

**MINUTES**  
**BEECH MOUNTAIN TOWN COUNCIL**  
**Regular Meeting – January 14, 2014**

***I. CALL TO ORDER***

Mayor Owen called the regular meeting of the Beech Mountain Town Council to order at 4:00 p.m., Tuesday January 14, 2014 in the Town Hall Council Chambers. Other Council Members present were Alan Holcombe, Paul Piquet, Cindy Keller and E. 'Rick' Miller. Town Attorney Stacy C. Eggers, IV. was present. Staff members present were Town Manager Randy Feierabend; Administrative Assistant Dara Barnes, Town Planner James Scott, Public Utilities Director Robert Heaton, Public Works Director Riley Hatch, Fire Chief Robert Pudney, Finance Officer Nancy Johnson, Parks and Recreation Interim Director Sandy Carr, Building Inspector John Merritt and Police Chief Jerry Turbyfill.

***II. Invocation*** – Dewey 'Cyclone' Brett 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 agenda would be amended to remove NC GS 143.318.11(a)(6) Personnel Matters from § XI. Closed Session. Mayor Owen stated that the agenda would stand as amended.

***V. Approval of the Minutes***

***a. December 10, 2013 Regular Meeting*** – Councilman Holcombe motioned to approve the December 10, 2013 Regular Meeting Minutes. Vice Mayor Piquet seconded the motion and the vote passed unanimously.

***b. December 10, 2013 Closed Session*** – Councilman Holcombe motioned to approve the December 10, 2013 Closed Session Minutes. Vice Mayor Piquet seconded the motion and the vote passed unanimously.

***VI. Public Hearing***

***a. Public Hearing for Intent to Apply for Funding for the Buckeye Lake Water Plant Replacement Project thought the United States Department of Agriculture*** – Councilman Miller motioned to open the public hearing. Councilman Holcombe seconded the motion and the vote passed unanimously. Benjamin Thomas, P.E. West Consultants, stated that the Town of Beech Mountain owns and operates a public water system that serves all of its corporate limits and a small area outside the limits. All of the drinking water in this system is withdrawn from Buckeye Lake, a man-made reservoir on Buckeye Creek, and all of it is treated at the Buckeye Lake Water Treatment Plant. The water plant is nearly 30 years old and is experiencing several deficiencies, including severe corrosion and difficulty in meeting current regulations. The proposed plant capacity is 1.0 million gallons per day, which is equal to the existing plant design capacity. In planning a solution Mr. Thomas pointed out that several alternatives were considered; regionalization, decentralization, optimization of

current facilities and replacement. Mr. Thomas stated that the proposed project will have negligible environmental effects since it will only involve construction on the existing water plant property and since capacity will not be increased. The expected cost to accomplish this replacement project is \$6,000,000. It is proposed to use \$4,500,000 in United States Department of Agriculture loan funds to finance the project. An application to the United States Department of Agriculture for this amount was filed on November 14, 2013 along with the preliminary engineering report and the environmental assessment report. Mr. Thomas stated that construction drawings are in progress. Mr. Thomas surmised that the Town of Beech Mountain needs to address its critical water treatment deterioration and regulatory issues. The recommended solution to address these issues is to replace all of the primary treatment units and to rehabilitate or repair various other components. Hearing no public comment Vice Mayor Piquet motioned to close the public hearing. Councilman Holcombe seconded the motion and the vote passed unanimously.

***b. Public Hearing for Proposed Ordinance to Amend Regulations Regarding Standards for Connections to the Town Road System by Parties Outside the Town Limits –***

Councilman Miller motioned to open the public hearing. Vice Mayor Piquet seconded the motion and the vote passed unanimously. Town Planner James Scott provided an overview of the proposed ordinance recommending that this needed to be in place due to additional demands on Town services. Hearing no public comment Vice Mayor Piquet motioned to close the public hearing. Councilman Holcombe seconded the motion and the vote passed unanimously.

***c. Public Hearing for Proposed Ordinance to Change Due Date of Utility Bills –***

Councilman Miller motioned to open the public hearing. Councilman Holcombe seconded the motion and the vote passed unanimously. Town Utilities Director Robert Heaton explained the proposed ordinance to Council. Hearing no 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. Water Plant Project Update*** – Benjamin Thomas, P.E. West Consultants, provided Council with an update.

