

MINUTES  
BEECH MOUNTAIN TOWN COUNCIL  
April 13, 1993

CALL TO ORDER

Mayor Rick Miller called the regular meeting of the Beech Mountain Town Council to order at 6:08 p.m. Other Council Members present were Tim Holland, Kakii Handley, Greg Brown and Reub Mooradian. Also present were Town Manager Al Greene, Town Attorney David Paletta, Town Engineer Ed Powell, Police Chief Jay Hefner, Public Works Director Joe Perry and Code Enforcement Officer Don Fulkerson. Present in the audience were a number of interested citizens and representatives of Mountain Electric Cooperative, the Tennessee Valley Authority and the Electric Power Research Institute.

1. Public Hearing, Right of Way Closing.

Mayor Miller called the Public Hearing on the proposed closing of a portion of Town right of way located off Mariah Circle to order. Vern Holland explained that the right of way was totally surrounded by property owned by him, and that he did not know of any adverse effect the closing would have on any other property owner. Mayor Miller called for questions or comments from the audience and there were none. That being the case, the Public Hearing was declared closed at 6:12 PM.

Al Greene asked if Cindy Keller, representing Emerald Mountain Development, could be added to the agenda and she was placed under Old Business as item "d."

2. Approval of Minutes, March 9, 1993.

Tim Holland moved that the minutes of the meeting of March 9, 1993 be approved as presented. Reub Mooradian seconded the motion and it passed unanimously.

3. Committee Reports.

There were no committee reports.

4. Tour DuPont Committee Report.

Fred Pfohl distributed programs and route schedules which had recently been published. He indicated that almost \$18,000 had been collected in the form of sponsorships and donations, and that more monies were expected. He said that the route for the last leg of the race, from Banner Elk to Winston-Salem, had been selected and it would go down NC 194 to NC 105, then take Shull's Mill Road to the Blue Ridge Parkway, thence to NC 16 and down NC 16 into Miller's Creek and Wilkesboro, then into Winston-Salem. He stated that banners 1½' x 4' had been given by the Tour DuPont to the various people who are providing lodging for them to display. Reub Mooradian moved that the Town Council approve the raising of official

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banners advertising the Tour DuPont, provided that they are those provided by the Tour DuPont Committee only, effective April 14, 1993 and until the end of the race. Greg Brown seconded the motion. There was discussion emphasizing that the banners being approved were *only those* official banners supplied by the Committee. Kakii Handley asked if the committee would be responsible for removing the banners, and Mr. Pfohl assured the Council that the banners would be removed within 24 hours of the event. The question was called and the motion passed unanimously.

5. Persons Wishing to Address the Council.

- a. Mr. Paul Shoun, Electric Power Research Institute. Mr. Shoun explained that he had been in the research business for many years, working out of the Chattanooga office of the Electric Power Research Institute, an organization with a \$400 million annual budget formed to do research into all phases of electric power. He presented a brief slide show which indicated the degree of electromagnetic fields every home is subject to from ordinary household items such as stoves, television sets, electric blankets, and so forth. He stated that after many years, and much money, spent on research there is still no scientific evidence of harm coming from exposure to electromagnetic fields, and no indication of any threshold of exposure which can be pointed to as being "too much exposure."

Le O'Neal questioned the results obtained by an institute which is funded by the industry which it is supposed to be investigating. Mr. Shoun said he felt EPRI had bent over backwards to avoid any hint of favoritism. Joe Thacker, with Mountain Electric Cooperative, indicated he had taken readings at some substations. One in particular with twice the power of the one they are going to build at Beech Mountain had readings of only 5 miligows at the fence. At the property line itself the reading would be 1 or less -- equal to the normal electromagnetic rates emanating from the earth itself.

