

MINUTES
BEECH MOUNTAIN TOWN COUNCIL
Regular Meeting – May 8, 2012

I. *CALL TO ORDER*

Mayor Owen called the regular meeting of the Beech Mountain Town Council to order at 3:05 p.m., Tuesday May 8, 2012 in the Town Hall Council Chambers. Other Council Members present were Paul Piquet, Alan Holcombe and Rick Miller. Councilwoman Cindy Keller was not present. Attorney Rebecca Eggers-Gryder was present to provide legal counsel to the Town in lieu of Town Attorney Stacy C. Eggers, IV. Staff members present were Town Manager Randy Feierabend; Town Clerk Jennifer Broderick, Finance Officer Nancy Johnson, 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 move § VII. New Business a. ‘*Festival of Gnarria*’ to follow § VII. New Business f. ‘*Schedule Dates for Budget Meetings*’ and to add § VIII. Old Business b. ‘*Vote On Telecommunication Tower Amendment.*’ Mayor Owen stated that the agenda would stand as amended.

V. *Approval of the Minutes*

a. *April 3, 2012 Special Meeting: Planning Retreat* – Councilman Miller motioned to approve the April 3, 2012 Special Meeting: Planning Retreat Minutes. Councilman Holcombe seconded the motion and the vote passed unanimously.

b. *April 10, 2012 Regular Meeting* – Councilman Holcombe motioned to approve the April 10, 2012 Regular Meeting Minutes as corrected. Vice Mayor Piquet seconded the motion and the vote passed unanimously.

c. *April 10, 2012 Closed Session* – Vice Mayor Piquet motioned to Approve the April 10, 2012 Closed Session Minutes. Councilman Holcombe seconded the motion and the vote passed unanimously.

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

VII. *New Business*

a. *Appreciation for April 14, 2012 Spring Clean Up* – On behalf of Council Mayor Owen extended his gratitude to the individuals and families that partook in the beautification effort on the mountain through participating in the Spring Clean Up. Tourism Development Authority Assistant John Troxler stated that this was a joint effort with the North Carolina

Department of Transportation as part of their Spring Litter Sweep Program. Mr. Troxler stated that there had been a really good turnout and that participants focused a lot of their efforts on the Beech Mountain Parkway as well as some side streets. Mr. Troxler stated that the Town should receive a certificate back from the State from their participation. Staff was directed to create thank you letters to be sent out to the individuals that were involved in the spring cleanup effort.

b. Presentation of Proposed Fiscal Year 2012 – 2013 Budget – Manager Feierabend informed Council that the budget was set at the same amount as it had been last year of 96.7%.

c. Summer Meeting Schedule – After much discussion Council Councilman Holcombe motioned to kept the meeting time of the regularly scheduled Council meetings at 3:00 p.m. Vice Mayor Piquet seconded the motion and the vote passed 3 to 1 with Councilman Miller voting nay.

d. Public Hearing Request for Proposed Fiscal Year 2012 – 2013 Budget – After much discussion Council decided to choose the date, time and location of the public hearing for the proposed fiscal year 2012 – 2013 budget after scheduling their budget meeting dates.

e. Schedule Dates for Budget Meetings – After much discussion Councilman Miller motioned to schedule budget workshops meetings for Council for Thursday, May 17, 2012 at 5:00 p.m. at Town Hall; Thursday, May 31, 2012 at 6:00 p.m. at Buckeye Recreation Center and Thursday, June 7, 2012 at 5:00 p.m. at Town Hall. Councilman Holcombe seconded the motion and the vote passed unanimously. Councilman Miller motioned to schedule the public hearing for the proposed fiscal year 2012 – 2013 budget for Thursday, May 31, 2012 at 6:00 p.m. at Buckeye Recreation Center. Councilman Holcombe seconded the motion and the vote passed unanimously.

f. Festival of Gnarnia – Bowie Van Ling addressed Council on behalf of Upstanding Entertainment LLC regarding the music Festival of Gnarnia that was to be held at Beech Mountain Resort in August. Mr. Van Ling stated that the goal behind this event was to create a unique and special quality of sound that gets nationwide attention. Mr. Van Ling informed Council that there has already been substantial media coverage through social networks at with approximately a quarter of a million visits. The event itself has already sold 600 tickets. Mr. Van Ling stated that there would be musicians, painters, sculptors as well as yoga instructors working at the event. Mr. Van Ling stated that this event should have a financially beneficial impact for the immediate areas. Mr. Van Ling stated that his organization would like to see the event go to a decent hour and that most events of this type throughout the nation go until 4:00 a.m. or 5:00 a.m. in the morning. Mr. Van Ling stated that they are expecting between 3,500 to 6,000 people to attend the festival and would like everyone to go away with a positive experience. Should this event be cut off at 10:00 or 11:00 p.m. Mr. Van Ling did not feel that people attending would feel like they got their monies worth. Mr. Van Ling stated that he is asking Council to allow this event to run further and that his organization was really trying to put this mountain on the map. Through this event Beech Mountain could be identified nationally which would assist in bringing more business year round. Mr. Van Ling stated that his organization wished to work together with the community and is looking for any kind of compromise that can be made. Mr. Van