***b. Request for Public Hearing to Rename Portion of Bear Paw Path*** – Vice Mayor Piquet motioned to schedule a public hearing for Councils next regular meeting. Councilman Miller seconded the motion and the vote passed unanimously.

***IX. Old Business***

***a. Vote on Applying for Funding for the Buckeye Lake Water Plant Replacement Project through the United States Department of Agriculture*** – Vice Mayor Piquet motioned to approve the Town to make application for funding for the Water Plant Project through the United States Department of Agriculture. Councilman Miller seconded the motion and the vote passed unanimously.

***b. Vote on Proposed Ordinance to Amend Regulations Regarding Standards for Connections to the Town Road System by Parties Outside the Town Limits –***

Councilwoman Keller motioned to defer voting on the ordinance. Councilman Holcombe seconded the motion. Councilwoman Keller felt that the subdivision ordinance was too restrictive and wanted to revisit before considering this proposed amendment. The motion failed 1 to 4 with Mayor Owen, Vice Mayor Piquet, Councilman Holcombe, and Councilman Miller voting nay. After more discussion Vice Mayor Piquet motioned to approve the ordinance. Councilman Miller seconded the motion and the vote passed 4 to 1 with Councilwoman Keller voting nay. Ordinance No. 2014-01 is attached as Exhibit A and incorporated by reference as if fully set out within these minutes.

***c. Vote on Proposed Ordinance to Change Due Date of Utility Bills –*** Councilman Holcombe motioned to approve adopt the ordinance. Vice Mayor Piquet seconded the motion and the vote passed unanimously. Ordinance No. 2014-02 is attached as Exhibit B and incorporated by reference as if fully set out within these minutes.

***X. Town Manager and Staff Reports***

***Watauga River Water Intake Project*** – Manager Feierabend stated that the Town did not receive a favorable vote from the Watauga County Board of Commissioners.

***High Country Municipal Association*** – Manager Feierabend stated that the High Country Municipal Association will be meeting on Thursday, February 13, 2014 at 6:30 p.m. at Banner Elk Town Hall. Manager Feierabend asked that Council who wished to attend inform staff.

***Building Maintenance Worker – Full Time or Contract Employee*** – Manager Feierabend informed Council that Doug Bare had resigned.

***Council Photo with Todd Bush*** – Manager Feierabend informed Council that arrangements had been made with Todd Bush to have Council's photograph taken on Tuesday, February 11, 2014 at 3:30 p.m. prior to their regular Council meeting.

***Ethics Training for Newly Elected Officials*** – Manager Feierabend stated that the on demand webinar will be available June – October 2014. A date will be coordinated further along in the year for this training opportunity to take place.

***Sales Tax*** – Manager Feierabend reported to Council that the Town had received \$242,000 from Watauga in sales tax revenue for the first half of the fiscal year.

***Utilities*** – Public Utilities Director Robert Heaton informed Council that the thaw hurt worse than the freeze. Nineteen homes had their utilities cut off due to water running. The total loss in water for the Town was approximately 345,000 gallons.

Mayor Owen stated that Council would take a short break at 4:58 p.m.

**XI. Closed Session – Pursuant to NC GS 143-318.11(a)(3) Attorney Client Matters** – Upon motion by Councilman Miller at 5:05 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, including Beech Mountain v. Genesis Wildlife Sanctuary. Vice Mayor Piquet motioned to exit closed session at 5:17 p.m., which was seconded by Councilman Holcombe. The motion passed unanimously.

**XII. Other Business**

*Note: Due to the absence of Administrative Assistant Dara Barnes, the following minutes were taken by Town Attorney Eggers.*

**Parks and Recreation Director** – Mayor Owen advised the Town Council that the Town was presently soliciting applications for the position of Parks and Recreation Director for the Town. The Council discussed whether the Town needs to redefine the Recreation Program and the duties of the Parks and Recreation Director. There was discussion as to whether the Recreation Department needed to be focused on handling events or managing the Town's facilities. The Council also discussed the possibility of moving outdoor recreation to the Public Works Department. The Board also discussed the potential for overlap between the Recreation Department, the Chamber of Commerce, and the Tourism Development Authority. Councilwoman Keller brought up the possibility of co-directors, one to handle fitness and the Buckeye facilities and the other to handle promotion and events. Mayor Owen stated that Town staff needed input from the Council on these issues and to contact Manager Feierabend with input and suggestions.

