

MINUTES  
BEECH MOUNTAIN TOWN COUNCIL  
January 12, 1993

CALL TO ORDER

Mayor Rick Miller called the regular meeting of the Beech Mountain Town Council to order at 6:00 p.m. Other Council Members present were Greg Brown, Kakii Handley, Tim Holland, and Reub Mooradian. Also present were Town Manager Al Greene, Town Attorney David Paletta, Town Engineer Ed Powell, and Public Works Director Joe Perry. Present in the audience were Ron Nichols, Patti Pacifico, Fred Pfohl, Norma and Phil Buchanan, Calder Smoot, Ellen Anderson, John Hoffman, Charlie Burleson, John Morris, and Ed Calvin.

1. Approval of Minutes, December 8, 1992.

Kakii Handley moved that the minutes of the regular meeting of December 8, 1992 be approved as prepared. Reub Mooradian seconded the motion and it passed unanimously.

2. Committee Reports.

There were no committee reports.

3. Tour DuPont Committee Report.

Fred Pfohl reported that the Committee had met that day and made good progress in finalizing the plans for seeking corporate and individual sponsorships. Rick Miller indicated he was very interested in getting the whole project wrapped up but was concerned about the number of rooms which had been pledged. Calder Smoot updated the information which had been prepared for the Council by saying that the Committee had recently received a breakdown of the beds required, which totalled 634. The Committee has received pledges of 533 rooms so far, and others are in the mail which would bring the total to 605. He also stated that some 34 of the rooms required are actually to be paid for by press people, and not complimentary. Al Greene pointed out that the contract calls for 700 beds, and that Medalist Sports had not been willing to reduce that figure to 600.

Kakii Handley asked if the size of the beds played any role in the count, and Mr. Smoot indicated that any size bed was considered as one, but that sleep sofas were not acceptable. Rick Miller said that he felt if 600 beds were pledged the Council could proceed with signing the contract. Reub Mooradian pointed out that if the number of necessary beds are not pledged, the Town would be responsible for paying for the additional accommodations. After further discussion the Mayor asked if the Council would be willing to have a special meeting the following week, to allow the Committee to line up additional beds. Reub Mooradian suggested recessing the present meeting until 9:00 AM Tuesday, January 19th.

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Fred Pfohl asked the Council to clarify its intent with regard to any excess funds which might be left over after the event, and asked that they be earmarked for next year's Tour DuPont or if the Town couldn't get the event again, that they remain in the EDC reserve. The general consensus of the Council was that this had been their intent, but to resolve the matter Reub Mooradian moved that any funds left over at the end of the Tour DuPont event in 1993 be remanded to the EDC reserve, earmarked for use as start-up monies for the Tour DuPont event in 1994, if Beech Mountain should again sponsor it. Greg Brown seconded the motion and it passed unanimously.

5. Old Business.

a. Tour DuPont.

- (1) Budget. Tim Holland presented a revised budget for the Tour DuPont adding \$2,000 to revenues to be received from advertising in a Mountain Times format program, and a like amount added to appropriations for printing and distributing the program. He also indicated the Committee had revised its earlier estimate of the cost of renting a copier, fork lift, porta-johns and fencing downward to \$1,500, but wished the \$2,000 previously under the rental line item to be divided and added to advertising and printing, bringing those items to \$1,750 each. The Council will take up approving the budget at the continuation to be held January 19th.
- (2) Agreement with Medalist Sports. David Paletta indicated that the most recently received amendment to the agreement had contained most of the changes the Town had requested, and those which were omitted were of small concern. The Council will take up approving the agreement at the continuation to be held January 19th.

Before leaving the subject of Tour DuPont, Mayor Miller stated that he had been told that an individual had made derogatory comments at a meeting of the Banner Elk Chamber of Commerce about the Town Council dragging its feet regarding the Tour DuPont. He said he resented such an accusation and that it was not true. The Council had agreed to sponsor the event from the beginning, but was looking out for the taxpayers' interests in having the agreement revised and awaiting pledges of lodging and food. The Council stands ready to execute the agreement with Medalist Sports as soon as it is assured that the Town is not going to face a large expenditure for the event. He asked that anyone who attends Banner Elk Chamber of Commerce meetings set the record straight.

