

MINUTES  
BEECH MOUNTAIN TOWN COUNCIL  
December 14, 1993

CALL TO ORDER

Mayor Fred Pfohl called the regular meeting of the Beech Mountain Town Council to order at 6:00 PM. Other Council Members present were Tim Holland, Shiela Fletcher, Kakii Handley and Ed Waligroski. Also present were Town Manager Al Greene, Town Attorney David Paletta, Police Chief Jay Hefner, and Public Works Director Joe Perry. A number of interested spectators were present in the audience.

1. Swearing in Ceremony, Judge Alexander Lyerly. Mayor Pfohl and the Town Council members were formally sworn into office by Judge Alexander Lyerly.
2. Presentation of Plaques, Outgoing Council Members. Mayor Pfohl presented plaques to former Mayor Miller and Council Members Mooradian and Brown expressing the appreciation of the citizens of Beech Mountain for their service to the Town.
3. Public Hearing - Proposed Change to the Zoning Ordinance. Al Greene explained that the proposed amendment would tighten up the Zoning Ordinance as regards permitted and conditional uses. There were no questions or comments from the audience. Tim Holland moved that the Public Hearing be closed. Kakii Handley seconded the motion and the Hearing was closed at 6:12 PM.
4. Consent Agenda. Kakii Handley moved for approval of the consent agenda. Tim Holland seconded the motion and the following items were unanimously approved:
  - a. Minutes of the meeting of November 9 and 12, 1993.
  - b. Minutes of the meeting of November 16 and 23, 1993.
  - c. Minutes of the Tour DuPont meeting of November 29, 1993.
5. Committee Appointments. Mayor Pfohl appointed the following Council Members to their respective committees:

Tim Holland - Resort Towns Association and Region D Council of Governments

Kakii Handley - Watauga County Parks and Recreation

Shiela Fletcher - Watauga County Commissioners

Ed Waligroski: Avery County Commissioners

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Mayor Pfohl said that he would be happy to fill in for any of the Council Members at their respective meetings should a scheduling conflict ever develop.

### 6. Old Business.

- a. Consider Resolution Regarding Substation. Al Greene pointed out that the Utilities Commission would be hearing a complaint filed by some owners of condominiums adjacent to the proposed electric substation site on December 21st, and that it would be helpful in getting them to agree to allow the substation if the Council would go on record as urging the construction. He noted that approximately 1600 petitions had been sent to power customers, 924 of which have been returned: 917 in favor and 7 against. Mayor Pfohl thanked everyone for responding so quickly, and especially those who volunteered to help stuff envelopes and get the petitions out so fast. He stated that he, Al Greene and Roger Bullock were going to have a luncheon meeting with representatives of Mountain Electric on Friday to stress the importance of restoring the site once the substation is built, and masking it from view. It is hoped that they will put such a pledge in writing. Tim Holland moved that the Council adopt Resolution 93-12-01. Shiela Fletcher seconded the motion and it passed unanimously.
- b. Consider Resolution Authorizing Disposal of Town Property. Mr. Greene indicated that the Police Department had a Chevrolet Blazer with over 100,000 miles on it, which they no longer need. The vehicle had been offered for sale by the previous Town Council for a minimum price of \$4,000 without any bids being received. The staff proposes to offer the vehicle for sale without a minimum price. Once bids are received, the Council may reject any or all of them if they do not feel they are high enough. Tim Holland moved that Council adopt Resolution 93-12-03. Kakii Handley seconded the motion and it passed unanimously.

### 7. New Business.

- a. Consider Emerald Mountain Water Tank Matters. Al Greene presented a brief background and update on the Emerald Mountain water tank project. He said that while the tank and the pump station are in and operational, there are several items still required of the developer before the project will be complete: the telemetry system and an easement onto the property on which the tank is sited. These matters need to be resolved prior to December 31st, when the letter of credit expires. Mr. Greene recommended that Council either schedule a special meeting or recess this meeting to December 23rd, in hopes that the final items required from the developer will be available: Easement, letter from their engineer stating that the items were built according to approved specifications, offer to dedicate the

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property to the Town, maintenance agreement and monetary guarantee, and a reduced and extended letter of credit to cover the telemetry system and liquidated damages which have accrued.

Mr. Paletta was asked about this timing, and said the 23rd should allow sufficient time to cash in the letter of credit, if necessary. When asked about the easement, Mr. Paletta said that the ideal situation would be for the easement to contain a meets and bounds description which is based upon a survey, but that it is not absolutely necessary. It can be more generally described, and this is what the developer hopes for, as they don't want to make the expenditure for a survey. After general discussion Tim Holland said he felt the more general description as given by Mr. Paletta would be adequate. Kakii Handley disagreed, saying she would like the roadway easement to be as clean as possible so there would never be any questions. She also urged that Council not set a precedent to which other developers can refer in the future. Ed Waligroski concurred with Mrs. Handley.

