

MINUTES
BEECH MOUNTAIN TOWN COUNCIL
Regular Meeting – January 11, 2011

I. *CALL TO ORDER*

Mayor Rick Owen called the regular meeting of the Beech Mountain Town Council to order at 3:03 p.m., Tuesday January 11, 2011 in the Town Hall Council Chambers. Other Council Members present were Paul Piquet, Rick Miller, Cindy Keller and Alan Holcombe. Town Attorney Stacy C. Eggers, IV was present. Staff members present were Town Manager Randy Feierabend; Town Clerk Jennifer Broderick and Public Utilities Director Robert Heaton. Planning Board member Brian Barnes was present as well as Duncan Cavanaugh from the High Country Council of Governments – Region D.

II. *Invocation* – John Troxler presented the invocation.

III. *Pledge of Allegiance* – All present joined in the Pledge of Allegiance to the flag.

IV. *Adoption of Agenda* – Mayor Owen stated the agenda would stand as presented.

V. *Approval of the Minutes – December 14, 2010 Regular Meeting* – Councilman Holcombe stated that the minutes needed to reflect that he had seconded the motion to come out of closed session. Councilman Miller motioned to approve the minutes as amended. Vice Mayor Piquet seconded the motion and the vote passed unanimously.

VI. *Public Hearing*

a. *An Ordinance Amending Title XV Land Usage § 154.091 “Permitted Use Table” to Allow Mixed Use Residential/Commercial in the CS-1 Zoning District* – Vice Mayor Piquet motioned to open the public hearing. Councilman Miller seconded the motion and the vote passed unanimously. Manager Feierabend stated that Brian Barnes was present as a representative from the Planning Board since Town Planner James Scott was unavailable to provide input. Mayor Owen opened up the floor to the public. Roger Sturgill of LifeStore Financial Group stated that his company currently owns 3363 Beech Mountain Parkway and that they were in favor of this proposed ordinance amendment. Mayor Owen inquired if there was anyone else wishing to speak. Hearing no more public comment Vice Mayor Piquet motioned to close the public hearing. Councilman Holcombe seconded the motion and the vote passed unanimously.

VII. *Public Comment* – There was no public comment.

VIII. *New Business*

a. *Resolution Honoring the Service of David R. Paletta – Mayor Owen* – Mayor Owen stated that this would be tabled to February’s regular Council meeting since David Paletta was unable to attend the meeting.

b. *Resolution Honoring Susie and Bernie Kneпка – Mayor Owen* – Mayor Owen read aloud the resolution which honored Susie and Bernie Kneпка for having braved the recent extreme winter elements by hanging up lights all over Town as well as Christmas decorations. Mayor Owen extended his thanks to Mr. and Mrs. Kneпка. Vice Mayor Piquet motioned to adopt the resolution. Councilman Holcombe seconded the motion and the vote passed unanimously.

c. Resolution Authorizing Staff to Apply for a Grant for the Lift Station Repair from North Carolina Clean Water Management Trust Fund – Duncan Cavanaugh – Mayor Owen introduced Duncan Cavanaugh from the High Country Council of Governments – Region D. Manager Feierabend explained to Council that Mr. Cavanaugh would be working with the Town to prepare the grant application should Council approve staff to move forward with applying. Mr. Cavanaugh stated that the grant application is due by February 1, 2011. The sum of money the Town would be applying for was \$500,000. Public Utilities Director Robert Heaton stated that the grant monies were to be used for the partial replacement and repair of the lift station and collection system at Grassy Gap which has been a problem since it was put in. Mr. Heaton explained to Council that since 1994 there had been 13 overflows reported. In addition to the replacement and repair work this project would replace 3,000' of the approximate 45,000' of sewer line in the Grassy Gap area. Mayor Owen asked about the turnaround time for the grant application process. Mr. Cavanaugh stated the Town should have a response sometime in October. Manager Feierabend stated that this is one of the few sources for grant money that the Town has available to them. Councilman Miller asked if this was necessary work that needed to be done. Mr. Heaton stated that the work was necessary. The wet well that is now on site will be kept to catch all of the sand in the system. By adding another wet well the Town would benefit by not having to replace pumps as frequently as they have in the past. Mr. Heaton stated that the Town has already received two notices of violation. The wet well currently in place was done in 1993 so it has just about reached the end of its useful life. Vice Mayor Piquet motioned to approve the resolution. Councilman Miller seconded the motion and the vote passed unanimously. Councilwoman Keller questioned the cost of the project. Manager Feierabend stated that Marion Rothrock would be firming up his numbers for the project and that the comprehensive study currently being conducted leaned towards this project being one of the Towns top priorities.

