

**MINUTES**  
**BEECH MOUNTAIN TOWN COUNCIL**  
**Regular Meeting – March 11, 2014**

***I. CALL TO ORDER***

Mayor Owen called the regular meeting of the Beech Mountain Town Council to order at 4:05 p.m., Tuesday March 11, 2014 in the Town Hall Council Chambers. Other Council Members present were Alan Holcombe, Paul Piquet and E. 'Rick' Miller. Councilwoman Cindy Keller was not present. Town Attorney Stacy C. Eggers, IV. was present. Staff members present were Town Manager Randy Feierabend; Town Clerk Jennifer Broderick, 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 Director Sandy Carr and Police Chief Jerry Turbyfill.

***II. Invocation*** – Bob Carpenter 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 add to § XI. Closed Session NC GS 143-318.11(a)(6) Personnel. Mayor Owen stated that the agenda would stand as amended.

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

***a. February 11, 2014 Regular Meeting*** – Councilman Miller motioned to approve the February 11, 2014 Regular Meeting Minutes as amended. Councilman Holcombe seconded the motion and the vote passed unanimously.

***b. February 11, 2014 Closed Session*** – Vice Mayor Piquet motioned to approve the February 11, 2014 Closed Session Minutes. Councilman Holcombe seconded the motion and the vote passed unanimously.

***VI. Public Hearing***

***a. Public Hearing to Amend the Town of Beech Mountain Regarding Smoke Detectors, Fire Extinguishers, and Carbon Monoxide Alarms*** – Councilman Miller motioned to open the public hearing. Vice Mayor Piquet seconded the motion and the vote passed unanimously. Town Planner James Scott stated that every year affidavits are sent out to owners of rental properties regarding the requirement for smoke detectors, fire extinguishers, and carbon monoxide alarms. Mr. Scott stated that when the letter was being generated this year staff realized that the Town was were not in compliance with the State's most recent code change.

*Note: Councilwoman Keller arrived at 4:11 p.m.*

Mr. Scott informed Council that the proposed ordinance amendment would take care of bringing the Towns code up to date and that, if approved by Council, staff will follow up with rental owners to inform them that these will be the standards that they will be held to next year. Hearing no public comment Councilman Holcombe motioned to close the public hearing. Vice Mayor Piquet seconded the motion and the vote passed unanimously.

## ***VII. Public Comment***

Jim Brooks of 503 Beech Mountain Parkway stated that the Chamber of Commerce is working on fireworks for the annual Pig Roast. Mr. Brooks stated that the fireworks need to be ordered by April 1<sup>st</sup> in order to have them for the event. Mr. Brooks informed Council that next year the 4<sup>th</sup> of July is going to fall on a Saturday which would make fireworks for the Town financially unattainable. Mr. Brooks informed Council that Manager Feierabend has recommended a light show in lieu of fireworks. The Chamber has looked information up on a light show and determined that the cost would be between \$5,000 and \$7,000. Mr. Brooks stated that one of the advantages of going this route was to have these lights to use in the future as well as for other types of events. Mayor Owen asked Council if they wished to discuss this topic now or later. Council decided that they would pick up discussion now. Manager Feierabend stated that the light show idea was originally Parks and Recreation Director Sandy Carr's idea. Councilman Miller asked what a light show was. Parks and Recreation Director Sandy Carr stated that light shows are laser shows that are often synced with music. Mrs. Carr pointed out that another benefit of a light show was that they had better visibility in bad weather. Mrs. Carr also stated that, should the Town go this direction, the Town would also be the first doing this type of show. Mr. Brooks stated that light shows are often used at music venues. Councilwoman Keller stated that the Chamber of Commerce met this morning and discussed their lack of funds. Councilwoman Keller stated that during the meeting it was suggested that the Tourism Development Authority pick up half of the cost and the Town pick up the remaining cost. Councilman Miller asked what kind of maintenance is required over the years. Mr. Brooks stated that maintenance, storage, and education were being looked into and that advertising needs to happen as soon as possible. Vice Mayor Piquet inquired what kind of light show this amount of money would purchase. Councilman Holcombe suggested that the Town consider increasing the amount to \$10,000 to get a better product stating that this idea provided the Town another opportunity to have something new. Mayor Owen stated that it sounds like Council could be interested in the idea of a light show but needed more information. Mr. Brooks stated that the Chamber of Commerce needs to also go before the Tourism Development Authority Board. Councilman Holcombe recommended that two Council members meet with two Tourism Development Authority members like was previously done to discuss spending the Tourism Development Authority's Capital funds. Council discussed who would go. Councilman Miller and Councilman Holcombe stated that they would meet with this committee to discuss the feasibility of a light show. Mayor Owen directed Manager Feierabend to set something up with the Tourism Development Authority and that if one of the Council members could not meet then Mayor Owen would come to the

meeting. Bell Bennett of 405 Beech Mountain Parkway stated that there is not another community in this area that is doing this type of show. Mrs. Bennett stated that the Chamber of Commerce has worked hard this year.

