

**MINUTES**  
**BEECH MOUNTAIN TOWN COUNCIL**  
**Regular Meeting – May 13, 2014**

***I. CALL TO ORDER***

Mayor Owen called the regular meeting of the Beech Mountain Town Council to order at 4:01 p.m., Tuesday May 13, 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; Town Clerk Jennifer Broderick, Town Planner James Scott, 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*** – 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 stand as presented.

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

***a. April 8, 2014 Regular Meeting*** – Councilman Holcombe motioned to approve the April 8, 2014 Regular Meeting Minutes as amended. Vice Mayor Piquet seconded the motion and the vote passed unanimously.

***b. April 8, 2014 Closed Session*** – Councilwoman Keller motioned to approve the April 8, 2014 Closed Session Minutes. Councilman Holcombe seconded the motion and the vote passed unanimously.

***VI. Public Comment***

Dr. Jay Krakovitz of Beech Mountain Parkway stated that during the winter months he slid off the Beech Mountain Parkway and was fortunate enough to be stopped by a small tree. Dr. Krakovitz asked if Council can have the Beech Mountain Police Department notify the community when the road conditions are hazardous; whether road condition information can be placed on the Town's website and color coded for full time citizens; if the public can be notified when the North Carolina Department of Transportation is not servicing the road; whether the Town can pressure Avery County for better guard rails; and if the elected officials of Beech Mountain could continue to stand by while people are being injured.

Wendel Sauer of 203 Pinnacle Ridge Road recommended that Council change their agenda and start holding their closed sessions at the beginning of the agenda rather than towards the end of the agenda. Mr. Sauer stated that there were items that were discussed

after closed session under ‘Other Business’ and votes taken after the public had left the meeting.

Wilson King of 1525 Beech Mountain Parkway stated that Council will be discussing a perceived animal issue later on in the agenda. Mr. King stated that he was in the real estate business on the mountain, and that during his career as a broker he had seen a common trend of showing individuals property around the mountain and their amazement at all of the natural beauty and animals that Beech Mountain had to offer. Mr. King stated that these same people that come up here because of this natural beauty and the animals sometimes change their minds after they have been up here a while and want some of the amenities that they left their home areas for, like the convenience of a Walmart nearby, and do not appreciate the wildlife like they thought they would. Mr. King stated that his premature comment on the subject of wildlife on Beech Mountain is not to blame the animal but to educate the people. Mr. King pointed out that the Agricultural Extension Agency in each County has information for educational purposes. Mr. King pointed out that Beech Mountain is a unique place and Beech Mountain does not need to be like anywhere else.

Eva Jones of 100 Skiway Unit 5 stated that she agreed with Wendel Sauer on the transparency issue. Mrs. Jones stated that the public gets to present their questions to Council in a public setting but often receive responses individually and not as a whole group. Mrs. Jones thanked Parks and Recreation Director Sandy Carr for the great job that was done for the Town birthday party. Mrs. Jones suggested that maybe the time of this event can be changed so that more of the summer population could be involved in the celebration. Mrs. Jones thanked Wilson King for standing up for the ecology on the mountain.

Lee O’Neal of 220 Birchwood Lane stated that the garbage bins have become an eyesore and that the bears do know the garbage collecting schedule and feed from these garbage bins regularly. Mr. O’Neal stated that in a gated community that he lived in there had been a bear attack on a woman. The woman had come upon the bear feeding from her garbage. Mr. O’Neal stated that it is only a matter of time before someone gets in between a female bear and her cub here on the mountain. Mr. O’Neal also recommended that Council consider down lighting versus lighting that is going up to the sky. Mr. O’Neal stated that there were already plenty of outlets for information on road conditions that the public had access to and did not feel the Town needed to be redundant with this information.

Fred Pfohl of 501 Beech Mountain Parkway asked if Fire Chief Robert Pudney had information on how John Hoffman was doing. Fire Chief Pudney reported that Mr. Hoffman was at home walking to the mailbox a few times a day. Rumor had it that he ordered a pizza from Fred’s until his wife found out about it.

