

MINUTES
BEECH MOUNTAIN TOWN COUNCIL
November 9 and 12, 1993

CALL TO ORDER

Mayor Rick Miller called the regular meeting of the Beech Mountain Town Council to order at 6:00 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, Police Chief Jay Hefner, and Public Works Director Joe Perry. Present in the audience were Council Members-elect Shiela Fletcher and Fred Pfohl, and a number of interested spectators.

1. Public Hearing - Proposed Amendments to the Zoning Ordinance.

Pursuant to advertisement in the Watauga Democrat of October 20 and October 27, a Public Hearing was called to order. Al Greene explained that the language requiring zoning permits and conditional use permits needed to be tightened up to clarify that the necessary permits must be obtained *in advance* or prior to construction, and more specific criteria for radio and TV towers, satellite dishes, private water and sewer plants, private water storage tanks and church spires needed to be added to the Zoning Ordinance. The Planning Board has, therefore, suggested amendments to Sections 502 and 1002.02. Ellen Anderson, Chairman of the Board of Adjustment, said that her Board had gone over the proposed amendments and find them to be acceptable to accomplish the desired ends. Roger Bullock, Chairman of the Planning Board, stated that Mr. Greene had properly explained the proposed amendments. There being no further comments or questions from the audience, the Public Hearing was declared closed at 6:04 PM.

Mayor Miller asked if there were any changes to the Agenda as prepared, and Al Greene asked that Roger Bullock be given the opportunity to address the Council under "Other Business," and that an Executive Session be held under the provisions of N.C.G.S. 143-318.11(a)(8) to discuss a personnel matter. It was so ordered.

Mayor Miller announced that the Town had won an excellent rating at the Farm/City Banquet held the previous Thursday. He also extended congratulations to all newly elected Council Members: Tim Holland, Kakii Handley, Fred Pfohl, Shiela Fletcher and Ed Waligroski.

2. Approval of Minutes, October 12, 1993.

Kakii Handley moved that the minutes of the October 12, 1993 Council meeting be approved as submitted. Tim Holland seconded the motion and it passed unanimously.

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3. Committee Reports.

Kakii Handley reported that the Watauga County Recreation Department will hold an open meeting on the 17th at the Armory to discuss Little League baseball, and whether or not they wish to remain in the National Little League or have one of their own.

Reub Mooradian reported that Virginia Fox, the President of Mayland Technical College, was dismissed by the Board of Trustees at their last meeting. At another meeting held November 8th it was determined that the dismissal had been illegal, and the action was rescinded. However, the Board has rescheduled another meeting with the proper notice given and with the matter on the agenda, so Mr. Mooradian imagines that the dismissal will be repeated at that time.

4. Persons Wishing to Address the Council.

- a. Luke Copeland - Audit Report. Mr. Copeland noted that this was the first time he had addressed the Council in November and how nice it was not to have to follow the fellow dressed up like a woolly worm. Mr. Copeland indicated that Holder, Copeland and Associates had, at the request of the Town, conducted an evaluation of the internal controls of the Town. He said they believe there are sufficient controls to protect the Town against loss from theft, etc. Four minor recommendations for changes were made, and he was pleased to find that two of those changes were already in place when they did their field audit in July.

Mr. Holder stated that their audit indicated that the cash reserves of the Town are being invested wisely in conservative funds. The tax collection rate was 97.32%, which is excellent, and represents an increase over the collection rate of the previous year. With regard to the books and records, Mr. Holder was pleased to report that they are maintained in an orderly manner and expenditures are well within the budget. Again, their unqualified opinion found the financial reports present fairly the Town's operation. The undesignated fund balance of \$511,000 represents a slight increase over the previous year. Revenues were \$9,000 in excess of the budgeted amount, while expenditures were held \$8,200 below budget. All the foregoing is a good indication to the Council that the staff is continuing its good work in overseeing the finances of the Town.

- b. Ellen Anderson. Miss Anderson said she would like to thank the Town Council for dealing objectively with Town matters, and not in a self-serving fashion. She said she felt the Council had made decisions which were fair to all citizens of the community. She said she felt the Town was blessed with excellent employees working both together and singly for the betterment of the Town. She said the

Council was to be complimented. She thanked the Town Council, the Town Manager and Police Chief, in particular, for all of the work they have done in making the Town what it is.