Bell Bennett of 405 Beech Mountain Parkway stated that the Town had an animal problem. Mrs. Bennett reported seeing a bear near her place of business and recommended to Council that the Police Department more strongly enforce the ordinance of not feeding the animals. Councilwoman Keller stated that there are electronic air machines that spray scents and asked about the possibility of the Town looking into whether there was some kind of automatic dispenser that would spray out ammonia or some other scent at the Recycling Center to discourage animals from being there. Manager Feierabend stated that staff is looking at purchasing garbage bags that are scented to keep smaller rodents from being attracted.

### ***VIII. New Business***

- a. ***Watauga Intergovernmental Retreat*** – Phil Trew, AICP Director of Planning and Development of the High Country Council of Governments stated that the High Country Council of Governments has been facilitating the Watauga Intergovernmental retreats since 2008. Typically there are two meetings annually; one in the spring and one in the fall. Mr. Trew stated that last year there was some dissatisfaction with the information that was being provided at the retreats and the elected officials did not feel like it was a wise use of time and money. To that end the High Country Council of Government has met with Town Managers and elected officials to discuss what could happen to improve the retreats. Each of the municipalities is participating in these discussions with two voluntary delegates. One of the primary discussions that is proposed to take place would be the sales tax issue. Mr. Trew informed Council that the University of North Carolina's School of Government has been contacted to see if they had a facilitator available to assist with the proposed retreat. The University of North Carolina School of Government has responded in the affirmative; stating that Lydian Altman would be able to facilitate this retreat at a cost of \$2,000. Mr. Trew informed Council that this fee would pay for one day for Mrs. Altman to travel up here and get set up as well as the four hour retreat. Mr. Trew stated that the proposed cost would be split amongst the municipalities at a cost of \$400 each. Appalachian State University will not participate with the cost as they are providing the venue. Mr. Trew asked if the Town of Beech Mountain was still committed to the idea of participating in this process. Vice Mayor Piquet motioned to provide funding to participate. Councilman Holcombe seconded the motion and the vote passed unanimously. Councilman Miller and Mayor Owen were the representatives from the Town of Beech Mountain. Councilwoman Keller asked about the proposed date. Mr. Trew stated that the proposed timeframe was sometime in July. Council thanked Mr. Trew for his presentation.
- b. ***Request Public Hearing to Amend Town Burning Regulations*** – Town Planner James Scott stated that the existing Town regulations are contradictory in some areas

which has led to problems in the past. Mr. Scott advised Council that § 50.07 of the Town's code book says that you can do "open burning" of brush with a burn permit. However § 90.03 of the Town Code Book says that you cannot do "open burning" but rather states that all fires have to be located within "an enclosure from which fire cannot escape." Furthermore, any "cooking fire" is exempt from § 90.03 of the Towns Code Book. Vice Mayor Piquet motioned to schedule a public hearing for Councils next regularly scheduled meeting. Councilman Holcombe seconded the motion. Councilman Miller asked whether or not the burning of brush was permissible. Mr. Scott stated that in the new proposed ordinance materials that are natural, such as twigs and wood that would be able to be burned as fuel were permissible to be burned but no other fuel items could be burned such as garbage. Councilwoman Keller how this was going to impact the commercial fire pit that was already in place. Mr. Scott stated that the proposed ordinance does not deal with approved gas fueled appliances. Mayor Owen called the question. Council voted unanimously in favor to schedule the public hearing for Councils next regularly scheduled meeting. Town Building Inspector John Merritt stated that the fire pit in question has not met the Underwriters Laboratories Certification requirements nor does it meet Town requirements. Mr. Merritt stated that currently there is an engineer that is writing a letter as we speak to remedy this situation.

## ***IX. Old Business***

- a. Vote on Ordinance to Amend the Town of Beech Mountain Regulations Regarding Smoke Detectors, Fire Extinguishers, and Carbon Monoxide Alarms*** – Vice Mayor Piquet stated that some time ago a landline was required by ordinance in rental units. Vice Mayor Piquet wanted to make sure that this was included in the letter that went out to the homeowners. Fire Chief Bob Pudney stated that this was already included in the letter. Vice Mayor Piquet motioned to approve the ordinance. Ordinance No. 2014-03 is attached as Exhibit A and incorporated by reference as if fully set out within these minutes. Councilman Holcombe seconded the motion and the vote passed unanimously. Manager Feierabend stated that staff is going to go ahead and get word out to the property owners now in order to provide them more time to get their properties into compliance for when staff sends out its standard letter in October.