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- b. Booth and Associates; Electric Transmission Line. Al Greene reported that the response from Booth and Associates to the Town's queries regarding the proposed electric transmission line had been less than satisfactory. The most concern expressed by the citizens had been fear of the electromagnetic field causing health problems, and Booth had responded that they could not give an expert opinion on that but that there has been no definitive correlation between electromagnetic fields and human health. The other questions regarding proposed voltage of the line, possible underground installation and location of the substation itself had been answered with quotes as to the cost of generating the responses. Mr. Greene recommended the Council drop the subject, and that the Planning Board had done adequate study on the project.

Mrs. Handley said she did not feel the Council could ever receive a more definitive answer regarding health hazards, and Tim Holland said he felt the Council should not spend the additional money with Booth and Associates. Reub Mooradian disagreed, indicating that the concerned citizens had voiced their willingness to have the Council spend tax monies to get answers to their concerns. Mrs. Handley said she had contacted a number of people to ask that they submit questions for Mr. Greene to pose to Booth and Associates, but only one individual had responded with a phone call. When asked to put his question in writing he failed to respond. Fred Pfohl said that he had received a copy of an article from the New England Journal of Medicine which concluded there was no definitive correlation between the electromagnetic fields and human health. Tim Holland moved that the Town drop any further study of the matter. Kakii Handley seconded the motion and it passed four votes to one with Mr. Mooradian dissenting.

- c. Discussion of Overflow Parking at Rental Units and Residences. Rick Miller indicated he had asked that this item be on the agenda for discussion as being a yearly problem. He asked if Council had any solutions or suggestions about the problem. Ellen Anderson suggested the rental agents and homeowners be notified in a strong way that overflow vehicles are not to park in the road or in someone else's private parking area. She said not only does the overloading of homes cause parking problems, but also tends to overload the garbage containers.

John Hoffman said the Planning Board had discussed the problem, but felt that the Town' ordinance was sufficient as written. Norma Buchanan said she felt almost every rental agency specified to renters that there would only be two cars per house and that there was no parking allowed on the streets. She said that when her office is notified of too many cars they go to the residence and make them move the excess. Tim Holland said he felt the Police had been told to interpret the law that if a fire truck could get through

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the road was not blocked, and suggested a more literal interpretation of the law. Chief Hefner said his Department tried to stay within the regulations, but use common sense at the same time. He indicated his Department had issued 30 parking tickets in December and towed four cars away. Reub Mooradian said he didn't feel that most of the violators were with any of the rental programs but were caused by private homeowners who rent or allow guests to use their homes, and by day skiers.

Greg Brown said he felt the parking problem had lessened, and that a certain number of violations would always occur. Tim Holland said that a lot of violations could be avoided if owners were forced to enlarge their parking areas. Rick Miller asked if Mr. Greene could write owners of homes where continual violations occur and request that they enlarge their parking. Mr. Greene said he did not feel that he could do so under the circumstances. David Paletta said he thought if the staff or Police Department become aware there is chronic abuse the owner could be notified that they need additional parking to handle the problem and that henceforth there will be a strict towing policy. Charlie Burleson said he thought this would be selective enforcement of the law, and Mr. Paletta replied that there is nothing to prohibit the Town from being very strict in the case of habitual violators.

A rather long period of continued discussion occurred, with the general consensus that the Police Department be more strict in its interpretation of the on-street parking ban. Mrs. Handley asked how they would know when someone was on the travelled portion of a graveled road, and Mr. Paletta said the officer would have to use his best judgment.

- d. Ordinance on Sanding Private Drives. Mr. Greene referred to a suggested amendment to Chapter 3 of the Code of Ordinances which would allow the Public Works Director to sand private driveways in the interest of public safety only when requested by the owner or agent and only at the expense of the requesting party. Reub Mooradian moved that the proposed amendment be approved as written. Tim Holland seconded the motion and it passed unanimously.
- e. Radio Communications Bids. Al Greene outlined a number of problems which the Town had encountered with the only bidder on the Police radio system and recommended that the bid be rejected and the project rebid. Reub Mooradian so moved. Tim Holland seconded the motion and it passed unanimously.
- f. Consideration of CATV Franchise Application (Emerald Mountain). Mr. Greene explained that Emerald Mountain had applied for a CATV Franchise to operate a small cable system within their subdivision. He had prepared a Resolution Accepting their application for the

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Council's consideration. After some discussion the Council asked if the Council could hold a work session on the subject in conjunction with the continuation of the meeting on January 19th. Mr. Paletta was asked if he could be present at that time and he indicated he could. No further action was taken on the matter.