Roger Bullock asked if they anticipated the substation being completed and operational by Fall of 1994, and Mr. Thacker replied that they were facing some opposition from property owners who had brought their case to the N.C. Utilities Commission. Mr. Bullock asked if there were not some other organization doing research into possible health problems caused by exposure to these amounts of electricity, not funded by the electric companies, who could visit and help remove any question of whether the funding influences the outcome, and Mr. Thacker said none came immediately to mind but he would find out.

Ann Galindo asked if anyone had considered the aesthetic aspects of the substation being in such a visible location. Mr. Thacker said that Mountain Electric has obligated itself to minimize the visual

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impact as much as possible, which might include rock walls, evergreens, and so forth. Roger Bullock asked if there were any location in Beech Mountain where a substation could be built, and where they would be willing to build one, that would produce no opposition and Mr. Thacker replied there was not.

Mr. Thacker indicated that the opposition which has been mounted will slow down the process. Reub Mooradian said he thought that Mountain Electric had exacerbated the problem by clear cutting the site. He said that was neither what the townspeople had expected or what they believed had been promised. Mr. Thacker repeated that they were going to do everything possible to suit the citizens. Roger Bullock suggested that the driveway come in from the curve rather than straight off the Parkway as it comes down from Tamarack Road. Mr. Thacker admitted that lots of work on the masking would have to be done, and it might even involve the creation of a berm between the station and the Parkway.

Mayor Miller asked if Mr. Thacker could estimate the delay the opposition might cause, and he cited one case that they had before the Utilities Commission which they won, but it took a year. Roger Bullock suggested that, since there was no other site which would not draw opposition, and since the possible health hazards of exposure to EMF's is still unknown, perhaps it would be helpful if the aesthetics could be committed to paper. Mr. Thacker explained the length of time required for design of the project before they would be in a position to consider how to shield it. Mr. Thacker proposed a resolution be considered by the Council, asking Mountain Electric to meet the proposed in-service date of Fall 1994, and the Council indicated it would consider that under Other Business.

6. Old Business.

- a. Consider Closing Right of Way. Tim Holland asked to be excused from the discussion or voting on this matter to avoid any possible appearance of conflict of interest. Reub Mooradian moved that Mr. Holland be excused from the meeting. Greg Brown seconded the motion and it passed unanimously. Reub Mooradian then moved that the Street Closing Order be approved, and that the Mayor and Town Clerk be authorized to sign a non-warranty deed to the adjacent property owner. Kakii Handley seconded the motion and it passed unanimously. Greg Brown moved that Tim Holland be readmitted to the meeting. Kakii Handley seconded the motion and it passed unanimously.
- b. Consider Amendments to Water and Sewer Use Ordinance. Al Greene explained the proposed amendments, and Reub Mooradian said he would like to table the question until the next meeting. Kakii Handley said she was concerned that this change in policy, from

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asking the recipient of new water and/or sewer lines to pay the cost of installation to the Town paying 25% of the cost did not seem like a good idea to her.

After further discussion, Al Greene suggested a special meeting of the Council be held to consider the Annexation Report dated April 9, 1993 and the Water and Sewer Use Ordinance changes. Council decided on Wednesday afternoon at 1:00 PM, April 21, 1993.

- c. Set Date for Public Hearing on Proposed Changes to Zoning Ordinance and Subdivision Regulations (Watershed Protection Act). Mr. Greene explained that after scheduling a previous date for this Public Hearing it was discovered that these particular changes require notification by first class mail of all affected property owners. He said the staff now had the information necessary to accomplish the notification and Council set the time and date as 6:00 PM on Tuesday, May 11, 1993.
- d. Cindy Keller: Extension of Water Tank Agreement. Ms. Keller asked the Council to extend the date for completion of Emerald Mountain's obligations from May 1st to July 15th, since it is highly unlikely that the project can be completed by May 1st. Kakii Handley asked if Ed Powell had any comments on the matter. Mr. Powell said he had talked with Bill Lapsley who said they rejected the proposal of the lowest bidder (on whose price the \$79,000 letter of credit was based) and are now dealing with the third contractor. Mr. Lapsley assured Mr. Powell that they would achieve a notice to proceed this week.