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

***Staff Reports*** – Manager Feierabend informed Council that the Sledding Hill Report and Cool 5 report that were in front of Council.

***Treehouse Condominiums*** – Councilman Holcombe stated that there was a fire at Treehouse Condominiums and thanked the Fire Department for their good work. Fire Chief Bob Pudney stated that it started as a chimney fire and that it spread to the roof where it was there contained.

***Sales Tax*** – Councilwoman Keller inquired about the additional sales tax revenue that the Town was receiving and whether or not staff had looked into using this money to pay off

current loans. Manager Feierabend stated that it was staffs understanding that these monies would be collected in their totality and used towards water improvements but that this idea could be looked into during the budget process to see if it was of benefit. Manager Feierabend stated that staff will provide Council with a broad presentation. Council was in agreement to look at all of the figures to see what was best for the Town.

***Water Plant Project Update*** – Manager Feierabend stated that Benjie Thomas with West Consultants provided an update. Vice Mayor Piquet pointed out that the May 15, 2013 date on the report should be changed to May 15, 2014.

***Building Maintenance Worker*** – Manager Feierabend stated that with Councils blessing staff was moving forward with hiring a permanent part time building maintenance worker. Mayor Owen asked what the cost would be. Manager Feierabend stated that the cost would be \$18.00 per hour and that the position would require retirement benefits. Mayor Owen asked if staff felt this was the best way to handle this position versus a contract employee. Manager Feierabend stated that staff believed that this was by definition a part time position. Councilman Miller motioned to approve the part time position. Vice Mayor Piquet seconded the motion and the vote passed unanimously. Councilwoman Keller asked what budget line item this was proposed to be paid from. Manager Feierabend stated from administration.

***Budget*** – Manager Feierabend asked Council if they would like to set their first budget meeting for some time in April. Vice Mayor Piquet stated that this would be a very brief meeting since all of the Towns' money was going towards water and sewer projects. Manager Feierabend concurred that there were no new big projects in the pipeline other than the projects already known. Mayor Owen stated that Department Heads would probably like to present what they are proposing for their department.

***Watauga County and Avery County Revaluations*** – Manager Feierabend stated that the tax revenue will be down 9.36% based on the new appraisals for Watauga County. Avery County is still telling the Town that tax revenues will be 15% to 22% down.

***Personnel Policy Amendment*** – Manager Feierabend informed Council that a policy change had been made concerning exempt employees and holiday time in the Towns Personnel Policy that went into effect February 24, 2014. Manager Feierabend stated that exempt employees are no longer accruing holiday time. Manager Feierabend stated that if Council felt differently about this policy to let him know and this policy could be changed.

***Town Audit Services*** – Manager Feierabend asked Council if they wished to send out a request for proposal for the Town's audit services. Manager Feierabend informed Council that the current company has filed the audit late every year. Manager Feierabend stated that staff is happy with the service other than the late filing. Manager Feierabend stated that the penalty in the current contract has been invoked and that the company has still filed late. Councilman Holcombe recommended getting some more bidders. Mayor Owen asked how Finance Officer Nancy Johnson felt. Mrs. Johnson stated that the Town

gets a good deal from the auditors and that the other bids will probably come in higher. Councilman Miller stated that he likes the current company but if they have not filed in a timely manner then the Town should consider bidding the service. Council advised staff to have a discussion with the current company and to bid the service out.

***Outdoor Card Reader at Buckeye Recreation Center*** – Manager Feierabend stated that staff has obtained prices for the outdoor card reader at Buckeye Recreation Center. Manager Feierabend informed Council that one device costs \$5,000 and that this device permits individual codes for each user. Manager Feierabend stated that an alternative was to spend approximately \$150 to install a one code security system; noting that there was a camera in place. Manager Feierabend stated that there was a weather resistant system, like the one that was currently in place, that cost between \$6,500 and \$7,000. Manager Feierabend asked if Council wished to put a good \$150 code lock on the door to the workout room until the system down there is upgraded. Mayor Owen felt that this was a large cost for the number of users. Mayor Owen stated that he was not in favor of the large cost. Councilman Holcombe suggested that the Town use something like Cedar Village has used. Council told staff to move forward with the lower costing lock.