Ling stated that his organization would also like to put up directional signs for the event to assist with good traffic flow. Mayor Owen stated that Mr. Van Ling has met with staff already. Mayor Owen stated that the Beech Mountain Resort is not affected by the Town's noise ordinance. As a result the issue that then arises is that there is a community of tax payers that will be concerned about this noise and asking what the Town can do about it. What the Town can do is adopt the Watauga County Noise Ordinance which enforces noise levels after 11:00 p.m. Mayor Owen stated that Council had two options available to them; one was to take no action and hear a lot about it from the public, two was to schedule a public hearing for the adoption of the Watauga County Noise Ordinance. Mayor Owen informed Mr. Van Ling that as of this moment he did not feel that Council was ready to make a decision. If the Watauga County Noise Ordinance were adopted then the time for the noise level to drop would be 11:00 p.m. Mr. Van Ling stated that this would be detrimental to the event. Mayor Owen stated that we need to determine whether or not this event is going to be good for the community. Mayor Owen stated that there is some concern with dealing with this number of people going till 3:00 a.m. Councilman Holcombe stated that Mr. Van Ling was probably getting one of the best lessons for organizing one of these events. Councilman Holcombe advised Mr. Van Ling that Council was still open to this idea but that Council needed more information and input. Mayor Owen inquired about the directional sign issue. Town Planner James Scott stated that the Planning Board has been discussing directional signs for events being permissible and that this could be ready for Council's next agenda. Mr. Van Ling stated that when his organization first came here and looked at statistics of the area that the impression they received was that this was going to be a win-win situation. Mr. Van Ling stated that he has witnessed these types of events in other communities be really successful through cooperation. Mr. Van Ling pointed out that individuals should consider the community at large and that the benefits outweigh of this event far outweigh the disturbance. Mayor Owen extended the floor to the public for questioning. Harriet Alexander of 101 Laurel Lane asked about the age group they were looking at. Mr. Van Ling stated 18 to 35 was the demographic age group and that the festival did not offer just music. There were about 150 other acts not music related that would be there to perform. Lee Wittman of 104 Rainbows End asked if the reputation and background of the promoters has been checked into and whether a reasonable estimate of how much money this event was going to bring to the mountain through taxes. Mayor Owen stated that as far as expense to the Town they will be charged for these services. Mayor Owen stated that the Council can not stop this event from happening. Mr. Van Ling provided a brief summary of his credentials. Mr. Wittman suggested that reports be generated to see what benefits there were for the community. Mr. Van Ling stated that he has these reports available from similar events. Mayor Owen asked Mr. Ling what the largest number of attendees he has had at an event he has put on. Mr. Van Ling stated that he has done 1,000 people and that his production event planner has 15 years of experience and has put on shows with 5,000 people. Jean Wimberly of 201 Poplar Drive asked about event in Tahoe Colorado called Wanderlust and whether our community could contact theirs to find out what the negative impacts were on the community so that the Town could anticipate these types of things and make accommodations. Mr. Van Ling stated that his staff is trying to work with the community. Urs Gsteiger of 115 West Shamrock Lane encouraged people to go on the Festival of Gnarria's website stating that there was a lot of useful information available there. Larry Miller of 235 Lakeledge Road asked about Council considering the adoption of Watauga County's Noise Ordinance into Town limits. Attorney Eggers-Gryder stated that the Town is able to adopt this ordinance if a public hearing is held and the Town enters into a mutual aid

agreement. Mr. Miller stated that with the adoption of this noise ordinance under consideration it sounded like Council was trying to prevent the festival. Mayor Owen stated that everything was being done out in the open and that Council had yet to determine what direction they were going to take. Debbie Canady of 112 Lakeledge Circle asked what areas Mr. Van Ling has worked. Mr. Van Ling stated that he has predominately worked in the southeast and that the event was scheduled to take place August 9th through the 11th. Ann Miller of 235 Lakeledge Road stated that this was an opportunity for a great Beech Mountain economic boom and that it was a great way to introduce Beech Mountain to a lot of outsiders. Mrs. Miller emphasized that she saw this music festival as a positive. Councilman Miller asked how Mr. Van ling found Beech Mountain. Mr. Van Ling stated that he found Beech Mountain through Google Maps and discovered that the population was relatively low. Councilman Holcombe stated that as a result of this event businesses have had a lot of people calling with questions regarding lodging and that he was encouraged about the age and type of people coming here.

