

MINUTES
BEECH MOUNTAIN TOWN COUNCIL
Regular Meeting – April 10, 2012

I. CALL TO ORDER

Mayor Owen called the regular meeting of the Beech Mountain Town Council to order at 3:03 p.m., Tuesday April 10, 2012 in the Town Hall Council Chambers. Other Council Members present were Paul Piquet, Alan Holcombe, Cindy Keller and Rick Miller. Town Attorney Stacy C. Eggers, IV was present. Staff members present were Town Manager Randy Feierabend; Town Clerk Jennifer Broderick, Public Utilities Director Robert Heaton, Town Planner James Scott, Tourism Development Authority Assistant John Troxler, Fire Chief Robert Pudney and Parks and Recreation Director Daniel Scagnelli.

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 that the proposed agenda would be amended to remove § VIII. New Business a. '*Request for Public Hearing to Amend Disconnection of Meter Ordinance.*' Mayor Owen stated that the agenda would stand as amended.

V. Approval of the Minutes

a. March 13, 2012 Regular Meeting Minutes – Councilman Miller motioned to approve the March 13, 2012 Regular Meeting Minutes as corrected. Councilman Holcombe seconded the motion and the vote passed unanimously.

b. March 13, 2012 Closed Session Minutes – Vice Mayor Piquet motioned to approve the March 13, 2012 Closed Session Minutes. Councilman Holcombe seconded the motion and the vote passed unanimously.

VI. Public Hearing

a. Amendment to Conditional Use Process – Councilman Holcombe motioned to open the public hearing. Councilman Miller seconded the motion and the vote passed unanimously. Town Planner James Scott stated that proposed amendment removes one sentence from the current ordinance that requires applicants to have a preliminary hearing with the Board of Adjustment. Mr. Scott stated that the justification behind removing this step was to ensure that the Board of Adjustment did not establish a bias prior to a hearing. Hearing no public comment Councilman Holcombe motioned to close the public hearing. Councilman Miller seconded the motion and the vote passed unanimously.

b. Telecommunication Tower Amendment – Councilman Holcombe motioned to open the public hearing. Councilman Miller seconded the motion and the vote passed unanimously. Town Planner James Scott stated that there are some discrepancies and shortcomings in the Towns current telecommunication tower ordinance. Mr. Scott provided one such specific example stating that while one portion of the ordinance indicates that telecommunication

towers are not permitted in residential areas the permitted use table states that telecommunication towers are permissible in residential areas. Mr. Scott stated that new information had been brought to staffs attention and that in lieu of this new information staff was making a recommendation to Council that this proposed amendment be sent back for further revisions. Tracy Simms of 37 Slopes Road shared with Council the new information that staff had recently received. Ms. Simms stated that the proposed amendment did not provide clarity on how telecommunication towers would be regulated on mountain ridges and that the proposed 250' from a dwelling was not a very substantial distance. Mr. Scott stated that with the way the current wording stood in the Towns ordinance then no telecommunication towers are permitted in residential zoning districts. What staff has done is defined the area as a residential area. This area is now defined as any area that is within 250' feet of a house. Through the current definition Beech Mountain is primarily 95% to 98% residential. To disallow telecommunication towers in residential areas would be almost eliminating them from use on the mountain. Ms. Simms proposed that staff modify the recommendation to 500' feet or at the minimum 350' feet. Weidner Abernethy of 120 Slopeside Road questioned the height restrictions and how they would affect the aesthetics of the community. Mr. Scott stated that the height provision is 100' feet. Hearing no other public comment Councilman Holcombe motioned to close the public hearing. Councilman Miller seconded the motion and the vote passed unanimously.