## ***VII. New Business***

- a. Resolution to the United States Department of Agriculture for Funding*** – Mayor Owen stated that is proposed resolution deals with the funding the Town is working

with the United States Department of Agriculture to receive for the Town's Water Plant Replacement Project. Mayor Owen stated that originally the Town was putting down \$1,500,000 on the project. The Town has recently received communication from the United States Department of Agriculture that if the Town would put down \$1,720,000 on the project then the United States Department of Agriculture would allow the Town to bypass some hoops. Vice Mayor Piquet motioned to approve Resolution No. 2014-03. Councilman Holcombe seconded and the motion passed unanimously. Resolution No. 2014-03 is attached as Exhibit A and incorporated by reference as if fully set out within these minutes. Councilman Miller thanked the subcommittee that is involved in this Water Plant Replacement Project along with another utility project. Councilman Miller specifically thanked Urs Gsteiger, Craig Hunter, Jack Lubin and John Merritt of the subcommittee. Councilman Miller also thanked Public Utilities Director Robert Heaton, Manager Feierabend and the rest of the staff that was working on the project. Councilman Miller stated that there were people who did not believe that this could happen. Councilman Miller stated that it is happening and it is going to be a reality.

- b. *Water Plant Project Update*** – Benjamin Thomas, P.E. West Consultants stated updated Council that with the passing of Resolution No. 2014-03 the United States Department of Agriculture would be able to lock in an interest rate for the Town's Water Plant Replacement Project within the next 60 days. The United States Department of Agriculture would be approving the engineering report shortly. Mr. Thomas stated that the final plans and specifications still need to be submitted. Mr. Thomas stated that he had indicated that West Consultants had been shooting for the date of May 15, 2014 to have this information in to the North Carolina Department of Environment and Natural Resources but now realize that this information will not be ready till closer to the end of the month. Mr. Thomas stated that this will be a little later but still submitted within the month. Mr. Thomas reported that the Town had received good comments back from the North Carolina Department of Environment and Natural Resources today. The report showed that the overall concept and scope of the work looked good to the reviewers of Public Water Supply. Mr. Thomas stated that detailed drawings will be submitted this month then West Consultants will take care of the electrical, heating, etc. The Town should have both permits and United States Department of Agriculture funding approval by late summer and/or early fall. At this point in time the Town will be ready to put the project out to bid. Mr. Thomas informed Council that shop drawing, review and ordering equipment could be done during the winter and that the project had an expected completion date of the spring of 2016. Mr. Thomas indicated that he would be getting together Councilwoman Keller's elevation request.
- c. *Proposed Connector Request to Buckeye Lake Road by the Lodges at Eagles Nest*** – Town Planner James Scott introduced Elliott Harwell, Vice President of ENBE, LLC; the current owners of The Lodges of Eagles Nest. Mr. Harwell addressed Council stating that most are familiar with the front side of The Lodges of Eagle Nest development which is over by the airport by Elk River. Mr. Harwell stated that there is an undeveloped portion of the development known as the backside of the mountain or, here on Beech Mountain, the West Bowl. There approximately 700 acres in this

portion of the development. The backside of the mountain that is being developed now has a main entrance of the back side of Beech Mountain. Mr. Harwell explained that this portion of the development almost joins Buckeye Creek Road down by Buckeye Recreation Center. The closeness of the property to the road made them think of establishing a connector road. Right now there are approximately 180 lots in this portion of the development. The belief is that this connector road would enhance the experience for these potential owners. Mr. Harwell stated that a realized benefit for the Town would be that 325 more households could participate with skiing, shopping, etc. Mr. Harwell stated that they are not asking the Town for annexation – just a connector road, and that this could be a win-win situation. Beech Mountain has some amenities that the development does not have. Mr. Harwell stated that the proposed connector road would not be used as a construction entrance and that it would be used to allow individuals to participate in the Beech Mountain experience. The proposed access point would be gated with the road constructed at North Carolina Department of Transportation specifications and/or Beech Mountain's specifications; whichever was more stringent. Mayor Owen stated that staff has presented a lot of information in the packet and asked that his comments not be taken negatively. Mayor Owen stated that this connection to the Town would be a perceived selling feature for the development to sell lots; offering the Town's amenities. Mr. Harwell stated that there were 15 to 20 homes in the development when ENBE, LLC purchased the property. Currently there are 5 more homes under construction. Mayor Owen stated that the Town knows the build out potential of Beech Mountain and asked what the build out potential was for this development. Mr. Harwell emphasized that this proposed connection to the Town is not the main selling point and that the developers do not need to have this connector road to sell their lots. Mr. Harwell said that they have been working with the development for the past twelve months. Mayor Owen asked if the lots that are being sold are speculative lots or are they being bought by individuals that want to build homes. Mr. Harwell stated that they are seeing a lot of end users and not a lot of speculators. Mr. Harwell stated that it would probably be around 2015 before this connector road had any real use and that they have sold approximately 110 lots. The prices of lots are ranging from \$40,000 to \$245,000. Mr. Harwell stated that the largest markets have been out of Raleigh, Charlotte and Florida. Vice Mayor Piquet stated that staff had asked for 30 to 60 days to gather more information and felt this was the direction that the Council should take. Vice Mayor Piquet stated that the only way he personally would entertain this connecting road was if the gate was removed. Mr. Harwell pointed out that this could be an additional safety feature for the Town; pointing out that they have a couple helicopter pads in the development that would be less than a mile from Buckeye Recreation Center. Councilman Miller asked of the 110 lots how many do the developers felt would be built upon in the near future. Mr. Harwell stated that they are predicting 12%. There is one builder that has 6 in the works. Councilman Miller asked if they had a recycling center. Mr. Harwell stated that they did not have a recycling center but that they had some hiking, biking and horse riding trails. Councilman Miller asked if the development had fire hydrants. Mr. Harwell stated that they do not have fire hydrants but work off of wells and septic. Mr. Harwell stated that the board for the development that he is on is working with engineers to determine the feasibility of establishing a water tank with dry hydrants or ponds.