d. Tax Release – Randy Feierabend – Mayor Owen stated that this tax release was due to staff discovering that this parcel was not within Town limits. Councilman Miller motioned to approve the tax release. Vice Mayor Piquet seconded the motion and the vote passed unanimously.

e. Request for a Public Hearing to Create a Conditional Use Standard for Campgrounds – James Scott – Vice Mayor Piquet motioned for staff to schedule a public hearing for Councils regular February meeting. Councilman Holcombe seconded the motion and the vote passed unanimously.

f. Removal of Board of Adjustment Alternate – Randy Feierabend – Manager Feierabend stated that he had spoken with Urs Gsteiger regarding his position as one of the Board of Adjustment Alternates. Since Mr. Gsteiger has changed his residency he no longer met the residency requirement of the Board of Adjustment. During the conversation Mr. Gsteiger voluntarily removed himself from the position. Vice Mayor Piquet motioned to accept Mr. Gsteigers resignation. Councilman Holcombe seconded the motion and the vote passed unanimously.

g. Employee Evaluation Form – Randy Feierabend – Manager Feierabend stated that staff has worked on revamping the evaluation form and that the form had been reviewed by all department heads. The evaluation form has been modified by dividing the evaluation process into 3 different evaluations; one for General Employees, one for Leadership Positions and one for Supervisors. The old evaluation form had all 3 types of employees being evaluated with the same questions. In addition the Percent of Merit Award Scale had been modified into a tier which allowed for 7 levels of reward. The previous evaluation form only provided a merit scale reward for either 2.5% or 5% based on an employee's performance. Manager Feierabend added that the form still maintained an individual development plan. Councilman Miller requested that Council push their decision back to

February's meeting. Council consented unanimously and staff was instructed to place this item on next month's regularly scheduled Council agenda.

h. Presentation of Web Page – Randy Feierabend – Mayor Owen stated that this agenda item would be tabled for discussion and revisited at Councils upcoming meeting in February.

i. Proposed Budget Calendar – Randy Feierabend – Manager Feierabend discussed setting a date for Councils Planning Retreat. Staff would be looking for direction and feedback from Council in order to begin putting the Town's budget together. After discussion amongst Council members took place Mayor Owen stated that the Planning Retreat would be scheduled for the 10th of February at 1:00 p.m. with the meeting taking place at Town Hall in the Council Chambers. Councilman Holcombe motioned to accept Mayor Owens recommendation. Vice Mayor Piquet seconded the motion and the vote passed unanimously. Councilwoman Keller instructed staff to have prepared a semiannual up-to-date budget for Council to review.