6. New Business.

- a. Consider Donation of Lots C-461 and WH-15. Mr. Greene indicated that two individuals had offered to donate lots to the Town. Reub Mooradian moved the Council accept the donations. Tim Holland seconded the motion and it passed four to one, with Mayor Miller dissenting.
- b. Consider Amendment to Chapter 3, Streets and Driveways. Mr. Greene went over another proposed amendment to Chapter 3, explaining that the amendment would give the Town some control over private roads which are constructed so as to connect to a Town street. He said Mr. Paletta had some questions about enforcement of the regulation, but Mr. Greene recommended the Council accept the amendment with the intent to enforce it. Kakii Handley so moved. Reub Mooradian seconded the motion and after discussion it passed unanimously.
- c. Consider Tree Planting Grant. Mr. Greene outlined a program offered by the Small Business Administration whereby they would match monies spent for the purchase and planting of trees. The minimum grant figure would be \$2,000, which would mean an expenditure by the Town of funds and in-kind labor. The deadline for the grant application is prior to the next Council meeting, and Mr. Greene asked if the Council wished to pursue such a grant. Greg Brown moved the Town apply for the minimum grant. Tim Holland seconded the motion and it passed unanimously. Mr. Greene said he would be working with Ed Lotz on the project, and Tim Holland suggested that Fred Pfohl would be a good individual to get involved, as well. Kakii Handley said she would like to work on the project, too.
- d. Consider Audit Contract, FY 92-93. Mr. Greene asked the Council's pleasure regarding the signing of a contract with Holder, Copeland and Associates for the annual audit. He pointed out that they do an excellent job and have lowered their fees twice in recent years. Greg Brown moved that Holder, Copeland be awarded the contract. Tim Holland seconded the motion and it passed unanimously.
- e. Consider Safety Policies.
  - (1) Respirators. Mr. Greene pointed out that two policies had been prepared which OSHA requires Towns to have. He stated

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that the Town had received a free consultation with an OSHA representative who had been invited to visit the Town's facilities to point out any discrepancies he might note. In addition, the staff holds regular monthly Safety Committee meetings and monthly safety training. He said he felt that with the adoption of the Respirator policy and the Lock Out/Tag Out policy the Town would be in good shape as far as OSHA regulations are concerned.

- (2) Lock Out/Tag Out. Mr. Greene explained this policy was designed to promote safety in the operation of machinery. Greg Brown moved that both policies be adopted. Tim Holland seconded the motion and it passed unanimously.

Reub Mooradian commended Mr. Greene and the staff for getting the OSHA representative's input. Tim Holland asked about ear protection, noting operation of the chipper in particular. Mr. Perry said that the men were provided with both ear and eye protectors, but if Mr. Holland had seen any operating equipment without them it was something against the rules. He said that Dolin Carpenter had been appointed inspector, and would be keeping a sharp eye on the use of safety equipment and measures.

- f. Discussion of Legislative Matters; Avery Occupancy Tax. Mr. Greene noted that it appeared Avery County was going to try again to get an occupancy tax bill passed through the Legislature, and also perhaps an amusement tax. Depending on the wording, the occupancy tax could either override Beech Mountain's or be added to our tax. Neither option seems desirable. Several of the municipalities in the area oppose the tax. He said that League policy would require them to oppose any bill which would override our 3% tax, but not if it were to be added to the tax.

He said he believed he recalled that the Legislature had set up an oversight committee to insure that the proceeds of any occupancy tax bills introduced in the future strictly for travel and tourism, and not into the general fund. Mr. Greene asked for Council's authorization for he and the Mayor to work with other towns and contact elected officials in Raleigh to voice the Town's concern over Avery County's proposal.

Charlie Burleson mentioned that both the business community and the Chamber of Commerce share the Town's concern and that a letter from the Chamber urging the Council to fight the bill was forthcoming. Ron Nichols, on behalf of the EDC, also voiced their support for opposing the bill. It was the unanimous opinion of the Council that all possible contacts should be made to engender support for opposing the bill.