5. Old Business.

- a. Consider Tour DuPont Budget Ordinance. Mr. Greene referred to a budget ordinance which had been prepared by the Tour DuPont Local Organizing Committee. He said that, while the budget is excellent, if the Council wished to adopt it he would ask that they rescind their motion of October 12th, giving the \$6,150 in reserve to the Tour DuPont project, since that action was also covered by the budget amendment. Kakii Handley moved that the relevant motion of October 12th be rescinded, and that the budget ordinance be adopted. Greg Brown seconded the motion and it passed unanimously.
- b. Tour DuPont Committee Report. Shiela Fletcher reported that a meeting had been held October 25th, at which representatives from Medalist Sports were present. Everything went very well and the committee is right on target. She said the committee should have a sketch of the route on through Avery County by the first of January which will be shared with all. Tim Holland said that the committee was going to meet the last Monday of every month through January, then two Mondays a month starting in February.

Kakii Handley asked if the materials to be passed out in the schools were going to be available this year, and Ms. Fletcher indicated they were. They did not have a sponsor for the program last year, but this year they do. Fred Pfohl pointed out that the Avery County Chamber of Commerce had made some of the programs available to the Avery County schools last year. The route for the race will pass all but two elementary schools in Avery County this year, which should be very exciting for the children.

Al Greene indicated that the contracts have been amended and are ready to sign, and asked if the Council wished to wait until the agreement with Banner Elk was in hand. Reub Mooradian said he saw no reason not to sign the contracts as soon as David Paletta has had a chance to look them over and assure himself that all the requested changes have been incorporated, and so moved. Greg Brown seconded the motion and it passed unanimously.

6. New Business.

- a. Discussion of Water Violations. Ed Powell indicated that the Town had received two notices of violations of the drinking water standards from the State. The first notice indicated the Town

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violated the maximum containment level of total Trihalomethanes. This level is a yardstick used in measuring the formation of chemicals that are known as disinfectant by-products. Organic matter that naturally exists in water combines with chlorine and makes Trihalomethanes which, when injected into laboratory animals over an extremely long time may cause cancer.

The Town is required to take samples every quarter which, after analysis, are averaged over a one year period. The average of the most recent four tests must be below 100 parts per billion. Normally the Town averages somewhere around 50 parts per billion. However, in the summertime when more organic matter is naturally occurring in the water, the amounts get higher. In the third quarter of 1993 the test results were high enough to bring the four quarter average above 100 parts per billion. It is anticipated that the last quarter of 1993 and the first quarter of 1994 will be back well into the low range.

He alerted the Council and guests that, since the higher rate occurred in the third quarter, it may well be that it will affect the annual average again during the last quarter of 1993, thus producing another violation.

There are several options to try and reduce the total Trihalomethane levels. First, the total disinfection process will be closely watched. The point where the chlorine is applied to the water may be relocated. Other things would involve the conversion of chlorine into chloramines by adding ammonia which cannot be tasted. The filtration process will be closely observed and perhaps additional material can be added there to remove organic matter.

Mr. Powell stated firmly that the foregoing does not indicate the water at Beech Mountain is bad, or harmful.

Burt King, from the regional office of the Department of Health and Natural Resources, added that the level of total Trihalomethanes is based upon a study which indicates if one drinks a gallon of water a day for forty years, the chances are one in 75,000 that one will develop cancer.

Mr. Powell went on to relate that a second notice of violation had been received, but that he was very pleased to report that it was not a violation, but, rather, a mathematical error in calculating the "CT value." He went on to explain that the Town has certain parameters which have to be met using temperature and Ph. This is a new process required under new rules which went into effect the end of June this year.

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Mayor Miller pointed out that the Town was not notified of the violation in total Trihalomethane level prior to that news being on television and in the newspaper, and asked Mr. King if there was any way this could be avoided in the future. Mr. King said he planned to bring it up in Raleigh, and Ed Powell said that normally this was not the way that office operated, but that this had been some sort of strange leak.

Greg Brown pointed out that, with regard to the second "violation" which turned out to have been a mathematical error, even had it been a true violation it did not mean that the substance was present in the water, but that had the substance been present the tests indicated that our treatment would not have brought the substance down to acceptable levels. But, again, the substance had not been present.

Al Greene pointed out that, with the rolling average the State uses, the town may have continuing violations of total Trihalomethanes based on the September high reading, even if the next three quarterly tests are low. Roger Bullock suggested that it might be a good idea to explain this in the MountainEar, so if the violations occur due to the September reading citizens' fears may be alleviated by knowing to expect them in advance.

Al Greene outlined the sequence of events of the previous week. On Saturday morning, October 30th, Tim Holland called Mr. Greene and indicated he had heard of the Trihalomethane violation on WBTV. Mr. Greene immediately did a simple notification for the Police Department so they could answer the expected calls. The following Monday, Mr. Greene immediately called the State to inquire about the violation. The notification from the State to the Town was not received until the following Wednesday, after the article in the Watauga Democrat had already been published. The required public notification was written and had to be approved by Mr. Powell, after which it was published and is in the process of being mailed to all water customers. Mr. Greene asked if there were questions regarding the water situation, or anything else in the future, if the concerned party would simply pick up the phone and call the Town staff. He suggested it might be a lot quicker than writing a letter to the Mayor.