IX. Old Business

a. Vote on Ordinance Amending Title XV Land Usage § 154.091 “Permitted Use Table” to Allow Mixed Use Residential/Commercial in the CS-1 Zoning District – James Scott – Mayor Owen stated that without Town Planner James Scott present to provide a presentation he was not sure about moving forward with Councils vote. Mayor Owen asked Attorney Eggers to discuss what he knew about the proposed amended ordinance; specifically addressing the percentage of use. Attorney Eggers stated that what Council had before them was an ordinance to amend the Towns CS-1 Zoning District to allow for mixed commercial and residential as a matter of right. This amended ordinance does not include any standards specifying what would be required of a developer for a property. Essentially if a developer wished to build a large condominium complex and have a small business office on the backside then technically that may qualify as a mixed use development with the way the amendment currently read. Attorney Eggers provided an example of what the Planning Board may wish to do stating that they could require the commercial portion of the building be on the ground floor with the residential portions of the property upstairs. As the amendment stands Council could end up with a property being developed in a manner that they may not be happy with because of the lack of standards. Brian Barnes spoke as a representative of the Planning Board. Mr. Barnes stated that the Planning Board had not taken into consideration this type of use. Mr. Barnes believed that a percentage of use would make sense. Mr. Barnes recommended that Council send the proposed amendment back to the Planning Board for further review. Mayor Owen concurred with Mr. Barnes sentiments. Andy Porter, representing the Planning Board, felt that further review was advisable. Attorney Eggers stated that a new public hearing would need to be held since this type of change was substantial. Staff was advised to advertise for a new public hearing for Councils upcoming meeting in February. Councilwoman Keller pointed out that as the definition of residential stood it was supposed to be for single family use. Councilman Miller felt that the single family description would not work for the CS-1 Zoning District either. Vice Mayor Piquet stated that another idea that the Planning Board may want to consider was ownership and whether or not the Town wanted structures to be allowed to be divided. Councilwoman Keller stated that Beech Towers was divided in this manner. Attorney Eggers advised that all structures that were currently in use would be grandfathered. Mr. Barnes asked if a structure remained grandfathered in if the structure was totaled through a fire. Attorney Eggers stated that if the structure was a total loss then it would no longer be grandfathered. Attorney Eggers recommended that the Planning Board present their regulations back to Council as to what they would like the district to look like as opposed to what the district currently looks like. Mr. Barnes thanked Attorney Eggers for the useful advice. Vice Mayor Piquet motioned for the amendment to be sent back to the Planning Board with staff scheduling a public hearing for

Councils February meeting. Councilman Holcombe seconded the motion and the vote passed unanimously. Mayor Owen thanked Mr. Barnes and Mr. Porter on their endeavors and for revisiting the amendment.

b. Committee and Board Appointments – Mayor Owen – Mayor Owen tabled this item until Councils next regularly scheduled meeting in February. Mayor Owen directed all committees and boards to continue to operate as they were currently composed.

X. Town Manager and Staff Reports

Police Departmental Memorandum – Manager Feierabend stated that the Police Departmental Memorandum was created to establish guidelines for the Police Department concerning take home patrol vehicle usage. Manager Feierabend felt that the policy was sound stating that it would increase visibility of the Police Department on the mountain thus assisting with crime prevention. Attorney Eggers stated that Council may want to add a provision to the memorandum that specifically states that employees are not allowed to use the vehicle for personal matters such as a trip to the grocery store. Manager Feierabend explained that this policy is always subject to the supervisor's opinion and may be temporarily suspended if vehicles are down for maintenance or need to be used for training or other departmental purposes. Councilman Miller asked how Police Chief Jay Hefner felt about the memorandum. Manager Feierabend stated that Chief Hefner approved the memorandum. Councilman Holcombe motioned to approve the memorandum with an addendum stating that the vehicle must stay within the Town limits. Vice Mayor Piquet seconded the motion and the vote passed unanimously.

Directional Signs – Manager Feierabend stated he was working with Town Planner James Scott on an amendment to take before the Planning Board regarding the directional signs for points of interest in the Town of Beech Mountain. Manager Feierabend stated that examples of points of interest would be Buckeye Recreation Center, Ski Beech and the Beech Mountain Club. The advantage of the Town implementing directional signs would be that the signs would be uniform with the Town's other signs as well as informational to the general public. Vice Mayor Piquet stated that the Town has the machine to take care of these signs in house. Manager Feierabend concurred; stating that if approved staff would be building the signs. Attorney Eggers informed Council that the sign ordinance would have to be reworded to include directional signs for points of interest. Attorney Eggers made the suggestion that the wording should include that such decisions could be made at the discretion of the Town Manager with Council having final say. Council consented to allow Manager Feierabend to move forward.

Kat's – Manager Feierabend stated that communication has been made with Wes Baldwin who is acting as arbitrator between the insurance company and Ken Kielbania. Mr. Baldwin has assured the Town that the settlement from the insurance company would be over and final by the end of February. The Town will then be looking for a development plan from Mr. Kielbania in March or April which would depict what Mr. Kielbania proposed to do with the property.

Budget Amendment for Viper Radio Grant – Councilman Holcombe motioned to pass the budget amendment. Vice Mayor Piquet seconded the motion and the vote passed unanimously.

Mid-Year Financial Report – Manager Feierabend stated that as of December 31st the Town was at a 74.13% collection rate and that as of this morning the collection rate had grown to 87.76%. The 2009 collection rate now stands at 97.3%. In addition the mid-year financial report provided detailed information on where every department stood within their perspective budgets.