**XIII. Adjourn** – Councilman Miller motioned to adjourn the meeting at 5:37 p.m., which was seconded by Vice Mayor Piquet. The motion passed unanimously. The meeting was adjourned at 5:38 p.m.

Minutes approved by Town Council on February 11, 2014.

Respectfully Submitted By:

\_\_\_\_\_  
Dara Barnes, Administrative Assistant

Respectfully Submitted By:

\_\_\_\_\_  
Attorney Stacy Eggers IV

\_\_\_\_\_  
Richard H. Owen, Mayor

ATTEST:

\_\_\_\_\_  
Jennifer Broderick, CMC  
Town Clerk

**ATTACHMENT(S)  
TO  
MINUTES**

**EXHIBIT A** – Ordinance No. 2014-01: Ordinance to Amend Regulations Regarding Standards for Connections to the Town Road System by Parties Outside the Town Limits

**EXHIBIT B** – Ordinance No. 2014-02: Ordinance to Change Due Date of Utility Bills

**Ordinance No. 2014-01**

**TOWN OF BEECH MOUNTAIN**

**AN ORDINANCE TO AMEND THE TOWN OF BEECH MOUNTAIN  
REGULATIONS REGARDING STANDARDS FOR CONNECTIONS TO THE  
TOWN ROAD SYSTEM BY PARTIES OUTSIDE THE TOWN LIMITS**

**WHEREAS**, The Town of Beech Mountain provides roads, water, sewer, police and fire protection, sanitation, and other services; and

**WHEREAS**, The majority of the costs associated with these services are borne by the residents and property owners of the Town of Beech Mountain through taxes paid by said residents and property owners; and

**WHEREAS**, several developments have occurred immediately adjacent to the corporate limits of Beech Mountain whose residents avail themselves of many of the services provided by the Town of Beech Mountain, yet such developments do not contribute toward the taxes that pay for said services; and

**WHEREAS**, there is the potential for further future development immediately adjacent to the Town limits of Beech Mountain that would solely or primarily depend on the Town of Beech Mountain's road network for access; and

**WHEREAS**, the proposed amendments serve to require that connections to the Town road network be accomplished in an orderly manner and that certain requirements of the Town be met prior to the approval of these connections; and

**WHEREAS**, the proposed amendments are consistent with the Town of Beech Mountain Comprehensive Plan in that the plan advocates for continued improvement of the efficiency and adequacy of many Town Services. In order for this to occur, such services must be fairly paid for by all the persons that utilize them.

**NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE  
TOWN OF BEECH MOUNTAIN THAT:**

**SECTION I. The Town of Beech Mountain Zoning Ordinance, Section §91.10  
'Connections to the Town Road System by Parties Outside Town Limits,' is  
hereby adopted by the Town Council and codified as follows:**

## **§ 91.10 CONNECTIONS TO THE TOWN ROAD SYSTEM BY PARTIES OUTSIDE TOWN LIMITS.**

In the event that the owner of real property outside of the Town of Beech Mountain wishes to connect to the town's road system, the town may approve a written request from a party or parties to allow a street or road to be constructed so as to connect to the town's system provided that the following criteria are met.

(A) New Development. If the requested road connection is to serve a parcel or parcels that are undergoing or are to undergo construction, development, or subdivision and such construction, development, or subdivision has not received final approval by the date of the request for said road connection, the following requirements shall apply:

(1) The party shall petition for voluntary annexation into the Town of Beech Mountain of the parcels under said party's control which are to be served or accessed by said road connection. If the requested road connection is to serve a parcel or parcels that are part of a subdivision or development, the entire development shall be required to petition for annexation. The Town Council has the authority to waive or partially waive this requirement if it deems the annexation of the relevant property to be contrary to the interests of the Town of Beech Mountain, and

(2) The construction, development, or subdivision shall comply with all applicable sections of the Town of Beech Mountain's zoning ordinance and subdivision regulations, including the standards for road construction, water and sewer infrastructure, building setbacks, etc. The applicant may seek a variance from these requirements from the Board of Adjustments if applicable. If the Town Council elects not to annex the development, this section shall not apply.