- b. Consider Amendments to Zoning Ordinance. Tim Holland moved that Section 502 be amended as proposed by the Planning Board. Kakii Handley seconded the motion and it passed unanimously.

Raub Mooradian moved that Section 1002.02 be amended as proposed by the Planning Board. Tim Holland seconded the motion and it passed unanimously.

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- c. Consider Offer to Purchase Lots D-57, D-58, D-145, C-450 and C-461. Tim Holland moved that the Town accept the offer to purchase the five lots for a total of \$4,000, provided the statutory period for advertisement passes without upset bids. In the event of upset bids, the Town Manager is authorized to accept the highest final offer. Greg Brown seconded the motion and it passed unanimously.
- d. Set Date and Time for Organizational Meeting. The Council set 5:00 PM on Tuesday, November 16, 1993 as the date and time for an organizational meeting to select the Mayor and Vice Mayor for the coming term.
- e. Schedule Date for Public Hearing on Zoning Ordinance Change. Council set 6:00 PM on Tuesday, December 14, 1993 as the date and time for a Public Hearing on the proposed addition of Section 800 to the Zoning Ordinance.
- f. Consider Tax Releases. Reub Mooradian moved that the tax releases sought by the Tax Administrator be approved. Tim Holland seconded the motion and it passed unanimously. Kakii Handley asked to be given further information on the releases to Frank Steele and David Grover since they were so substantial.
- g. Replace/Reappoint Board Members.
 - (a) Board of Adjustment. Mayor Miller indicated that the terms of Ellen Anderson, Erika McClung, Andy Krecicki, Sherry Garris and Jay Tischenkel were expiring in December. All members have indicated their willingness to serve again. Tim Holland moved that all members be reappointed to their respective terms. Kakii Handley seconded the motion and it passed unanimously.
 - (b) Planning Board. Mayor Miller indicated that the terms of Joe Pavelchak and John Hoffman were expiring in December. Both members had indicated their willingness to serve again, and Roger Bullock, Chairman, recommended their reappointment. Tim Holland moved that both members be reappointed to the Board. Kakii Handley seconded the motion and it passed unanimously.
- h. Consider Donation of lot WH-51 to Town. Al Greene said the Town had received an offer from Mr. Donald Bell to donate his lot to the Town. Mr. Bell had indicated that he wished to donate lot WH-54, but our records revealed that he owns WH-51. Greg Brown moved that the Town accept the donation provided Mr. Bell corrects his offer to reflect the proper lot number. Tim Holland seconded the motion and it passed four votes to one with Mayor Miller dissenting.

7. Staff/Consultant Reports.

- a. Town Engineer's Report. Mr. Powell reported that the Charter Hills Road shoulder repairs have been completed and only need reseeding in the spring. Greg Brown pointed out that with the trees cut it was a prime area to attract accidents and asked if the Town plans to put in a guard rail. Ed Powell said he thought the eight foot shoulder should give adequate protection, but perhaps the Town would want to erect some posts with reflectors.

Greg Brown said there are other places with guard rails on the mountain where the possibility of going so far down the slope doesn't exist and recommended the Town look toward guard rails at that point. Ed Powell said they planned to put an asphalt curb in when they pave the ditch when the road is resurfaced. Reub Mooradian suggested that the Town keep an eye on it, and install reflectors at a minimum.

Mr. Powell reported that the plans have been submitted to the State for relocation of the Skiloft tank to the area above the Summit. The Emerald Mountain pump station now has electricity to it, and Monday was start up for the booster pump station which worked well. It did have one bent gate in one check valve, but the replacement piece is in transit. The Town will be doing the sterilization of the tank tomorrow, so the tank should be ready for service at the end of the week. There will be a delay in the control system that connects to the water treatment plant. As soon as we get approval from the State we can move the Skiloft tank, and Mr. Powell suggested that it be moved, sterilized and put into service immediately, then painted in the spring/summer.

Cindy Keller asked if the penalty phase could be stopped, since the Emerald Mountain tank is now operational. She also asked that the Council consider waiving the penalties which have accrued. Al Greene agreed that the developer has worked very hard to get the tank operational and Council could safely stop the penalty phase, but would suggest that they not consider the liquidated damages until everything is complete, including the control system. Tim Holland said he had no problem with stopping the clock on penalties, and moved that no further penalties accrue after today. Reub Mooradian seconded the motion and it passed unanimously.

