

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

I. CALL TO ORDER

Mayor Owen called the regular meeting of the Beech Mountain Town Council to order at 3:02 p.m., Tuesday July 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, Tourism Development Authority Assistant John Troxler, Town Planner James Scott, Public Works Director Riley Hatch and Building Code Inspector John Merritt.

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 § VII. New Business c. ‘*Resolution Accepting and Endorsing the Solid Waste Management Plan of 2012 for Avery County*’ and to add to § XI. Closed Session ‘*NC GS 143.318.11(a)(6)Personnel Matters and NC GS 143.318.11(a)(5) potential acquisition of real property.*’ Mayor Owen stated that the agenda would stand as amended.

V. Approval of the Minutes

a. June 7, 2012 Special Meeting: Budget Workshop – Councilman Miller motioned to approve the June 7, 2012 Special Meeting: Budget Workshop Minutes as corrected. Councilman Holcombe seconded the motion and the vote passed unanimously.

b. June 12, 2012 Regular Meeting – Councilman Holcombe motioned to approve the June 12, 2012 Regular Meeting Minutes as corrected. Councilman Miller seconded the motion and the vote passed unanimously.

c. June 12, 2012 Closed Session – Vice Mayor Piquet motioned to Approve the June 12, 2012 Closed Session Minutes as corrected. Councilman Holcombe seconded the motion and the vote passed unanimously.

VI. Public Hearing

a. Ordinance to Amend the Standards Regulating Banners and Temporary Signs – Councilman Miller motioned to open the public hearing. Councilman Holcombe seconded the motion and the vote passed unanimously. Mayor Owen extended the floor to Town Planner James Scott. Mr. Scott stated that there are large events that come to Beech Mountain that warrant off sight directional signage to encourage the safe and efficient control of traffic so that people can know where they are going and how to get there. Mr. Scott stated that the proposed amendment will regulate the size that these signs can be, require permitting and permit a maximum of 12 signs per event. Mr. Scott also stated that these

signs would only be allowed to be erected 24 hours prior to an event for a maximum of 7 days and that all signs would be required to be removed within 24 hours after an event has ended. Leslie Hayhurst of 225 Upper Grouse Ridge Road asked how this type of proposed amendment would directly impact Genesis's Educational Center. Mr. Scott stated that Genesis would have a right to apply for a permit the same as anyone else. Hearing no more public comment Councilman Holcombe motioned to close the public hearing. Vice Mayor Piquet seconded the motion and the vote passed unanimously.

VII. Public Comment

Leonard Hyatt of 498 St. Andrews stated that his concern was the bad press that we were getting on giving Council advice. Mr. Hyatt stated that he has heard reflections that have been negative in the outside world and that a method needs to be established to make sure that we are doing good and the effect does not hurt us.

Hal Halliburton of 132 Skiway Circle stated that in the last Town Council meeting Mayor Owen said he thought there was some restrictions regarding Recreation Center grant money to be returned if the center was not operated in a certain way. Do you have any further information as to whether there are provisions in the grants requiring monies to be returned? Mayor Owen stated that on paper the answer is no that the Town does not need to return those grant funds. The grant funds that Mayor Owen referred to were for the creation of the Buckeye Recreation Center. Mayor Owen stated that the intent of the public comment period was not to create an opportunity for a two way dialogue and stated that individuals were welcome to call himself or staff for answers to any questions that they had.

Eva Jones of 100 Skiway Unit 5 stated that she would like to address the Council on transparency. Mrs. Jones questioned the transparency during closed session and private conversations with people of the public believing that all of this information should be made public. Mrs. Jones stated that the only way that citizens can find out information is through Town minutes or calling people. Mrs. Jones stated that in the last Town Council meeting Urs Gsteiger gave a wonderful presentation and stated that the Town was looking into the potential of a loan with the United States Department of Agriculture. Mrs. Jones asked if the Town was actively looking into any other source of funding other than the United States Department of Agriculture loan?

Linda Davis of 112 Poplar Drive asked if the permit for the sewer lift station been applied for and if so with whom has the permit been applied for? What was the date the permit was applied for?

Frank Steele of 107 Christie Way asked if money in the general fund can be legally transferred to the dedicated water and sewer fund maintained for the Town? Mr. Steele stated that he has experienced Policemen following him and his family in the last 30 days and feels like he is being targeted. Mayor Owen assured Mr. Steele that if there was any proof of this that it would not be tolerated by Council.