Councilwoman Keller stated that the developer was speaking of win-wins which is the way she likes to look at things. Originally the plan for Beech Mountain was to have the main entrance come up Buckeye Creek Road. Councilwoman Keller asked how Mr. Harwell felt about paving all of Buckeye Creek Road. Mr. Harwell stated that they understood that this situation would be a give and take one and understands that the amenities that Beech Mountain has to offer are not free. Mr. Harwell stated that they are open to discussions. Councilwoman Keller stated that she has been informed that this paving project is on the Town's ten year plan. Councilwoman Keller asked if the developers had any plans for a restaurant in the development. Mr. Harwell stated that he does not believe that they are going to get into the restaurant business. Mr. Harwell confirmed that the common areas have been deeded over to the homeowners. Mayor Owen asked for staff input. Town Planner James Scott stated that he felt that Council had pointed out some really good questions and that staff needs more time to hammer out the answers. Mayor Owen asked about the potential cost of fire and police. Fire Chief Bob Pudney stated that currently the area that is in question is in Banner Elk's territory. Councilman Miller asked if there was a connector road would Beech Mountain respond. Fire Chief Pudney stated that currently the Town is not the first responder. Mayor Owen asked if this connector road would make Beech Mountain the first responder. Fire Chief Pudney stated that both the County and State would have to approve this change. Mayor Owen asked if this would impact the amount of funding the received by the Beech Mountain Volunteer Fire Department. Fire Chief Pudney stated that putting the connector road in does not do anything for funding for the Beech Mountain Volunteer Fire Department. Mayor Owen asked if someone else can approve the changing the fire district. Fire Chief Pudney stated that he did not know the answer for that. Police Chief Jerry Turbyfill stated that if the property does not get annexed then the Police Department would just handle the immediate response; stabilizing situations until other departments could arrive on scene to handle the call in their area. Mr. Harwell asked Fire Chief Pudney about fire protection for a portion of the development that goes into Beech Mountain but cannot be gotten to through Beech Mountain. Fire Chief Pudney stated that either Fall Creek or Banner Elk would be first responders. Fire Chief Pudney stated it is whoever can get to the area in question within reason. Councilwoman Keller asked Police Chief Turbyfill about the Police Departments area of jurisdiction outside of the Town. Police Chief Turbyfill stated that State law provides that Town's receive 1 air mile and that the Police Department is the primary responder in these areas but that other departments handle the processing of issues. Police Chief Turbyfill advised that the Town has mutual aid agreements that are in place. Mayor Owen thanked Mr. Harwell for opening the discussion.