g. Planning Board Appointment – Councilman Holcombe nominated James True. Vice Mayor Piquet seconded the nomination. Hearing no other nominations James True was unanimously selected by Council to the Planning Board.

h. Utility Reduction Requests – Mayor Owen opened the floor to Jeff Upthagrove who stated that he was addressing Council on behalf of his family and that Council had been provided information pertaining to the request in their agenda packet. Public Utilities Director Robert Heaton stated that this leak was discovered under the floor and that the leak did not set and run forever. Mr. Heaton stated that the Upthagorve's knew something was going on and tried to correct the situation. Mr. Heaton stated that the cost to treat the water that was lost was \$4,197. Mayor Owen stated that there was another substantial bill that was not reduced to the cost of water. Councilman Holcombe asked how long the property was unoccupied while this leak was going on. Mr. Upthagrove stated that the water had been turned off most of the time while the leak was going on and that the leak had been discovered in December. Because of where the leak was there is no visible run out or run off. Mr. Heaton stated it is a lot like the leak that was discovered in Pinnacle under the driveway. Councilman Miller asked whether the meter was turned off. Mr. Heaton stated that the homeowners stop was what was cut off. Councilman Miller stated that this involved a lot of electricity and processing of water and motioned that the homeowner pay the water portion of the utility bill in the amount of \$4,197 as well as the remaining sewer, garbage and recycling portion of the bill. Vice Mayor Piquet seconded the motion and the vote passed unanimously.

i. Call for Public Hearing on Resolution to Allow Watauga County Noise Ordinance to Apply Within the Corporate Limits of Beech Mountain – Mayor Owen stated that there had already been some conversation on this topic during the meeting. Mayor Owen stated that Beech Mountain Resort does not fall under the Towns Ordinances but that they do still have to follow both State and County Codes. Mayor Owen asked if Council wished to schedule a public hearing. Vice Mayor Piquet motioned to schedule the public hearing for the Thursday, May 31, 2012 at 6:00 p.m. at Buckeye Recreation Center. Councilman Holcombe seconded the motion and the vote passed unanimously.

j. Budget Amendment – Vice Mayor Piquet motioned to approve the amendment for the grant revenue received for Fireman's Parka and reimbursement revenue received for Law Enforcement Vests. Councilman Holcombe seconded the motion and the vote passed unanimously.

k. Transfer of Funds – Manager Feierabend stated that requested transfer of funds was to move money from the budgeted Building Inspections salary line item to contract services to pay John Merritt for his contracted services as the Towns Building Code Administrator. Manager Feierabend stated that this transfer would take care of paying Mr. Merritt for his contract services for the rest of the fiscal year. The other portion of the transfer was for maintenance parts and services to buildings and grounds maintenance. Councilman Miller motioned to approve the transfer of funds. Councilman Holcombe seconded the motion and the vote passed unanimously.

VIII. Old Business

a. Recreation Committee and Staff Fee Proposals for Buckeye Recreation Center – Mayor Owen stated that the Council had directed the Recreation Committee and staff to present to Council new fee structures for Buckeye Recreation Center. As a result of this request Mayor Owen stated that Council had 3 new proposals before them for consideration. After much discussion amongst Council Vice Mayor Piquet motioned to approve the new fee structure to become effective July 1, 2012 with the fee structure being set for a residential individual annual pass at \$100, residential individual monthly pass at \$40, residential individual weekly pass at \$20, a residential family annual pass at \$175, a residential family monthly pass at \$60, a residential family weekly pass at \$30, a non-resident individual annual pass at \$125, a non-resident family pass at \$200, daily usage fees for general use being set at \$3, fitness \$5, tennis \$5, and group fitness classes \$8. Councilman Miller seconded the motion and the vote passed unanimously.