Mr. Powell agreed that the May 1st date was impossible, but declined to predict a date by which he felt the work could be completed. After further discussion, Mr. Powell was asked to contact Mr. Lapsley the following day to ascertain when he felt very sure the work could be completed, so that a request for extension of the agreement could include that date. The Council also asked Mr. Powell to provide a figure with which he felt the project could be completed, so that the developer could be required to submit a letter of credit in an adequate amount. The matter will be taken up again at the special meeting set for April 21, 1993.

Rick Miller pointed out that not only were we anxious for the water tank project to be completed for its own sake, but the installation of the Skiloft tank in the Summit depended upon the Emerald Mountain tank project's completion.

Mr. Greene suggested that a liquidated damages clause be put into the letter of credit, and the Council's consensus was that this would be desirable, and that a \$100 per day penalty would be sufficient.

7. New Business.

- a. Consider Donation of Lot LG-52. Tim Holland moved that the Council accept the donation of lot LG-52 by Dolores G. Valdes. Greg Brown seconded the motion and it passed unanimously.
- b. Consider Annexation Matters.
  - (1) Presentation of Annexation Report dated April 9, 1993 and
  - (2) Consideration of Resolution were tabled until the special meeting of April 21, 1993.
- c. Consider Watauga County Recreation Funds. After general discussion Greg Brown moved that the request for funds from the Watauga County Recreation Department be in an amount to match those funds necessary to make the recreation and fishing area at Buckeye Lake conform to the requirements of the Americans with Disabilities act. Tim Holland seconded the motion and it passed unanimously.
- d. Discussion of Sidewalk Improvements. Al Greene asked the Council's wishes regarding the possibility of having the DOT install (at their expense) sidewalks in their right of way from the Town limit to approximately Kat's. The consensus of the Council was that this would be an excellent idea to pursue.
- e. Consider Budgetary Matters.
  - (1) Kakii Handley moved that \$900 be transferred from Administration Contingency to Administration Building Maintenance to cover repair of the stone entry step at Town Hall. Tim Holland seconded the motion and it passed unanimously.
  - (2) Tim Holland moved that \$20,700 be appropriated from the General Fund Balance to cover extraordinary expenses incurred during the blizzard of '93. Greg Brown seconded the motion and it passed unanimously.
  - (3) Tim Holland moved that the Chamber of Commerce budget be reduced by \$8,400 and a like amount added to the Tour DuPont budget. Greg Brown seconded the motion and it passed unanimously.
  - (4) Tim Holland moved that the Tour DuPont budget be amended to reflect the current status following fund raising activities. The Council went over a report prepared by Ron Nichols showing all donations received vis-a-vis value of services and accommodations required for the event. Greg Brown seconded Mr. Holland's motion and it passed unanimously.

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- f. Tax Releases. Reub Mooradian moved that the two tax releases requested by the Tax Administrator be approved. Tim Holland seconded the motion and it passed unanimously.,

### 8. Staff/Consultant Reports.

- a. Town Engineer's Report. Ed Powell reported that both the Bear Branch sewer outfall project and the ultraviolet treatment project had been completed with the exception of some minor cosmetic work. He is in the process of preparing the necessary plans for the Charter Hills Road waterline replacement program to be done this summer.
- b. Public Works Director's Report. Joe Perry had no report. Rick Miller commended Mr. Perry and his staff on the tremendous work they did during the blizzard of '93. He also recommended that Carolyn Smith notify residents on BeechVision that hydrant testing is taking place, so there will be some rusty looking water.
- c. Town Attorney's Report. David Paletta reported that it may be that the Town would end up with a Pinnacle Inn unit in foreclosure, should nobody bid for it.
- d. Chief of Police's Report. Chief Hefner had no report. Rick Miller commended Chief Hefner, Captain Dunn, Sergeant Gilliam and Officers Crawford, McGuire and Hatch for their long hours of service to the community during the blizzard of '93.
- e. Town Manager's Report. Mr. Greene reported that as a result of the blizzard a meeting was set up with the Town Manager, Public Works Director, Police Chief, Fire Chief and EMT representative to discuss problems which were noted, things which could have been potential problems and things the staff can do to prepare in the future. They are going to come up with emergency planning procedures for the various types of emergencies which could be encountered. They intend to meet on an ongoing basis and come up with a simple plan for each type of emergency.