Kakii Handley moved that Council require a survey for the access road to the water tank. Ed Waligroski seconded the motion and it failed, three votes to two, with Ms. Fletcher and Messrs. Pfohl and Holland dissenting. Tim Holland moved that the description of the easement using the center line of the existing road and the actual location of the pipes be approved. Shiela Fletcher seconded the motion and it passed three votes to two, with Mrs. Handley and Mr. Waligroski dissenting.

- b. Consider Resolution Allowing Town Staff to Purchase at Fred's. Fred Pfohl asked that he be excused from the discussion of this subject. Tim Holland so moved and Shiela Fletcher seconded the motion which passed unanimously. Al Greene explained that the Town makes a lot of miscellaneous purchases at Fred's, but that State law requires that a Town pass a resolution allowing such purchases if the proprietor is an elected official. Kakii Handley moved that Resolution 93-12-02 be passed allowing purchases by the Town at Fred's. Shiela Fletcher seconded the motion and it passed unanimously. Kakii Handley moved that Mayor Pfohl be readmitted to the meeting. Shiela Fletcher seconded the motion and it passed unanimously.
- c. Consider Amendments to Zoning Ordinance. Tim Holland moved that Section 800 be adopted as presented at the Public Hearing. Kakii Handley seconded the motion and it passed unanimously.
- d. Consider Appointments to Economic Development Committee. Kakii Handley moved that Calder Smoot be appointed to the Economic Development Committee for three years, Bill McClung for two years and Ricky Holcombe for one year. Shiela Fletcher seconded the motion and it passed unanimously.

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- e. Cable Rate Review Procedures. Al Greene explained that even though the Town has been certified to oversee basic tier rates for cable service, as well as High Country Cable's service standards, the Town must adopt procedures that the Town will use in its oversight role that are consistent with FCC guidelines. The procedures presented were adapted from those of Charlotte.

There was some discussion about whether or not the oversight which is allowed the Town would include demand that a specific station or network be included in the basic tier, or whether the fact that that network was included in the station lineup in the contract the cable company originally signed with the Town would have any bearing. David Paletta indicated that FCC regulations would overrule any contractual agreement between the Town and the cable company. Tim Holland moved that the procedures be adopted as presented. Shiela Fletcher seconded the motion and it passed unanimously.

- f. Consider Date for Orientation with Town Employees. After some discussion it was agreed that 8:00 AM on Tuesday, January 4, 1994, would be the date and time for orientation of the Council, to include visits to Town facilities, discussions regarding the Five Year Plan and the current year's budget.

- g. Consider Award of Bids for Underground Storage Tank Replacement and Budget Amendment & Ordinance Therefor. Mr. Greene explained the need for replacement of the underground fuel tanks with either above ground tanks or new and improved underground tanks. The economics of the situation dictate the replacement with above ground tanks. He went over the bids received by Ed Powell for removing the present tanks and installing the new tanks. The low bid of \$41,050 was made by a joint venture of Payne Adams and R & G Construction. After general discussion Tim Holland moved that the Town accept the bid of Payne Adams and R & G Construction. Shiela Fletcher seconded the motion and it passed unanimously.

Kakii Handley moved that the budget amendment to the General Fund be approved as submitted. Ed Waligroski seconded the motion and it passed unanimously. Tim Holland moved that the budget ordinance establishing an Underground Storage Tank Capital Project be approved. Kakii Handley seconded the motion and it passed unanimously.

- h. Tax Releases and Refund. Tim Holland moved that the tax releases and refund be approved as requested by the Tax Administrator. Kakii Handley seconded the motion and it passed unanimously.

- i. Consider Donation of 19.79 Acre Parcel. Mr. Greene referred to an offer by Theodore J. Samuel to donate a 19.79 acre tract off Bear Paw Path to the Town. He indicated Mr. Samuel owed over \$550 in

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taxes to Watauga County and the Town. There was general discussion about the uses to which the Town might put the property, and Mrs. Handley strongly urged consideration of a cemetery. Tim Holland indicated that a good portion of the property might be considered unusable. It was also pointed out that if the Town foreclosed on the property due to non-payment of taxes, the cost to the Town would exceed the Watauga County taxes now owing. Kakii Handley moved that the Town accept the donation. Shiela Fletcher seconded the motion and it passed unanimously.

- j. Consider Offer to Purchase SM-37 for \$1,800. Al Greene indicated that the Town had received an offer to purchase SM-37 which contained a condition that the property prove acceptable for a septic system. As the Town cannot accept an offer with conditions, Mr. Greene had suggested the prospective buyer go ahead with the necessary tests, and if everything was okay we could proceed with the offer. The staff seeks permission to proceed with the upset bid process if the offer is resubmitted after the septic test. Kakii Handley so moved. Ed Waligroski seconded the motion and it passed unanimously.