Leslie Hayhurst of 225 Upper Grouse Ridge Road stated that she felt that she was being harassed at Genesis and that when a surveyor had been on the property police had been present as well. Mrs. Hayhurst asked if the Town of Beech Mountain required to notify the

Local Government Commission of the engineers report of July 2011 regarding the deficiencies in the Town's water and sewer systems?

Larry Price of 1003 Charter Hills Road provided Council with information about his sons many accomplishments. Mr. Price stated that he believes that his son and wife are being followed by the police and that the police are driving by his house.

Jerri Layne of 118 Poplar Drive complimented Council on the meeting that was held at Buckeye Recreation Center in June. Mrs. Layne stated that the meeting was very informative in providing information on how the Town was planning on accomplishing things that needed to be taken care of. Mrs. Layne asked Council out of the July 2011 report what project is the United States Department of Agriculture loan being sought and in what amount? What source does the city anticipate repayment of the loan and if getting the loan does the repayment of the loan have to be reported to the Local Government Commission and do they have to approve it?

Rochelle Gassner 117 Dogwood Lane stated that the people who attended the meeting held at Buckeye Recreation Center in June were happy with the information provided there. Mrs. Gassner suggested that Council consider including information with the water bill mailings on current projects that are underway along with a time table. Mrs. Gassner stated that there would not be any additional postage involved and that this would keep everyone informed.

Lee O'Neil of 220 Birchwood Lane stated that he saw canoes at Lake Coffey and asked how to use them and who to contact.

Lee Wittman of 104 Rainbows End stated that 3 years ago he was very critical about the Council and that there were mutual concerns with the budget and the water. Mr. Wittman stated that he has been attending the focus group meetings and that they did deserve attention for getting the number of people present at the Council meeting. Mr. Wittman stated that there are problems with the way the Focus Group presents things. Mr. Wittman provided an example stating that a member of the Focus Group said something that someone else did not like and that this individual then threatened to throw them through the window. A little later others were told to shut up and sit down. Who comprises these 700 members? Anyone that asks to be put on the e-mail list is considered a member. There are a whole lot of half truths that are coming out of this. Mr. Wittman stated that he has tapes of this.

{Clerks Note: Councilman Holcombe stepped out to of the meeting room at 3:43 p.m. and returned at 3:44 p.m.}

Mr. Wittman stated that unfair comparisons were being made with other Towns that were not tourist Towns. Mr. Wittman stated that there were complaints about mutual aid with the Police and Fire. Why were we spending our time and money to go off the mountain to fight someone else's fire? Mr. Wittman asked if this is the type of neighborhood that we want.

Suzanne Halliburton of 132 Skiway Circle stated that if the focus group was going to be attacked at Town Council then next month we will come prepared and do it. Mrs. Halliburton stated that she did not realize that there was going to be an attack on the Focus Group. Mayor Owen stated that Mr. Wittman has every right to speak about any topic that he

wants and that Council permitted Larry Price to speak for 6 minutes during a previous public comment period.

Lee Wittman of 104 Rainbows End stated that there are comments that the water is poisoned and that the water is not poisoned and that he drinks a gallon of it every day and is still standing at age 70. There were comments that the Town was never going to get a United States Department of Agriculture loan. Mr. Wittman stated that the new fire truck at Fire Station I was obtained with a United States Department of Agriculture loan. Mr. Wittman stated that the meetings that he attended were all negative. Let's attack everybody, let's shut the Recreation Center down. Never heard one positive suggestion on how to run the Town other than we have to overthrow them and get our own people in there. There were reasonable people at the meeting who said that you are never going to get anywhere with this adversarial type of talk. We have got to fix this thing we do not want to destroy the Town. Mr. Wittman stated that he believed that the primary members of the Focus Group were just in it to destroy the whole Town.

Suzanne Halliburton of 132 Skiway Circle stated that anyone is welcome to address the focus group at any meeting on Monday's at 3:00 p.m. at the Club. When you address the group you will state how the information that the Focus Group is incorrect. Mrs. Halliburton asked that innuendos not be made.