Mr. Greene thanked Ron Nichols for the work he put into the overall Tour DuPont financial picture which had been distributed earlier.

### 9. Other Business.

Reub Mooradian moved that the Council adopt the resolution suggested by Mountain Electric Cooperative. Tim Holland seconded the motion. Mr. Holland asked if, by adopting this resolution, the earlier resolution (93-02-01) would be withdrawn, and Reub Mooradian said he did not think the two were mutually exclusive. There was some discussion about the advisability of either making the same motion as 93-02-01, making a motion to rescind

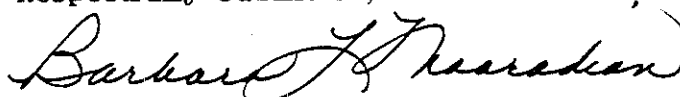
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that motion or making a different motion. After discussion, Mr. Mooradian amended his motion to include the following: "WHEREAS, Mountain Electric has presented information to the Town Council in response to concerns they have previously expressed in Resolution 93-02-01 adopted February 9, 1993; and..." Mr. Holland amended his second and the motion passed four votes to one, with Mr. Brown dissenting.

ADJOURN

There being no further business to come before the Council the meeting was adjourned at 9:40 PM.

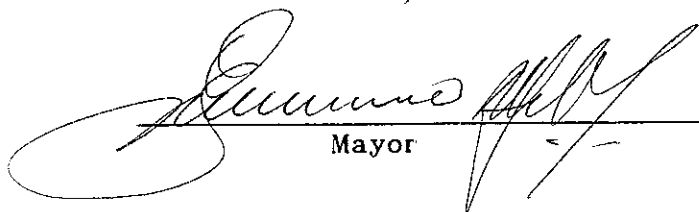
Respectfully submitted,



Barbara L. Mooradian  
Town Clerk

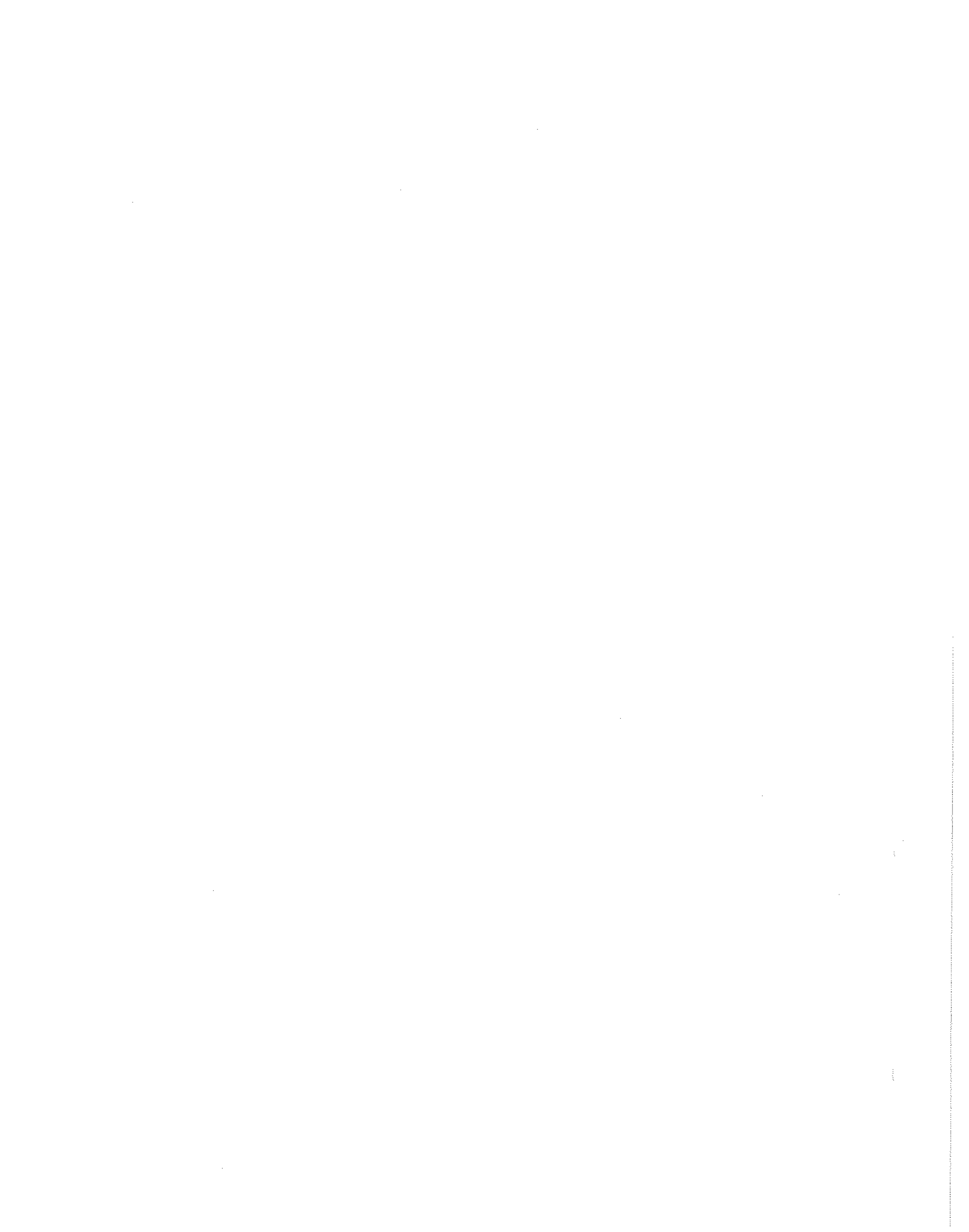
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Minutes approved by Town Council on MAY 11, 1993.

  
Mayor

ATTEST:

  
Town Clerk





MINUTES  
BEECH MOUNTAIN TOWN COUNCIL  
Special Meeting, April 21, 1993

CALL TO ORDER