VII. Public Comment – There was no public comment.

VIII. New Business

a. Utility Department Request to Implement Meter Datalog Policy – Public Utilities Director Robert Heaton stated that the Town currently has a meter cut off policy in place for homeowners wishing for staff to cut off their meters. The fee for this service is \$25. Staff would like to implement a policy for the new datalogs. The proposed policy would allow a customer two datalogs upon request at no charge if a leak is suspected. Any additional requests or any requests by a customer without the presence of a leak would be subject to a \$25 fee. Councilman Miller motioned to approve the datalog policy. Councilman Holcombe seconded the motion and the vote passed unanimously.

b. Resolution for Lift Station and I & I Utility Capital Projects – Mayor Owen stated that this resolution would move the money from the General Fund and the Water and Sewer Fund to pay for the Lift Station and Inflow and Infiltration Utility Capital Projects that Council had approved. Councilman Holcombe motioned to approve Resolution No. 2012-01 '*Resolution Authorizing the Grassy Gap Creek Sewer Rehabilitation Project.*' Councilman Miller seconded the motion and the vote passed unanimously. Resolution No. 2012-01 is attached as Exhibit A and incorporated by reference as if fully set out within these minutes.

c. Utility Project Ordinance for Lift Station and I & I Capital Projects – Mayor Owen advised Council that upon his direction staff had made one change to the Utility Project Ordinance for Lift Station and Inflow and Infiltration Capital Projects that Council had before them. Mayor Owen directed Councils attention to Section 4 of the Project Ordinance stating that the General Fund had been stricken as the money had already been moved to the Water and Sewer Fund so Section 4 should show these monies coming from the Water and Sewer Fund. Councilman Miller motioned to approve Ordinance No. 2012-05 '*Town of*

Beech Mountain, North Carolina April 2012 – June 2013 Capital Project Ordinance. Councilman Holcombe seconded the motion and the vote passed unanimously. Ordinance No. 2012-05 is attached as Exhibit B and incorporated by reference as if fully set out within these minutes.

IX. Old Business

a. Vote on Amend Appeal Fee to the Board of Adjustment – Town Planner James Scott stated that revisions had been made so that a portion of the penalty could be appealed. Vice Mayor Piquet stated that the public would need to be properly educated regarding this proposed new appeal process either through staff instructing them or through modifying the appeal form itself. Attorney Eggers stated that should Council move forward with this amendment he would work on modifying the appeal form. Vice Mayor Piquet motioned to approve Ordinance No. 2012-02 *‘An Ordinance to Amend Fees for Appeals to the Board of Adjustments.’* Councilman Holcombe seconded the motion. After much discussion Mayor Owen called the question and the vote passed unanimously. Ordinance No. 2012-02 is attached as Exhibit C and incorporated by reference as if fully set out within these minutes.

b. Board of Adjustment Alternate Appointment – Vice Mayor Piquet motioned to appoint Ed Huff as the 3rd Alternate to the Board of Adjustment. Councilman Holcombe seconded the motion and the vote passed unanimously.

c. Vote on Amendment to Conditional Use Process – Vice Mayor Piquet motioned to approve Ordinance No. 2012-03 *‘An Ordinance to Amend the Procedure for Obtaining a Conditional Use Permit.’* Councilman Holcombe seconded the motion and the vote passed unanimously. Ordinance No. 2012-03 is attached as Exhibit D and incorporated by reference as if fully set out within these minutes.

d. Vote on Telecommunication Tower Amendment – Mayor Owen stated that based upon discussion that took place during the public hearing staff has stated that they are open to holding off on Council voting on this amendment right now. Vice Mayor Piquet recommended sending this proposed legislation back to the Planning Board. Councilman Miller stated that he did not really want a cell tower behind or in front of his house. Councilman Miller stated that the proposed 250’ from a residential dwelling was not that far. Town Planner James Scott stated that the way the proposed legislation read there are limitations that are taken into account. Councilwoman Keller was curious about what locations were being considered for telecommunication towers. Mr. Scott stated that the proposed legislation requires individuals wishing to erect a telecommunication tower to be able to make a pretty good case as to why the tower should be located there. Mr. Scott stated that as this was a conditional use process any proposal would have to come before the Board of Adjustment for approval. Mr. Scott stated that there are a lot of layers of protection already included in the proposed legislation. Attorney Eggers informed Council that this type of approval by the Board of Adjustment did require a super majority vote. Attorney Eggers stated that he was open to speaking with Mrs. Garrett regarding the proposed legislation. Council directed the proposed legislation back to the Planning Board.