VIII. New Business

a. Memorandum of Agreement with North Carolina Sedimentation Control Commission – Mayor Owen stated that the Town operates its own sedimentation control and extended the floor to Town Planner James Scott. Mr. Scott stated that the Town does not have a lot of projects that are going to fall under this act because the Town is primarily a residential community and most of the regulations are not triggered until a minimum of half an acre of land is disturbed. The purpose of this memorandum is to outline the responsibilities of the local program and the responsibilities of the North Carolina Sedimentation Control Commission. Vice Mayor Piquet motioned to adopt the memorandum of agreement. Councilman Holcombe seconded the motion and the vote passed unanimously.

b. Approval of Auditors Contract – Mayor Owen stated Council had before them the contract for the auditors and noted that the late penalty clause was included in the contract if the audit was not provided in a timely fashion. Councilman Miller motioned to approve the auditor's contract. Councilman Holcombe seconded the motion and the vote passed unanimously. Mayor Owen stated that State Statute requires that the Town's finances be audited every year. The audit is then provided to the North Carolina Local Government Commission who reviews the audit to confirm that the Town is operating in a financially responsible manner. Mayor Owen stated that the auditor is also approved by the North Carolina Local Government Commission.

IX. Old Business

a. Vote on Ordinance to Amend the Standards Regulating Banners and Temporary Signs – Mayor Owen opened the floor for Council discussion. Vice Mayor Piquet stated that Fred Pfohl brought up a good point regarding the use of directional signs and whether these signs

would be permissible for Christmas trees. Vice Mayor Piquet stated that he felt that this issue did need to be clarified. Councilman Miller stated there is a situation coming up in August which the Town was trying to prepare for through passing of this amendment and that further modifications could be made in the future. Councilman Miller asked about how the proposed deposit was going to be handled and whether the deposit was for each sign or for multiple signs. Mr. Scott stated that Attorney Eggers recommendation was that Council determine how they wished the fee for the deposit to apply. Mr. Scott recommended to Council one flat deposit fee stating that this would assist with the administration of the permitting process. Manager Feierabend interjected that the deposit needs to be enough to cover the cost of staff picking up the signs if the signs are not picked up. Attorney Eggers stated that the deposit fee was to be refunded if the signs were picked up as the proposed amendment mandated. Councilman Miller recommended that the deposit fee be set at \$200 to encourage the signs being picked up. Mayor Owen stated that he felt that \$100 was reasonable. Mr. Scott stated that there was a gray area in determining whether an event is a substantial event. One way of doing this is through the deposit fee. Mayor Owen stated that church signs are exempt because they are religious in nature. Mayor Owen asked whether wedding signs were permitted. Mr. Scott stated that events that are free, charitable and nonprofit are exempt. Vice Mayor Piquet moved to approve Ordinance NO. 2012-06 with the deposit fee set at \$100. Councilman Holcombe seconded the motion and the vote passed unanimously. Ordinance NO. 2012-06 is attached as Exhibit A and incorporated by reference as if fully set out within these minutes.

X. Town Manager and Staff Reports

Cost of Public Records Request and Buckeye Investigation – Manager Feierabend provided Council with the following information pertaining to public records requests and the investigation at Buckeye Recreation Center.

MAY

- May staff time 24 ¼ hours
- May staff cost (had to be estimated at \$25 hour) \$2,363.75 April/May legal expenses \$1,716.60 (included above)
- Revenue from copies \$523.75

JUNE

- June staff time 54.5 hours (1.5 hours legal)
- June staff cost \$1885.89 (\$225 legal)
- Revenue from copies \$436

INVESTIGATION

- Police Department spent 60 hours on the investigation
- Total cost of investigation \$1,716.60

Request from Larry Price to Share Information with Town Council – Manager Feierabend stated that Council had before them an e-mail which Larry Price had asked to share with Council.

Police Report – Manager Feierabend stated that it seems that the number of barking dogs reported has escalated some and is hoping that this figure will drop as the weather cools down.

Parks and Recreation Report – Manager Feierabend stated that both the Cool 5 and the Kiddy Rodeo events had been very successful. The new windows that had been paid for with grant monies had been installed at Buckeye Recreation Center. The Bark Park has a bunch of new shrubbery that has been planted and the play ground apparatus have been purchased for Fireman's Park. This park has been done through a partnership with the Town, the Beech Mountain Club and the Beech Mountain Volunteer Fire Department.