Mayor Miller called a special meeting of the Beech Mountain Town Council to order at 1:00 PM in the Council Chamber at Town Hall. 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, Chief of Police Jay Hefner, Public Works Director Joe Perry and a number of members of the public and employees of the Police Department and Public Works Department.

1. Presentation of Awards.

Mayor Miller indicated that a number of Town employees were being presented with certificates for their extraordinary efforts during the blizzard of '93, working long hours in very difficult conditions to preserve the public safety and maintain the streets and roads. Awards were presented to Danny Buchanan, Fred Hoilman, Wayne Hicks, Bill Anderson, Garry McKinney, Roy Gouge, Zeno Black, Roger Turbyfill, Robert Heaton, Dolin Carpenter and Joe Perry of the Public Works Department; and Mack McGuire, Riley Hatch, Dana Crawford, Cecil Gilliam, R. L. Dunn and Jay Hefner of the Police Department.

1. Consider Granting an Extension to Emerald Mountain Water Tank Agreement.

Al Greene explained that Emerald Mountain Development had signed a contract with Larry's Pump and Well for \$93,200 to finish the work required on the water tank project. 125% of that amount would be \$116,500. He suggested that September 1st, 1993 would be an adequate amount of time to grant as an extension of the agreement if the Council wished to do so.

Cindy Keller said that she would prefer September 15th, to give them a little leeway, and that the President of Emerald Mountain wished to leave the amount of the letter of credit as it is (\$79,000). Al Greene said the staff could not recommend that the Council accept anything lower than the actual cost of the project plus 25%.