***H.R. 2641 – Responsibly and Professionally Invigorating Development Act*** – Manager Feierabend stated that the intention of this act was to streamline the federal permitting process for construction projects to cut through endless bureaucratic delays, accelerating job creation and fostering economic growth. Manager Feierabend stated that Mark Meadows was doing a breakfast and asked if anyone wished to attend. Councilman Miller stated that he would represent Beech Mountain.

Mayor Owen stated that Council would take a short break at 5:13 p.m.

***XI. Closed Session – Pursuant to NC GS 143-318.11(a)(3) Attorney Client Matters; NC GS 143-318.11(a)(6) Personnel Matters*** – Upon motion by Vice Mayor Piquet at 5:25 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; NC GS 143-318.11(a)(6) Personnel Matters. Councilman Miller motioned to exit closed session at 6:25 p.m., which was seconded by Vice Mayor Piquet. The motion passed unanimously.

***XII. Other Business***

***a. Resolution No. 2014-01: Supporting an Agreement with the North Carolina Department of Environment and Natural Resources to Address Potable Water Supply Needs*** – Manager Feierabend stated that staff met in Winston Salem with representatives from the North Carolina Department of Environment and Natural Resources regarding the Town's Watauga River Intake Project. It was recommended at that meeting that the Town proceed with the 609 process. Manager Feierabend stated that Engineer Lee Spencer has prepared a cover letter for the Town for the 609 process and that a resolution has also been prepared. Manager Feierabend informed Council that this process would permit the North Carolina Department of

Environment and Natural Resources to check to see if there were any other available solutions for the Town or if the Town's solution of going to the Watauga River was the best option. Manager Feierabend stated that the Town does not need a letter of support from Watauga County but that the Town does need Watauga County to support the buffers that are put in place. Mayor Owen stated that this does not supersede anything the Town is doing but runs parallel with Town efforts. Mayor Owen stated that if something is going to cost the Town money then the Town is advised up front by the North Carolina Department of Environment and Natural Resources of the cost. Should this happen the Town is not locked into paying for any costs that the Town does not want to pay for. Mayor Owen stated that Watauga County will have the option of protecting the buffer if the State approves the site. Vice Mayor Piquet motioned to approve the resolution. Councilman Miller seconded and the motion passed unanimously. Resolution No. 2014-01 is attached as Exhibit B and incorporated by reference as if fully set out within these minutes.

**XIII. Adjourn** – Vice Mayor Piquet motioned to adjourn the meeting at 6:32 p.m., which was seconded by Councilman Holcombe. The motion passed unanimously. The meeting was adjourned 6:32 p.m.

Minutes approved by Town Council on April 8, 2014.

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Richard H. Owen, Mayor

ATTEST:

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Jennifer Broderick, CMC  
Town Clerk

**ATTACHMENT(S)  
TO  
MINUTES**

**EXHIBIT A** – Ordinance No. 2014-03: An Ordinance to Amend the Town of Beech Mountain Regulations Regarding Smoke Detectors, Fire Extinguishers, and Carbon Monoxide Alarms *(3 pages)*

**EXHIBIT B** – Resolution No. 2014-01: Supporting an Agreement with the North Carolina Department of Environment and Natural Resources to Address Potable Water Supply Needs *(1 page)*



**Ordinance No. 2014-03**

**TOWN OF BEECH MOUNTAIN**

**AN ORDINANCE TO AMEND THE TOWN OF BEECH MOUNTAIN  
REGULATIONS REGARDING SMOKE DETECTORS, FIRE  
EXTINGUISHERS, AND CARBON MONOXIDE ALARMS**

**WHEREAS**, The Town of Beech Mountain strives to protect the safety and welfare of its citizens and visitors; and

**WHEREAS**, The Town of Beech Mountain requires owners and managers of rental property to annually sign affidavits attesting that they meet the Town's requirements for Automatic Smoke Detectors, Fire Extinguishers, and Carbon Monoxide Alarms; and

**WHEREAS**, several of the provisions in the Town of Beech Mountain's Code of Ordinances regarding Automatic Smoke Detectors, Fire Extinguishers, and Carbon Monoxide Alarms no longer reflect the recent versions of the North Carolina State Building and/or Fire Codes.

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

SECTION I. The Town of Beech Mountain Code of Ordinances, Sections: §95.21 'Automatic Smoke Detector Outlets Required in Rental Residential Dwelling Units,' §95.22 'Fire Extinguishers Required,' §95.23 'Carbon Monoxide Alarms Required,' §95.24 'Building Owner Responsible,' and §95.28 'Enforcement and Inspections' are hereby adopted by the Town Council and codified as follows:

§ 95.21 AUTOMATIC SMOKE DETECTOR REQUIRED IN RENTAL RESIDENTIAL DWELLING UNITS.