Water and Sewer Rates – Vice Mayor Piquet asked if staff had raised the monthly base rate for water and sewer. The previous Council had approved a monthly rate increase of \$5.00 for water and \$5.00 for sewer. The plan they had approved was for the increase to take place each year for 3 years. January 1, 2010 was the effective date of the first increase. Manager Feierabend stated that staff had not. Vice Mayor Piquet stated that in the past he has typically been against raising rates however there are so many projects coming up for the Utility Department that he would be in favor of continuing with the \$5.00 plan that the previous Council had implemented. Mayor Owen opened discussion up to the rest of Council on increasing the rates. Vice Mayor Piquet stated that without the increase the Town would not be able to fund the necessary utility projects. Councilman Miller asked what the projected revenue for this increase would be. Manager Feierabend stated that it was projected to bring in \$273,000. Councilman Miller felt the same way as Vice Mayor Piquet about implementing the \$5.00 increase, especially since there was no guarantee on the \$500,000 grant that the Town was applying for. Councilwoman Keller wished to know if the additional revenues brought in could be earmarked for savings towards these upcoming projects. Mayor Owen stated that a good idea was to have the funds go towards capital improvements for the Utility Department. Staff would still have to get Council's permission to use these funds; in the meantime the public would be aware that the funds were being used for improvements with equipment and utility projects. Councilwoman Keller just wanted to be able to assure the public that the funds were being used appropriately. Utilities Director Robert Heaton stated that his department is working towards the goal of making repairs systematically instead of the way that things have been done in the past which was to wait for things to break down. Councilman Miller stated that the State is moving towards the requirement that utilities become self-sufficient. Mayor Owen stated that this was the initial reason for the increase. Manager Feierabend stated that if the Town was not successful in getting the 2% loan then the Town would have to go through the Local Government for a loan. The Local Government requires Utility Departments to be self-sufficient. Vice Mayor Piquet reminded Council that this rate structure was established by the previous Council. Councilman Miller stated that by implementing this increase the Town was simply complying with what the State wanted. With this being the case Councilman Miller did not see where Council really had a choice in the increase. Manager Feierabend stated that staff is in agreement to have the funds placed in capital improvements. Mayor Owen stated that part of being self-sufficient is making debt payments as well. Councilman Holcombe motioned to follow the plan to increase the water rate by \$5.00 monthly and the sewer rate by \$5.00 monthly. Vice Mayor Piquet seconded the motion and the vote passed unanimously. Brian Barnes spoke up from the Planning Board pointing out that without this type of rate increase then the Town would find themselves having to issue special assessments.

- XI. Closed Session – Pursuant to NC GS 143-318.11(a)(3) Attorney Client Matters and NC GS 143-318.11(a)(6) Personnel Matters** – Councilman Holcombe motioned to go into closed session at 4:25 p.m. Vice Mayor Piquet seconded the motion and the vote passed unanimously. Vice Mayor Piquet motioned for Council to come out of closed session at 4:47 p.m. Councilman Holcombe seconded the motion and the vote passed unanimously.

XII. Other Business

Vehicles Parked in Town Right of Ways – Vice Mayor Piquet discussed the hazard of having cars left in Town right of ways especially on roads that are barely passable. Vice Mayor Piquet felt that the Towns Ordinance for the towing of vehicles parked in Town right of ways needed to be enforced. Vice Mayor Piquet stated that these cars were hazardous to drivers who were trying to drive with care especially when they were parked in the middle of the road on a hill. Attorney Eggers suggested that the Town have their Police Officers request that the vehicle be moved and that if there is no

possible way to make that request then the vehicle should be towed at the owner's expense. Councilman Holcombe stated if Council was going to move forward with towing such vehicles that all property managers needed to be notified within the next week. Councilman Miller concurred with Councilman Holcombe. Manager Feierabend stated that staff would let the public know through a letter stating that Council had directed staff to enforce the safety in road. Council wished for the notification to go out immediately.

XIII. Adjourn – Vice Mayor Piquet motioned to adjourn the meeting at 4:55 p.m. Councilman Holcombe seconded the motion and the vote passed unanimously.

Minutes approved by Town Council on February 8, 2011.

Mayor

ATTEST:

Town Clerk