8. Staff/Consultant Reports.

- a. Town Engineer's Report. Ed Powell reported that the Charter Hills water line replacement is nearing completion. The first half is on service and the remainder has been installed and tested and placed in service, but hydrants need to be set and the transfer of service needs to be accomplished. The pavement patching has been completed on the first half, but it will probably be early spring before the remainder can be done.

The old Skiloft water tank has been moved to its new location in The Summit Subdivision, and Mr. Powell is now in the process of getting some bids to get it in service.

With regard to the underground storage tank replacement, it will no doubt be after the winter season before any work is done on that project.

Greg Brown urged that the contractors do a better job in putting up detour signs when they block areas of the road. Mayor Pfohl asked Chief Hefner to get the patrolmen to take a look at the area, especially at night, to be sure detours are properly marked.

- b. Public Works Director's Report. Mr. Perry explained that he had been asked to check into the possibility of erecting snow fences along Grassy Gap Loop Road and St. Andrews Road where the snow drifts off the golf course and onto the roadways. It appears that it will definitely be possible to do so along Grassy Gap Loop, but it

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is unknown if it can be worked out for St. Andrews Road. Apparently snow piled deeply on areas where a good deal of fertilizer has been used causes snow mold. Bill Sposato, who was in the audience, said he would have to abide by the decision of the grounds keeper.

Mayor Pfohl thanked Mr. Perry for the help of his men in putting up and maintaining the Christmas lights.

- c. Town Attorney's Report. Mr. Paletta had no report.
- d. Chief of Police's Report. Chief Hefner said he had no additional report. Mayor Pfohl announced, for the benefit of those in the audience, that two individuals had been arrested in the vandalism cases. He expressed his thanks to the Police Department for their help in making the arrests. Tim Holland asked if any sort of retribution could be expected and Chief Hefner replied that he did not know what the courts would do.

Kakii Handley asked about complaints she had received regarding alarms which were activated by the windy conditions, and wondered if individuals had been written or cited. Chief Hefner stated that malfunctions caused by violent weather (other than lightning) are not considered false alarms for purposes of citations. The Department has been writing individuals in the cases of false alarms.

Mayor Pfohl reported on a meeting he and Chief Hefner had attended in Avery County regarding the Americans with Disabilities Act, and stated that they would be getting packets of information to share with the businesses on the mountain.

Chief Hefner reported that, thanks to help from Mayor Pfohl, Shiela Fletcher and Al Greene, it appears that the ski registration program will finally get off the ground.

- e. Town Manager's Report. Al Greene indicated that he would try and get the photographer to be at the next Council meeting to take the official photograph. He will notify Council Members if he will be available.
  - f. Financial Report and Building Inspections Report. The reports were distributed to the Council for their information. Mrs. Handley asked about the large amount of tax collection from prior years and the large miscellaneous income figure and Mr. Greene said he would get the information and provide it to Council.
9. Executive Session. Tim Holland moved that the Council go into Executive Session under the conditions of N.C.G.S. 143-318.11(a)(1), (4) and (5) to discuss the acquisition of property and to consult with the Town Attorney.

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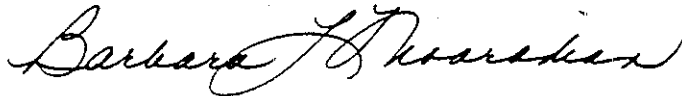
Ed Waligroski seconded the motion and it passed unanimously. Mayor Pfohl distributed a pad and asked those in the audience who would like to be notified if the meeting is recessed to another date and time to sign up. The Council went into Executive Session at 7:54 PM. The Council came out of Executive Session at 9:22 PM.

RECESS

There being no further business to come before the Council, Kakii Handley moved that the meeting be recessed until 8:30 AM on Thursday, December 23, 1993, at which time the Emerald Mountain water tank project will be discussed. Tim Holland seconded the motion and it passed unanimously. The meeting was recessed at 9:23 PM.

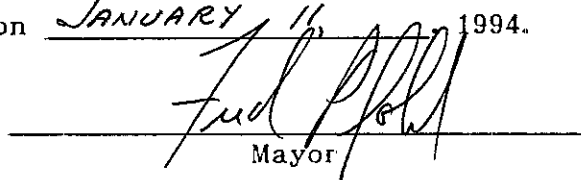
The recessed meeting of December 23, 1993 did not take place.

Respectfully submitted,

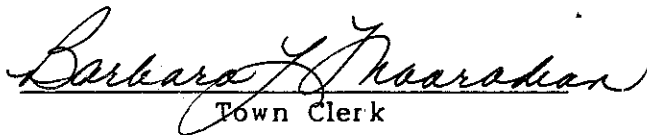


Barbara L. Mooradian  
Town Clerk

Minutes approved by Town Council on JANUARY 11, 1994.

  
Mayor

ATTEST:

  
Town Clerk