(3) The road connection to be constructed shall comply with all requirements of the Town and the State Department of Transportation concerning roadway width, construction standards, and right-of-way width. The applicant may seek a variance from this requirement from the Board of Adjustments if applicable.

(4) The road connection shall be dedicated to the Town of Beech Mountain. If part of a subdivision or development, other roads, utilities infrastructure, and other applicable improvements shall be dedicated to the Town of Beech Mountain in accordance with the Town of Beech Mountain's subdivision regulations.

(B) Existing Development. If the requested road connection is to serve a parcel or parcels that are part of a previously existing and approved subdivision or development, or if not part of a subdivision or development, the requested road connection is to serve existing construction that has been completed and has received all required approvals, the following requirements shall apply:

(1) The party shall petition for voluntary annexation into the Town of Beech Mountain of the parcels under said party's control which are to be served or accessed by said road connection.

If the requested road connection is to serve a parcel or parcels that are part of a subdivision or development, the entire development shall be required to petition for annexation. The Town Council has the authority to waive or partially waive this requirement, and

(2) The road connection to be constructed shall comply with all requirements of the Town and the State Department of Transportation concerning roadway width, construction standards, and right-of-way width. The applicant may seek a variance from this requirement from the Board of Adjustments.

(3) The road connection shall be dedicated to the Town of Beech Mountain.

(C) Water Service Required. Chapter 51 of the Town of Beech Mountain Code of Ordinances shall be applicable in all respects with regard to water and sewer service to properties requesting to connect to Town Roads under this Section, provided, however, that the applicant shall, at a minimum, request the extension of water service to provide for adequate fire protection as set forth by the North Carolina State Fire Code.

**SECTION II. The Town of Beech Mountain Zoning Ordinance, Section §91.07 'Private Roads Restricted,' is hereby rewritten and codified as follows:**

#### **§ 91.07 PRIVATE ROADS RESTRICTED.**

No private street or road may be constructed in such a manner as to connect with a town street or road or right-of-way unless the property owner or developer shall have first obtained permission from the town. The town may approve a written request from a party or parties to allow a private street or road to be constructed so as to connect to the town's system provided all requirements of the town and the State Department of Transportation concerning roadway width, construction standards and right-of-way width are met. In the event of conflict between the town and the State Department of Transportation requirements, the more stringent shall apply. Any existing or approved private street or road shall obtain a permit from the town prior to making changes or modifications in design, layout, or connectivity.

**SECTION III. The Town of Beech Mountain Zoning Ordinance, Section §51.063 'Financing Extensions to Subdivisions and Properties Outside of the Corporate Limits,' is hereby rewritten and codified as follows:**

#### **§ 51.063 FINANCING EXTENSIONS TO SUBDIVISIONS AND PROPERTIES OUTSIDE THE CORPORATE LIMITS.**

The financing of extensions of water and/or sewer service to properties located outside of the corporate limits for which the extension of service has not been approved as of the date of adoption of this Ordinance shall be performed in accordance with the provisions of this subchapter and other applicable town ordinances.



(A) All applications for water and sewer extensions to serve properties located outside of the corporate limits or to serve subdivisions, for which an application for extension has not been approved as of the date of this chapter, shall be made in the same manner and under the same requirements as provided for in §§ 51.060 and 51.061.

(B) If an application is approved by the Town Council, the owner or owners shall be required to pay 100% of the total cost of all extensions. However, the town may participate to the extent agreed upon by the Council in the cost of larger size mains that are in excess of the size mains required to serve the project. No reimbursement by the town shall be made upon annexation and all water and sewer lines connected to the town system and located outside of the corporate limits shall become the property of the town at the time those facilities are connected.