- d. *Wildlife on Beech Mountain*** – Mayor Owen stated that this topic has been visited before and that Council asked staff to prepare a report of the information that has been received through the years. Mayor Owen stated that the Town is looking for the middle ground for solutions. Town Planner James Scott stated that Beech Mountain is a rural community in the mountains and the Town has invaded the local wildlife's territory in building homes. Mr. Scott stated that when the Town had North Carolina Wildlife come up and research the herds their data showed that the Town did not have a biological issue, but that the size of the herd may have reached the point where the

Town has a social and cultural issue. Some evidence that the Town has of a perceived social issue is 63 different types of animal-related calls to the Town's Police Department. Mr. Scott stated that there have been 4 deaths from bear attacks in North America since 2010. Mr. Scott stated issues dealing with the coexistence of wildlife is an issue that is going on in a lot of communities. Mr. Scott stated that staff looked at this issue from two different perspectives; the human-side and the animal-side. Human-side solutions included garbage, intentional feeding, unintentional feeding (birdfeeders, gardens flowers) and education. Animal-side solutions included lethal options and non-lethal options. Mayor Owen thanked Mr. Scott and asked that the report that Council received be made available to the public on the Town's website. Mayor Owen stated that he anticipated meeting and discussing this issue again. Jerry Layne asked if it is illegal to feed deer. Mr. Scott stated that it is illegal to feed bears but not deer. Mr. Scott stated that it can be difficult at times to determine which animals are eating what. Eva Jones made a statement about the clearing of right-of-ways and how this had a direct impact on the natural nutrition available to animals such as bears and deers that grows in areas that are not canopied. Fred Pfohl asked about the Town doing workshops with wildlife experts. Manager Feierabend stated that the Town did a workshop with a bear expert last year and a workshop with a deer expert two years ago.

- e. ***Sumer Meeting Schedule*** – After much discussion amongst Council Mayor Owen stated that Council was going keep the regular schedule meeting time of 4:00 p.m.
- f. ***Presentation of Proposed Fiscal Year 2014 – 2015 Budget*** – Manager Feierabend stated that Council had staffs prepared budget in front of them. The General Fund budget request is \$4,949,896 which is based on a 97% collection rate. The Town has met that goal and is at a 97.6% collection rate. This is based on a .64¢ (cents) millage rate. Manager Feierabend stated that there are decisions to be made; deep cuts have been made with \$235,000 in cuts already happening. The unrestricted general fund reserve is projected to be \$3,800,000 to \$4,100,000. The Town has a clear purpose in building that fund up. Manager Feierabend stated that there are departmental changes proposed. There is a cost of living allowance of 1.5%. Health insurance coverage to remain the same with plan changes being presented during budget workshops. Building Inspection is being proposed to return to full time status. Fire Department; as stipulated in the Springsted Plan of 2009; staff requests consideration to merge the Fire Department into the operations of the Town as a Municipal Department. Planning Department will work closely with Recreation to implement the Recreational Trail Program Grant for the Emerald Outback. The Police/Dispatch Department is asking for replacement of one in car camera, summer shirts and replacement of one vehicle. With E-911 staff is proposing to replace 2 radio consoles with 2 Viper consolettes in the dispatch office. Public Works is requesting the purchase of a 4x4 dump truck and no funding change to the gravel and road paving program. The Recreation Department is of two budgets that has been reduced. They will be working on the Recreational Trail Program Grant for the Emerald Outback. The Tax Department is showing a slight decrease in budget. Water and Sewer projected revenues are projected to be \$1,849,500 with no rate increase. The will begin on major site construction of the Water Plant Replacement Project early spring

2015. A Capital Project Ordinance and budget will need to be approved as part of the process. Staff continues to work on intake options. After Water Plant project the next largest capital item is the Spruce Hollow line projected to start in March/April 2015. The Sanitation Department has projected revenues of \$360,220 with no rate increase. Purchase new garage truck with funds that are in fund reserve. Continue program of operating Recycle Center seven days a week from June 1<sup>st</sup> through September. With this being a revaluation year a new tax rate must be set during budget process. Manager Feierabend stated that the challenges are that the Town is in two different counties. Staying revenue neutral does not mean no change in individual properties because each property received its own valuation from the County it is within. Staff will present several rate options at the budget workshops. Mayor Owen thanked Manager Feierabend.

- g. *Schedule Dates for Budget Meetings*** – After much Council discussion and a consensus being made Mayor Owen called for budget workshops for Council for the dates of May 20, 2014; May 27, 2014; and June 11, 2014. Each of the meetings would be held at 4:00 p.m. at Town Hall in the Council Chamber room. Vice Mayor Piquet recommended that Council resume the discussion of Wildlife at Councils regular meeting in July.
- h. *Public Hearing Request for Proposed Fiscal Year 2014 – 2015 Budget*** – Vice Mayor Piquet motioned to schedule the public hearing for the proposed budget for the next regular Council meeting on June 10, 2014. Councilman Holcombe seconded and the motion passed unanimously.
- i. *Planning Board Resignation*** – Manager Feierabend stated that James True has stepped down as a member of the Planning Board. Mayor Owen directed Council to let Manager Feierabend know of any potential appointees.
- j. *Property Tax Release*** – Councilman Miller motioned to approve the property tax release. Councilman Holcombe seconded and the motion passed unanimously.