Tim Holland said he saw nothing wrong in taking the Town staff's recommendation to wait until all is finished and then decide about the penalty, and Reub Mooradian added that he was in favor of waiting for the whole project to be complete. Kakii Handley said she had no problem with collecting the penalty, as this has been going on a long, long time and has kept us from moving the Skiloft tank.

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Greg Brown suggested that when everything is completed the reasons for the delays and explanations be outlined. Roger Bullock suggested that such material be in writing so that the new Council can consider the question. David Paletta suggested that the report list the sequence of events in chronological order, specifically what date parts were ordered and so forth.

- b. Public Works Director's Report. Joe Perry had no report. Tim Holland reported that it has come to his attention that GDS is putting cans into the containers upside down again. Joe Perry indicated he had been so notified and has talked with Rick Chamra about the problem. GDS is to put a stop to the practice and reverse the cans. Greg Brown indicated they rarely, if ever, put the lids back on his cans, and Mr. Perry said he would complain about that the next day. Le O'Neal asked if there should be indicators that people have left the mountain, and said he had seen some and removed them. Al Greene said GDS should have no reason to do that as they are to check every can. This is, however, a recurring problem and we just have to stay on them.
- c. Town Attorney's Report. Mr. Paletta had no report.
- d. Chief of Police's Report. Chief Hefner reported that the radio system is in and working well. There was only one breaking and entering since August. Kakii Handley said she had had questions about the target range. Chief Hefner said he did not anticipate the range being ready before spring. The range is not open to the public. Mrs. Handley asked if any target stakes erected would be removed after use and Chief Hefner said they would.
- e. Town Manager's Report. Mr. Greene had no report.

8. Other Business.

Roger Bullock gave an overview of the electric substation situation: He stated that the Planning Board has been advised that during the winter the last few years we have actually received more than 100% of the power that the power lines are designed to carry. The Town has a potentially serious problem in the winter. There is a very strong need to get a new substation and additional power from TVA. Presently the case is before the N.C. Public Utilities Commission in Raleigh. There are three individuals who are seeking to block Mountain Electric from continuing with the substation at the chosen location above Rascals. Mr. Bullock pointed out that the Town Council and Planning Board had looked very carefully to find the route that would adversely affect the smallest number of property owners. There have been a number of postponements of the hearing, and Mr. Bullock felt the Commission must act soon so that we can be assured of adequate power. He read a petition which he had prepared and urged

everyone to sign it. Ellen Anderson asked David Paletta if there was not some limit to the time the Commission could delay the matter, and Mr. Paletta replied that the Commission has the discretion to accept as many continuances as it wishes to.

Norma Buchanan said she wished to echo Ellen Anderson's statement earlier. Even though she has not always agreed with the Council, she said she believed that its decisions were made for the greater good of the Town.

Rick Miller said he had enjoyed his terms as Mayor, and thanked everyone for allowing him to serve.

9. Executive Session.

Tim Holland moved that the Council go into executive session under the terms of N.C.G.S. 143-318.11(a)(8) to discuss a personnel matter. Reub Mooradian seconded the motion and the Council went into executive session at 7:50 PM. Council came out of executive session at 9:40. Kakii Handley moved that the meeting be recessed until 5:00 PM on Friday, November 12. Greg Brown seconded the motion and it passed unanimously.

RECALL TO ORDER

Mayor Miller recalled the meeting to order at 5:05 PM. Other members present were Tim Holland, Kakii Handley and Reub Mooradian. Greg Brown was absent. Alan Holcombe was a guest in attendance.

Council reviewed wording submitted by Town Attorney David Paletta for amendment to the Town Manager's employment contract to provide for severance pay. Reub Mooradian moved that the amendments to the Town Manager's contract be adopted as submitted. (Cy attached) Tim Holland seconded the motion and it passed unanimously.

Reub Mooradian moved that the Town Manager be granted a 5% raise in salary, and that his automobile expense be increased to \$360 per month. Motion was seconded by Kakii Handley and passed unanimously.

There was discussion on the Mountain Electric substation and petition. It was the consensus of the Council that the Town contact TVA and Mountain Electric and present the issue of the substation, the status, and possibly a date for the public hearing before the Utilities Commission; and for the Town to submit a petition with the signatures of all property owners supporting the substation.

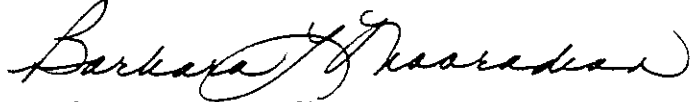
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ADJOURN

There being no further business to come before the Council, the meeting was adjourned at 5:38 PM.