(A) Each residential rental dwelling unit shall have operable smoke alarms as provided below:

(1) In dwellings constructed after the establishment of North Carolina State Building Code requirements for hard-wired automatic smoke detectors, such smoke detectors shall be installed in the numbers and locations as prescribed by the North Carolina State Building Code in effect at the time when such structures were constructed.

(2) In dwellings that were altered or modified such that the installation or upgrade of automatic smoke detectors was required, such smoke detectors shall be installed in the numbers and locations as prescribed by the North Carolina State Building Code under such circumstances.

(3) In dwellings that were constructed prior to the establishment of North Carolina State Building Code requirements for hard-wired automatic smoke detectors, approved battery powered or 120-volt (plug-in type) approved automatic smoke detectors may be used to fulfill the requirement for operable smoke detectors in rental residential dwelling units. Such devices shall be installed in the numbers and locations as prescribed by the North Carolina State Building Code, as amended. This provision shall not be construed to affect requirements of the North Carolina State Building Code to upgrade or install automatic smoke detectors when altering or modifying existing buildings.

(Ord. passed 12-9-2003)

#### § 95.22 FIRE EXTINGUISHERS REQUIRED.

Each dwelling unit shall be provided with a minimum of one fire extinguisher complying with the North Carolina State Fire Code, Section 906, with a minimum 4-A, 10BC rating, properly hung and displayed on each living level.

(Ord. passed 12-9-2003)

#### § 95.23 CARBON MONOXIDE ALARMS REQUIRED.

All rental resident dwelling units shall contain at least one operable carbon monoxide alarm installed in accordance with the manufacturer's recommendations. Such alarms shall be installed in the numbers and locations as prescribed by the North Carolina State Building Code.

(Ord. passed 12-9-2003)

#### § 95.24 BUILDING OWNER RESPONSIBLE.

The owner(s) of rental residential dwelling units shall be responsible for installing or having qualified persons install automatic smoke detectors as required by this subchapter. The owner(s) are also responsible for providing the fire extinguishers required by § 95.22 above and the carbon monoxide alarms required by § 95.23 above.

(Ord. passed 12- -2003; Ord. passed 12-9-2003)

#### § 95.28 ENFORCEMENT AND INSPECTORS.

The Town Manager shall designate an employee or employee(s) who shall be responsible for enforcing this subchapter. Inspectors shall be qualified by the Code Officials Qualification Board.

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 11<sup>th</sup> day of March, 2014.

This Ordinance Adopted the 11<sup>th</sup> day of March, 2014.

\_\_\_\_\_  
Richard Owen, Mayor

Attest:

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

**RESOLUTION NO. 2014-01**  
**SUPPORTING AN AGREEMENT WITH THE NORTH CAROLINA**  
**DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**  
**TO ADDRESS POTABLE WATER SUPPLY NEEDS**

**WHEREAS**, the Town of Beech Mountain has a need to obtain additional potable water supply sources, given current and anticipated demands on the Buckeye Lake water source and its hydrological limitations;

**WHEREAS**, regional water supply planning can best address the needs of Beech Mountain and its customers;

**WHEREAS**, projections for demand indicate that the region's needs are already above the maximum safe allocation with no provision for adequate storage or suitable safety factor for increased upstream demands, unanticipated regional demand, prolonged drought, or increased environmental base flow requirements;

**WHEREAS**, the General Assembly in Session Law 2011-374 (House Bill 609) authorizes the State to work with localities and water authorities to identify water needs and sources, plan and budget for proposed new water supply projects, and apply for governmental permits for appropriate regional water supplies;

**WHEREAS**, Session Law 2011-374 (House Bill 609) permits units of local government to contract with the Department of Environment and Natural Resources to conduct feasibility studies addressing long-term water supply needs and to plan and provide analysis of alternatives and technical assistance in applying for permits, and

**WHEREAS**, it is acknowledged that the Town of Beech Mountain will be required to reimburse the Department of Environment and Natural Resources the cost of all analysis as outlined and agreed upon by contract.

**NOW, THEREFORE, BE IT RESOLVED**, that the Town of Beech Mountain requests that the Department of Environment and Natural Resources enter into an agreement with the Town of Beech Mountain for the identification of water supply needs and appropriate water supply sources and water storage projects to meet these needs and to conduct associated studies, environmental evaluations, planning and budget estimates for such new water supply project(s).

Adopted this the 11<sup>th</sup> day of March, 2014

Signature:

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**Rick Owen, Mayor**

**Town of Beech Mountain**