X. *Town Manager and Staff Reports*

Buckeye Recreation Center – Manager Feierabend stated that the Recreation Committee has met and settled on fees for the new fiscal year for Councils consideration. Vice Mayor Piquet motioned to approve adopting the new rate schedule as proposed by the Recreation Committee. Councilman Holcombe seconded the motion. Mayor Owen opened the floor for discussion. Councilman Miller asked how much the annual fees had gone up and made a query about the daily usage fee. Mr. Scagnelli stated that his recommendation to the Recreation Committee and to the Council was to move to a flat fee. Mr. Scagnelli felt a good compromise for a flat fee was \$5 for adults and \$3 for youth. Manager Feierabend stated that he supported Mr. Scagnelli's position to encourage the purchase of annual passes but in the meantime the Town needs to take into consideration the families that are here for a limited time. Mr. Scagnelli emphasized that most facilities use a flat fee. These types of comparatives were provided to the Recreation Committee. Councilman Holcombe asked how many non-resident memberships Buckeye Recreation Center had. Mr. Scagnelli stated that there were approximately 20 of these types of pass holders. Councilman Miller stated that he preferred the flat rate for the day. Vice Mayor Piquet stated that he did not agree with the flat fee and charging \$5 for walkers. The purpose of the Recreation Center is to provide recreational opportunities within the community. Councilwoman Keller stated that it has been her goal to make Buckeye Recreation Center cost the Town less money. In the past few months the showers have gone from the initial \$10,000 cost to \$20,000. There were also additional costs for the walking track repairs, roof repairs and chains for the lights. The Tourism Development Authority is bringing in the least amount of revenue that they have ever brought in. Councilwoman Keller stated that the annual passes should go up to at least \$100 and that the ideas proposed for the daily use fees were fine. Vice Mayor Piquet stated that public and private entities could not be equally compared. The intent behind this facility is to provide the public with recreational opportunities. Based upon discussion Councilman Holcombe withdrew his second stating that he was in favor of the \$5 fee and did not object to the annual pass cost being increased. Additionally Councilman Holcombe asked if weekly passes had been considered when reviewing the fee structure. Vice Mayor Piquet withdrew his motion as well. Mayor Owen stated that Council was recommending to staff and the Recreation Committee that some alternative rates outside the box were brought back for Councils consideration such as proposing price options for weekly and monthly users. Mayor Owen emphasized that Buckeye Recreation Center is public facility and as such the goal was not to try to keep up with the with the cost of the facility through fees or to try to counterbalance the lack of revenues being brought in by the Tourism Development Authority.

Heating and Cooling System at Town Hall – Manager Feierabend stated that Fire Chief Robert Pudney has looked at the Towns heating and cooling system at Town Hall. Manager Feierabend stated that information on Town Halls heating and cooling system had been gathered to see whether Council wanted this item included in the upcoming budget. Fire Chief Robert Pudney stated that he has received quotes on replacing the system. Mr. Pudney stated that there are five existing units in the building. The heating and cooling systems are mismatched and are estimated to be running at 50% efficiency. Mr. Pudney stated that there are several issues beyond age which are plaguing the systems and made the recommendation to Council that if they were going to spend the money on a new system then they should resolve some of these issues as well. Mr. Pudney noted that there were issues with the size of

the furnace being too small, a lack of proper insulation which has resulted in busted pipes and zoning difficulties especially dealing with the computer room and the police dispatch area. Mr. Pudney stated that the overall cost of replacing as well as providing fixes would be \$50,000 and would produce 96% efficiency. This cost would include proper insulation, a total replacement of all of the hardware as well as some electrical. This solution would provide for another 20 to 25 years of heating and cooling for Town Hall. Mayor Owen thanked Mr. Pudney for his assistance. Manager Feierabend stated that Mr. Pudney was a master electrician. Council instructed staff to place this in the budget for consideration.