(C) In the event the property for which application has been made for water and sewer service is contiguous to the corporate limits ~~and provided that the property is not part of a subdivision which has not been approved as of the date of this chapter,~~ the owner or owners may petition the town for annexation, and in the event the property is annexed to the town, extensions may be made to the property and the cost thereof financed in accordance with the requirements of §51.062.

SECTION IV. CODIFICATION. The provisions of Section I of this Ordinance shall be published as appropriate in the Town of Beech Mountain Code of Ordinances as soon as practicable.

SECTION V. SEVERABILITY CLAUSE. If any section, part or provision of this Ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, then it is expressly provided and it is the intention of the Town Council in passing this Ordinance that its parts shall be severable and all other parts of the Ordinance shall not be affected thereby and they shall remain in full force and effect.

SECTION VI. PUBLICATION AND EFFECTIVE DATE. This Ordinance shall take effect immediately upon its passage and publication according to law.

READ, CONSIDERED, PASSED AND APPROVED at a regular meeting of the Town Council of Beech Mountain, North Carolina, at which a quorum was present and which was held on the 14<sup>th</sup> day of January, 2014.

This Ordinance Adopted the 14<sup>th</sup> day of January, 2014.

\_\_\_\_\_  
Richard H. Owen, Mayor

Attest:

\_\_\_\_\_  
Jennifer Broderick, CMC  
Clerk to the Board

**Ordinance NO. 2014-02**

**TOWN OF BEECH MOUNTAIN, NC**

**AN ORDINANCE TO AMEND THE UTILITY PAYMENT DUE DATE**

**WHEREAS**, the Town of Beech Mountain provides a utility payment due date on monthly statements as the 25<sup>th</sup> of each month; and

**WHEREAS**, to provide a broader time to process disconnect notices, post penalties, process and mail late notices, review meter readings and leak reports, contact customers regarding possible leaks/high consumption, review the software bill calculation and forward the billing file to Professional Mail Services, Inc. for a required (72) hours timeframe between Monday through Friday to print, insert and mail bills to customers by the last day of the month; and

**WHEREAS**, broadening the timeframe from the due date of the 25<sup>th</sup> to the 20<sup>th</sup> of the month would provide more workdays after considering the following days fall on/after the 25<sup>th</sup>: (i) two day weekends, (ii) five (5) months in the year with have less than 31 days; and, (iii) holidays occurring on/or after the 25<sup>th</sup> (Good Friday, Memorial Day, Thanksgiving, Christmas.

**NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BEECH MOUNTAIN, NORTH CAROLINA, THAT:**

SECTION I. The Code of Ordinances, Chapter 51 (Water and Sewer Use), Section 51.030 is hereby amended to read as follows:

**§ 51.030 BILLING PROCEDURES; ACCOUNT INFORMATION.**

• • •

(L) Bills are past due and delinquent on the twentieth day of each month in which they are mailed. If the twentieth day falls on a weekend or holiday, bills will be past due and delinquent if not paid in full by the end of the next business day. The customer shall be responsible for an administrative charge computed from the date of delinquency at the rate of 1.5% per month on the delinquent balance. After an account becomes delinquent, the town will send the customer a notice of delinquency. Service may be discontinued by the town pursuant to §§ 51.130 *et seq.* herein.

SECTION II. CODIFICATION. The provisions of Section I of this Ordinance shall be published as appropriate in the Town of Beech Mountain Code of Ordinances as soon as practicable.

SECTION III. SEVERABILITY CLAUSE. If any section, part or provision of this Ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, then it is expressly

provided and it is the intention of the Town Council in passing this Ordinance that its parts shall be severable and all other parts of the Ordinance shall not be affected thereby and they shall remain in full force and effect.

SECTION IV. PUBLICATION AND EFFECTIVE DATE. This Ordinance shall take effect immediately upon its passage and publication according to law.

READ, CONSIDERED, PASSED AND APPROVED at a regular meeting of the Town Council of Beech Mountain, North Carolina, at which a quorum was present and which was held on the 14<sup>th</sup> day of January, 2014.

This Ordinance Adopted the 14<sup>th</sup> day of January, 2014.

---

Richard Owen, Mayor

Attest:

---

Jennifer Broderick, CMC  
Clerk to the Board