b. Vote on Telecommunication Tower Amendment – Town Planner James Scott stated that this proposed ordinance amendment would only conditionally permit telecommunication towers on the mountain and that the proposed amendment before Council had been approved by Attorney Eggers. Mr. Scott explained that the proposed amendment removed R-2 districts entirely and that the required horizontal distance had been changed from 250' feet to 500' feet from a residential home. Mr. Scott stated that for the public's safety the proposed amendment would keep all towers set back from surrounding property lines, public roads and utilities the distance equal to the height of the tower where previously an engineer could sign off on a tower being located closer. Attorney Eggers-Gryder stated that §154.302 Definitions. 'Adjacent to a Residential Area' should be stricken as well as §154.303 Permit Required. D(9)(c). Tracy Simms of 37 Slopes Road asked about a provision allowing for a qualified protest. Mr. Scott stated that the proposed amendment is already conditional and that it would call for a 4/5's vote by the Board of Adjustment in favor. Mayor Owen emphasized that this was a start. Councilman Holcombe motioned to approve the amendment as recommended by Attorney Eggers-Gryder; striking §154.302 Definitions. 'Adjacent to a Residential Area' as well as §154.303 Permit Required. D(9)(c). Councilman Miller seconded the motion. Vice Mayor Piquet questioned the 500' foot distance stating that this provision did not factor in residential lots that did not have homes built on them yet. Mr. Scott stated that R-1 defined areas cover over 90% of the mountain and that R-2 areas

have been completely removed. Vice mayor Piquet wanted to know why the Town would not want to restrict these tower to commercially zoned areas. Manager Feierabend stated that the restrictions already restricts these towers to very large tracts of land. Attorney Eggers-Gryder informed Council that this type of change to the proposed amendment would require another public hearing. Mayor Owen called the question and the vote passed 3 to 1 with Vice Mayor Piquet voting against the motion. Ordinance No. 2012-04 is attached as Exhibit A and incorporated by reference as if fully set out within these minutes.

IX. Town Manager and Staff Reports

Recreation Department Amendment – Manager Feierabend stated that this proposed amendment in the amount of \$3,500 would allow staff to move forward with completing the pier project. The design of the project was going to make the area accessible to both elderly and handicapped individuals. Councilman Holcombe motioned to approve the amendment. Vice Mayor Piquet seconded the motion and the vote passed unanimously.

Buckeye Hills West Lot 173 – Manager Feierabend stated that the owner of Buckeye Hills West Lot 173, Roll, W. G. Et Ux, wished to turn this property back over to the Town. Manager Feierabend reported to Council that the property is current with its taxes through 2011 and is being offered to the Town with no conditions. Councilman Holcombe motioned to accept the lot. Vice Mayor Piquet second the motion and the vote passed unanimously.

Letter of Appreciation to Thoreson Foundation for Donating Money for Windows at Buckeye Recreation Center – Manager Feierabend made a recommendation to Council that they allow staff to compose a letter of appreciation to the Thoreson Foundation for the donation of the money towards the recreation center windows. Council advised staff to move forward with the letter.

Town Logo – Manager Feierabend asked if Council wished for staff to proceed with applying to have the Towns logo and slogan trademarked. Council consented for staff to move forward with this.

Genesis – Councilman Holcombe asked about where the Town stood regarding the Genesis eviction. Councilman Holcombe stated that Eva Jones had approached him and asked why the Town had not had any representation show up at a court hearing. Manager Feierabend stated that Town Attorney Eggers did not show up because the case had been continued by the other party. Eva Jones of 100 Skiway Unit 5 disputed this claim. Attached as Exhibit B and incorporated by reference as if fully set out within these minutes are three Small Claims Court continuances from the State of North Carolina Watauga County with the Plaintiff named as Town of Beech Mountain versus the defendant named as Genesis Wildlife Sanctuary.

Mayor Owen stated that Council would take a short break at 4:36 p.m.

X. Closed Session – Pursuant to NC GS 143-318.11(a)(3) Attorney Client Matters – Upon motion by Vice Mayor Piquet at 4:55 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. Vice Mayor Piquet motioned to exit closed session at 5:25 p.m., which was seconded by Councilman Holcombe. The motion passed unanimously.

XI. Other Business

a. Clarifier Settlement and General Release – Councilman Miller motioned to ratify the mediated clarifier settlement and any documents needed by the Town Attorney. Councilman Holcombe seconded the motion and the vote passed unanimously.

XII. Adjourn – Upon motion to adjourn made by Vice Mayor Piquet and seconded by Councilman Holcombe the meeting was adjourned at 5:38 p.m. The motion carried unanimously.

Minutes approved by Town Council on June 12, 2012.

Richard H. Owen, Mayor

ATTEST:

Jennifer Broderick, Town Clerk