Respectfully submitted,



Barbara L. Mooradian
Town Clerk

Minutes adopted by Town Council on December 14, 1993, 1993.



Mayor

ATTEST:



Town Clerk

MINUTES
BEECH MOUNTAIN TOWN COUNCIL
Organizational Meeting
November 16 and 23, 1993

CALL TO ORDER

Mayor Miller called the organizational meeting to order at 5:00 PM November 16, 1993. Other Council Members present were Tim Holland, Kakii Handley and Reub Mooradian. Council Members-elect present were Shiela Fletcher and Fred Pfohl.

As Council Member-elect Ed Waligroski was absent, it was the consensus of the Council to wait until he could be present before conducting any business.

Kakii Handley moved that the meeting be recessed until November 23, 1993 at 5:00 PM. Tim Holland seconded the motion and it passed unanimously.

RECALL TO ORDER

Mayor Miller recalled the organizational meeting to order at 5:00 PM November 23, 1993. Other Council Members present were Tim Holland, Kakii Handley and Reub Mooradian. Council Members-elect present were Shiela Fletcher, Fred Pfohl and Ed Waligroski.

1. Administration of Oaths of Office. The oath of office was administered to Ms. Fletcher, Mr. Pfohl and Dr. Waligroski so they could take part in the organizational meeting.
2. Selection of Mayor. Kakii Handley nominated Tim Holland for Mayor, and Mr. Holland seconded the motion. Shiela Fletcher nominated Fred Pfohl for Mayor and Ed Waligroski seconded the motion. The vote was taken and the following Council Members voted for Tim Holland: Kakii Handley and Tim Holland. The following Council Members voted for Fred Pfohl: Shiela Fletcher, Ed Waligroski and Fred Pfohl.
3. Selection of Vice-Mayor. Fred Pfohl nominated Tim Holland for Vice-Mayor. Kakii Handley seconded the motion. There were no further nominations, and Mr. Holland was elected unanimously.
4. Discussion of Petition to Utilities Commission. Al Greene filled the new Council Members in on the past history of the Beech Mountain substation, and distributed copies of a proposed petition to be sent to all home/condominium owners urging the Utilities Commission to allow Mountain Electric Cooperative to construct the substation on their chosen site. Mr. Greene said he had spoken with David Lawrence of the Institute of Government, who indicated that the mailing of such a petition was within the statutory parameters for a use of public funds. Tim Holland asked if Mountain Electric had been approached about sending the petitions, and Mr. Greene replied that they felt it might hurt their position.

Roger Bullock, Chairman of the Planning Board, explained that he had been notified that the individuals fighting the substation had gotten several hundred petitions from owners at Christie Village, and therefore we needed to produce a larger number of petitions for presentation at the hearing now scheduled for December 21, 1993.

Mayor Pfohl asked if petitions would really help in this instance and Mr. Greene said that Mountain Electric had indicated they would be very helpful. Kakii Handley said she was not generally in favor of petitions and wanted to be advised whether or not the Utilities Commission likes them or not. She thought there might be better places for the Town to spend some \$1200, which is what the mailing project will cost. Mr. Greene agreed that it would be unwise to spend over \$1200 unless it would carry weight with the Commission, and it was the contention of the attorney for Mountain Electric that it would. Roger Bullock reminded Council that David Paletta, Beech Mountain's Town Attorney, had indicated that a petition would be helpful.

Shiela Fletcher indicated she felt the petition would be effective. Mr. Greene said that the staff recommends we proceed based on the need for the power and the study that the Planning Board has done, as well as the fact that it would be effective. Tim Holland said he believed the Council should get actively involved in this way, and Ed Waligroski agreed that the Council should go ahead with the petition drive.

Tim Holland moved that the Council proceed with producing and mailing the petitions. Shiela Fletcher seconded the motion and it passed unanimously. Mayor Pfohl thanked Mr. Bullock for his continued interest and work on the project on behalf of the Council.

ADJOURN


There being no further business to come before the Council Tim Holland moved that the meeting be adjourned. Ed Waligroski seconded the motion and it passed unanimously. The meeting was adjourned at 5:25 PM.

Respectfully submitted,



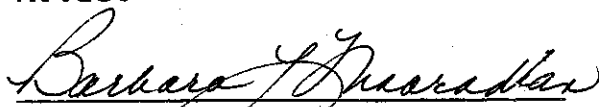
Barbara L. Mooradian
Town Clerk

Minutes approved by the Town Council on December 14, 1993.



Mayor

ATTEST:



Town Clerk