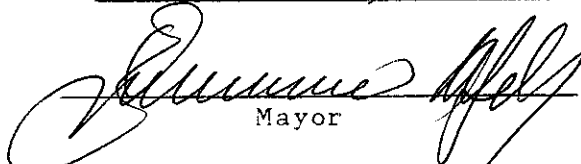
ADJOURN

There being no further business to come before the Council, the meeting was adjourned at 8:41 PM.

Respectfully submitted.

  
Barbara L. Mooradian

Minutes approved by Town Council on June 10, 1992.

  
Mayor

ATTEST:

  
Town Clerk