Welcome Banner – Manager Feierabend showed Council a mock version of the proposed ‘Welcome Banner’ that would cost about \$165. Manager Feierabend stated that it was a great way to welcome everyone back.

Treatment Plant Operator Staff Vacancy – Manager Feierabend stated that Russell Reiman has left the Towns employment and that staff is currently working on finding a Treatment Plant Operator.

Planning Board Vacancy – Manager Feierabend stated that Bill Watson resigned effective April 1, 2012 from the Planning Board and asked Council to begin considering an appointment for this vacancy.

Donation and Budget Amendment and Discussion Concerning 501(c)(3) – Manager Feierabend stated that there are foundations that want to donate money to the Town but would prefer to donate their money to a nonprofit organization. This situation recently took place with a foundation wishing to donate \$22,000 to Buckeye Recreation Center to go towards replacing windows at the facility. Manager Feierabend asked that Council permit Attorney Eggers to look into the possibility of the Town creating a 501(c)(3) so that corporations and foundations that want to donate to a government entity are able to receive a tax write off for their donation. Mayor Owen advised staff to move forward with looking into the feasibility of the Town creating a 501(c)(3) for the purpose of receiving donations. Parks and Recreation Director Daniel Scagnelli stated that other communities have started programs such as this and that future recreational opportunities could be assisted through such donations.

Charging for Staff When Event is Private – Manager Feierabend provided clarification on the fees that that would be charged for staffing private events from Councils previous meeting. Manager Feierabend stated that the fee per additional employee per hour was \$50 and that the fee per additional vehicle per hour was \$20.

Budget Amendment for Repaving the Walking Track and Finishing the Showers – Manager Feierabend informed Council of a budget transfer that he had signed off on which moved monies from the General Fund in the amount of \$29,800 from the Recreation Department line items of Building and Grounds Maintenance, Equipment and Facility Maintenance Reserve to Capital Outlay for repaving the walking track in the amount of \$18,000 and finishing the showers in the amount of \$11,800. Councilwoman Keller asked about the cost of the chains for the lights. Parks and Recreation Director Daniel Scagnelli advised that this has already been paid for. Manager Feierabend informed Council that the

only cost this transfer did not include was the cost for the cricket for the roof of the Buckeye Recreation Center. Staff is still working on getting estimates.

Budget Amendment for \$22,000 Donation – Manager Feierabend stated that he needs Council to approve the budget amendment for the \$22,000. Technically this money is coming from the Fire Department and going to Capital Outlay for the Recreation Department. This money was to pay for the windows at Buckeye Recreation Center. Councilman Miller motioned to approve the budget amendment. Councilman Holcombe seconded the motion and the vote passed unanimously.

Mayor Owen stated that Council would take a short break at 4:29 p.m.

XI. Closed Session – Pursuant to NC GS 143-318.11(a)(3) Attorney Client Matters – Upon motion by Vice Mayor Piquet at 4:40 p.m., seconded by Councilman Miller, the Council voted unanimously to go into closed session pursuant to NC GS 143-318.11(a)(3) for Attorney Client Matters. Councilman Miller motioned to exit closed session at 5:24 p.m., which was seconded by Councilman Holcombe. The motion passed unanimously.

XII. Other Business

Watauga County Noise Ordinance – Attorney Eggers advised Council that Watauga Counties noise ordinance states that it is to be enforced by the Sheriff's office.

Welcome Back Sign – Council stated that it was a good idea for the Beech Mountain Chamber of Commerce to purchase the 'Welcome Back Sign.'

XIII. Adjourn – Upon motion to adjourn made by Mayor Owen and seconded by Vice Mayor Piquet the meeting was adjourned at 5:32 p.m. The motion carried unanimously.

Minutes approved by Town Council on May 8, 2012.

Richard H. Owen, Mayor

ATTEST:

Jennifer Broderick, Town Clerk