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- g. Approval of Plans; Frisbie Subdivision. Mr. Greene indicated that a sketch plan for Pinnacle Overlook Subdivision has been approved, and that the developer is seeking preliminary approval for a small portion. The Town Council and State have to approve utility extension plans prior to the Planning Board granting preliminary approval. Our engineer has gone over the utility plans and found several objections. Mr. Greene proposed to send a letter to the developer's engineer outlining the discrepancies. He asked that the Council approve the plans contingent upon the required changes being made. This would allow the Planning Board to grant preliminary plat approval. Tim Holland so moved. Greg Brown seconded the motion and it passed unanimously.
- h. Tax Releases. Mr. Greene explained the need for several tax releases due to computer error. Tim Holland moved the tax releases be approved. Reub Mooradian seconded the motion and it passed unanimously.

7. Staff/Consultant Reports.

- a. Town Engineer's Report. Ed Powell reported that the Bear Branch project is, for all practical purposes, complete and operational. It will be spring, however, before some final items can be done. The ultraviolet unit has been received and the contractor will install it shortly.

Rick Miller asked about the Emerald Mountain water tank and was told it is erected, but the pump station and the backfilling has yet to be done. The sewer system for Blocks C and D was inspected and their engineer advised that several items need to be taken care of before the Town will inspect it again.

- b. Public Works Director's Report. Joe Perry had no report. Greg Brown asked about the maintenance of the road between Crest of Beech and Emerald Mountain and was told this was a private road, owned by the Frisbies, and would be improved to Town specifications as part of the development of Pinnacle Overlook Subdivision.
- c. Town Attorney's Report. Mr. Paletta had no report.
- d. Chief of Police's Report. Chief Hefner stated that December had been quite busy. The Department has closed out the 14 breaking and enterings by arrest. Chief Hefner and Officer Crawford interviewed several suspects who had been arrested in Carter County and got some confessions. These individuals have visited Beech Mountain three separate times and have pointed out specific houses which they had burglarized. They have also confessed to the breakin at TM-1 in March/April of last year, as well as eleven Skiways breakins from 1990. They will be signing statements about

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those breakins as well. The only down side of the process is that there is not likely to be any recovery of stolen items. They state they sold the items at an "auction house" in Tennessee. The Department is checking further to ascertain if this was an actual auction house, which would maintain records of its sales, or a flea market. All of the property owners involved will be notified, as well as their insurance companies.

Avery County solved 50 of their outstanding breakins with the same gang, as well as Boone, Blowing Rock, Sugar Mountain, Banner Elk and Johnson City, Tennessee. The gang has been breaking into homes for over four years.

New Year's Eve an arrest was made of a person who had stolen a set of skis. He had evaded capture by Beech Mountain Resort Security, and had broken into a vehicle trying to steal it. Being unsuccessful, he apparently went a little further down the street and stole another vehicle. Officer Crawford obtained a partial fingerprint from the first vehicle and matched it to the individual. While he has not confessed to stealing the second vehicle, it was located at the bottom of Cherokee Lake, some 10-12 miles from the individual's home. The District Attorney was satisfied enough with the evidence to go ahead and charge the individual with all three crimes.

The Council and audience broke into spontaneous applause, and Council Members Brown and Mooradian expressed their appreciation for a job well done.

- e. Town Manager's Report. Mr. Greene started by commending both Chief Hefner and his Department and Joe Perry and his personnel for the excellent jobs they did over the holidays. He stated that Mr. Perry's employees, knowing that a garbage overflow problem would erupt, drove around the mountain picking up all the trash not in cans so it would not get strewn about and be an eyesore.

He gave a brief report on a meeting he and the Mayor had with the N.C. Wildlife Commission, and stated that he would write a longer, more detailed memorandum. The gist of the meeting, however, is that they are overwhelmed with calls regarding bears. In Smokey Mountain National Park alone there are over 500 bears. They stated that whether or not we were aware of it, bears are constantly moving through this area. The problem with relocation is that the procedure can hurt the bears, and secondly they simply don't have the staff to trap and transport the bears. The only place where the bears could be relocated is the south side of Grandfather Mountain, and even if moved to that sanctuary they could be back here within a day. The bottom line is that we are going to have to attack our problem by educating our homeowners and visitors perhaps not to



put out their garbage until the day of pickup, and perhaps the use of ammonia on their lids, and so forth. They are working on a bear repellent, but as yet it is not available.

Mr. Greene reported that the Planning Board has considered the item that you referred to them regarding ways to prevent future setback violations, and it is his understanding that some of the suggestions are being reworded and will be presented to them again next month.

Mr. Fulkerson is going to be enforcing some building codes a little more strongly, i.e., requiring a building permit for decks. Tim Holland said that the Town had not been requiring businesses to get sign permits for temporary signs, and Mr. Greene stated that we will start doing so, the reason being that it is easier to set a deadline for their removal at the time of issuing the permit.