Water and Sewer Report – Manager Feierabend reported that testing showed that all bacteria samples taken were absent of any chloroform bacteria. All daily tests are in compliance. Weekly meter reading is on schedule. Manager Feierabend stated that the weekly meter reading was being done to benefit residents by allowing staff to notify them in a timely manner of leaks that may be occurring on their property. Manager Feierabend stated that the utility department is going to try to collect good phone numbers for all of the homeowners on the mountain so that when there is an issue with a leak staff is able to notify the homeowner immediately. On June 27, 2012 the Town had their annual inspection at Buckeye Water Treatment Plant with the State. Manager Feierabend reported that everything went good and that there were no issues taken by the State. Councilman Holcombe questioned homeowners cutting off their water in the Towns meter box. Manager Feierabend stated that by law no homeowner is supposed to be turning the Towns meter on or off. If homeowners did not have a homeowner shut off valve put in place when the Town was doing their radio read meter project then they had 60 days to have one installed on their own from the completion date of the Towns radio read meter project. Manager Feierabend stated that he would follow up with staff to ensure that all homeowners were in compliance. Mayor Owen stated that the penalty does need to be enforced.

Ad Hoc Water Committee – Mayor Owen stated that the Ad Hoc Water Committee has two meetings scheduled to meet with professionals to discuss potential financing for the Towns Utility Projects.

Councilwoman Keller stated that Council has tried very hard to communicate with the public through Channel 2, the Towns website and the resurrection of the MountainEar. Councilwoman Keller encouraged people to attend the Council meetings to get educated. Councilwoman Keller stated that she is very concerned about the Police Department following them. Councilwoman Keller asked if the Police Department has ever looked into using video cameras to disprove these allegations. Manager Feierabend stated that they are turned on when they pull someone over. Manager Feierabend stated that the police have a duty to patrol the mountain but should not harass anyone.

Mayor Owen thanked everyone for being at the meeting and stated that Council was going to take a short break at 4:38 p.m. prior to moving into closed session.

- XI. Closed Session – Pursuant to NC GS 143-318.11(a)(3) Attorney Client Matters; NC GS 143.318.11(a)(6); NC GS 143-318.11(a)(6) Personnel Matters; NC GS 143.318.11(a)(5) Potential Acquisition of Real Property** – Upon motion by Councilman Miller at 4:58 p.m.,

seconded by Councilman Holcombe, the Council voted unanimously to go into closed session pursuant to NC GS 143-318.11(a)(3) for Attorney Client Matters; NC GS 143-318.11(a)(6) Personnel Matters; NC GS 143.318.11(a)(5) Potential Acquisition of Real Property.

July 10, 2012 – Town Council Meeting Minutes Continued

Vice-Mayor Piquet motioned to exit closed session at 6:20 p.m., which was seconded by Councilman Holcombe. The motion passed unanimously.

{Clerks Note: Clerk Broderick was excused by Council during closed session. The remainder of the meeting minutes were taken by Town Attorney Eggers}

XII. Other Business – Vice Mayor Piquet moved to provide a \$5,000.00 bonus to Town Manager Feierabend in lieu of a pay increase for the fiscal year 2012-2013. The motion was seconded by Councilman Holcombe and passed unanimously.

The Town Council discussed the invitation of the Beech Mountain Concerned Taxpayers Focus Group for Manager Feierabend to attend one of their meetings. Manager Feierabend had asked if Mayor Owen could accompany him, and was told that he could not. Mayor Owen stated that Manager Feierabend and members of the Town Council are available at town hall for anyone who wishes to set an appointment and meet with them. Vice-Mayor Piquet questioned whether it was appropriate for the Town Manager to meet with a group at a secret meeting. Manager Feierabend stated that he was not comfortable attending a meeting without an independent witness to make sure that he is not misquoted in the future. Councilwoman Keller encouraged members of the Focus Group to come to Town meetings so that they would be informed of the Council's actions. By consensus, the Council agreed that it would not be appropriate for Manager Feierabend to attend a meeting under those conditions.

XIII. Adjourn – Vice Mayor Piquet moved to adjourn the meeting at 6:39 p.m., which was seconded by Councilman Miller. The motion passed unanimously. The meeting was adjourned at 6:39 p.m.

Minutes approved by Town Council on August 14, 2012.

Richard H. Owen, Mayor

ATTEST:

Jennifer Broderick, Town Clerk