Reub Mooradian pointed out that accepting a letter of credit instead of a performance bond or the work being completed in advance was already a compromise which the Council had made. As Council had already decided 125% of the cost of the work would be necessary as a letter of credit, he saw no way that the Council could accept less, and supported the recommendation of the staff.

David Paletta indicated he had drafted an amended agreement, and wanted to confirm that the Council wished a liquidated damages of \$100 per day clause. Ms. Keller asked that the \$100 per day penalty be discarded, pointing out that the contract with Larry's Pump and Well contained a \$500

per day penalty, so the contractor had the incentive to finish the project in good speed. She also pointed out that while the last extension had been for six months, it had started in October, and the weather since then had made work impossible. She also asked if the letter of credit could be reduced in amount as portions of the work is done. Mr. Paletta pointed out that letters of credit did not work that way, but that if the money was placed in escrow something like that could be worked out if the Council agreed.

Greg Brown asked if September 1st might not be cutting it too close, and said he didn't want to force Emerald Mountain to incur the \$100 per day penalty. Tim Holland pointed out that Emerald Mountain would be receiving a \$500 per day penalty, so that should not be too great a hardship. Ms. Keller was asked to check and see if the Notice to Proceed had been part of the paperwork signed by Mrs. Leidy, as that would start the 120 days, and she said she would do so.

Kakii Handley moved that the Council extend the agreement on the water tank and pumping station to September 1, 1993, including a \$100 per day liquidated damages penalty, and accept either \$116,500 in cash to be placed in an escrow account or in the form of a letter of credit. Reub Mooradian seconded the motion and it passed unanimously.

3. Consider Amendments to Water and Sewer Use Ordinance.

Al Greene suggested several changes in wording to the proposed amendments (attached). Kakii Handley said she still was not comfortable with the Town's paying 25% of the cost of extending water and sewer to newly annexed properties, when they had never paid any Town taxes; and requiring the developer of a subdivision already within the Town limits to bear the entire cost of bringing water and sewer to his lots, when he had been paying taxes on the property all along.

After further discussion, Reub Mooradian moved that the proposed amendments be approved with the changes Mr. Greene had earlier suggested. Tim Holland seconded the motion and it passed four votes to one, with Mrs. Handley dissenting.

4. Consider Annexation Report and

5. Consider Resolution of Intent to Annex Property.

Reub Mooradian moved that the annexation items be tabled for the moment and that Council consider another resolution of consideration at its next meeting (May 11, 1993), which would delay the passage of a resolution of intent to annex for another year. Greg Brown seconded the motion and it passed unanimously.

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ADJOURN

There being no further business to come before the Council, the meeting was adjourned at 2:15 PM.

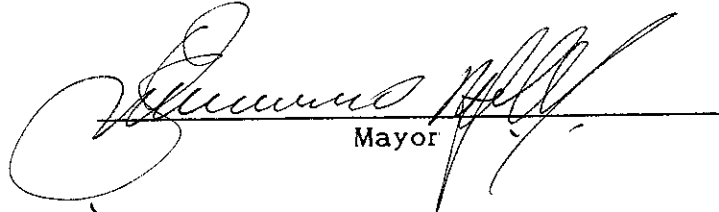
Respectfully submitted,



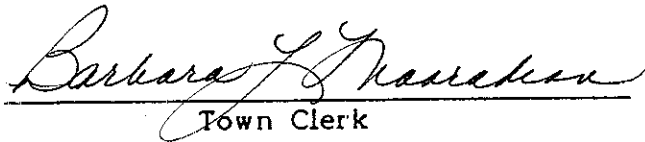
Barbara L. Mooradian  
Town Clerk

BLM/hs

Minutes approved by Town Council May 11, \_\_\_\_\_, 1993.

  
Mayor

ATTEST:

  
Town Clerk