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). Reub Mooradian seconded the motion and the Council went into Executive Session at 9:00 PM. The Council came out of Executive Session at 9:49 PM.

RECESS

There being no further business to come before the Council Reub Mooradian moved that the meeting be recessed until 9:00 AM Tuesday, January 19, 1993. Tim Holland seconded the meeting and it recessed at 9:50 PM.

RECALL TO ORDER

Mayor Miller recalled the meeting to order at 9:05 AM on January 19, 1993. Other Council Members present were Tim Holland, Greg Brown, Kakii Handley and Reub Mooradian. Also present were Town Manager Al Greene and Town Attorney David Paletta. Present in the audience were Fred Pfohl and Cindy Keller.

1. Consider Agreement with Medalist Sports, Inc.

Mayor Miller ascertained that both David Paletta and Al Greene were satisfied with the agreement as presented. Al Greene distributed an updated list of room guarantees. Kakii Handley moved that the agreement be executed. Reub Mooradian seconded the motion and it passed unanimously.

2. Consider Budget Ordinance; Tour DuPont.

Mayor Miller pointed out that the budget ordinance had been revised from the earlier meeting on January 12th to deduct \$250 from Advertising (signs) and establish a Supplies and Materials line item. Fred Pfohl said

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system so the staff could proceed in the application process. Clearly more questions will be asked, and when the information is presented it would be passed on to the Council with a recommendation.

Cindy Keller stated that their restrictions currently state that once the developer sells 50 homes and/or lots, then the Property Owners' Association becomes active and they may choose to dedicate the CATV system to the POA. Mr. Paletta said if this were the case then the system would become like a small municipally-owned system, and the question for the Council would be how many restrictions does the Town want to put on their ability to run it. Reub Mooradian said the only restrictions he wanted to put on the system would be to insure that everyone within the development was treated fairly. Kakii Handley asked if they could dedicate the system to the Town and force us to operate it, and Mr. Paletta said that the Town must be willing to accept it.

Reub Mooradian said he hoped that this was the last vestige of the previous head of the development's proclivity to ignore the Town's rules and ordinances and do what they wanted to do, presenting the Town with a fait accompli. Cindy Keller said they were working very hard to discover such things and set them straight.

Kakii Handley expressed her concern that the Council would hold two different cable systems to different sets of standards. She said this was something she intended to study before they had any further meetings on the subject.

David Paletta suggested some changes in the wording of the Resolution. Reub Mooradian moved that the Council adopt the Resolution as amended. Greg Brown seconded the motion and it passed unanimously.

5. Other Business; Sledding.

Rick Miller brought up the possibility of a suit against the Town by an individual who had injured herself sledding on the Town's property next door to the Town Hall. Reub Mooradian said he had always been a little concerned about that activity there, since it was an unsupervised activity and sometimes appeared a little chaotic.

David Paletta said he felt the liability case against the Town was very weak in that the Town did not promote the activity. As far as being an attractive nuisance, he did not feel that it should not be classed that way, as there is no open pit or something of that nature which is inherently dangerous. He said it would not be a bad idea to post some signs warning that any sledding activity would be done at ones own risk. Mr. Greene indicated he would have signs erected.

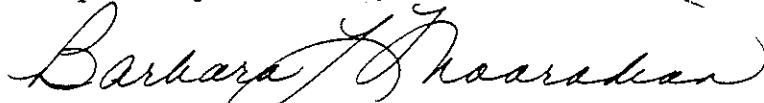
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ADJOURN

There being no further business to come before the Council, Greg Brown moved that the meeting be adjourned. Reub Mooradian seconded the motion and it passed unanimously. The meeting was adjourned at 9:55 AM.

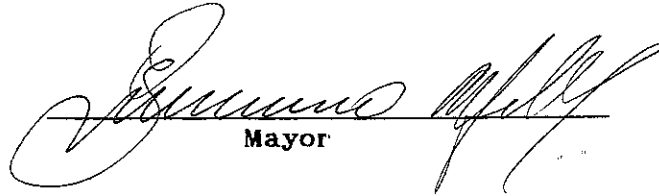
Respectfully submitted,




Barbara L. Mooradian  
Town Clerk

BLM/hs

Minutes approved by Town Council on February 9, 1993.

  
Mayor

ATTEST:

  
Town Clerk