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

***EMO Trail Construction and Contract*** – Manager Feierabend stated that everyone that went out on the trail this past Monday was satisfied with the low bidder doing the work. The bid that had been accepted by the Town was approximately \$46,000.

***Police Department Report*** – Councilwoman Keller thanked Police Chief Jerry Turbyfill for increasing the residency checks and response to alarms.

***Recreation Department Report*** – Councilwoman Keller asked if the Parks and Recreation Department could be asked to include the 2012 figures on the department's reports in order to see a better trend.

***Closed Session*** – Councilwoman Keller asked if closed session could be placed at the very end of the agenda versus the beginning of the agenda. Vice Mayor Piquet stated that

Council may have to take action after closed session. Mayor Owen stated that historically 'Other Business' was not always on Councils agenda but that Council was finding that they needed to take action after closed session. Mayor Owen stated that a policy could be implemented that Council would only take action on items from closed session. Mayor Owen stated that Council could bring up their items that they wished to discuss during 'Manager and Staff Reports' so that as an agenda item it would become 'Manager, Staff and Council Reports.'

***Beech Mountain Parkway*** – Mayor Owen stated that the Town is working with the North Carolina Department of Transportation in order to get guard rails put in areas on the Beech Mountain Parkway coming up the mountain. One of the areas being address is where Dr. Jay Krakovitz went off the road. Mayor Owen asked if the Police Department would look at the stats and report back to Council. Police Chief Jerry Turbyfill stated that there have not been any deaths on the Beech Mountain Parkway since he has been in the Police Department that were due to the weather.

Mayor Owen stated that Council would take a short break at 5:54 p.m.

- IX. 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 Councilman Miller at 6:11 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. Vice Mayor Piquet motioned to exit closed session at 7:29 p.m., which was seconded by Councilman Holcombe. The motion passed unanimously.
- X. Other Business*** – There was no other business to discuss.
- XI. Adjourn*** – Vice Mayor Piquet motioned to adjourn the meeting at 7:29 p.m., which was seconded by Councilman Holcombe. The motion passed unanimously. The meeting was adjourned 7:29 p.m.

Minutes approved by Town Council on June 10, 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** – Resolution No. 2014-03 ‘Resolution to the United States  
Department of Agriculture for Funding’

**RESOLUTION No. 2014-03**

**A RESOLUTION BY THE TOWN COUNCIL OF THE TOWN OF BEECH MOUNTAIN  
NORTH CAROLINA URGING THE UNITED STATES DEPARTMENT OF  
AGRICULTURE TO APPROVE THE LOAN REQUEST FOR THE TOWNS WATER  
TREATMENT PLANT REPLACEMENT PROJECT**

**WHEREAS**, the United States Department of Agriculture – Rural Development (USDA-RD) Water and Environmental Programs (WEP) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of drinking water system improvements; and

**WHEREAS**, the Town of Beech Mountain has need for and intends to construct a drinking water system project described as the Buckeye Lake Water Treatment Plant Replacement Project; and

**WHEREAS**, the Project is estimated to cost \$6,000,000; and

**WHEREAS**, the Town of Beech Mountain has requested loan assistance from the United States Department of Agriculture Rural Development Water and Environmental Program for the project in the amount of \$4,500,000; and

**WHEREAS**, the Town of Beech Mountain can contribute \$1,720,000 to the project from its Fund Reserve should the United States Department of Agriculture provide the requested loan assistance;

**NOW, THEREFORE, BE IT RESOLVED** that the Town Council of the Town of Beech Mountain, North Carolina, hereby urges the United States Department of Agriculture to exercise its authority to issue a loan to the Town of Beech Mountain for the purpose of constructing a drinking water system project described as the Buckeye Lake Water Treatment Plant Replacement Project and that the requested loan amount be amended from \$4,500,000 to \$4,300,000.

Adopted this the 13<sup>th</sup> day of May, 2014.

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Richard H. Owen, Mayor

Attest:

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Jennifer Broderick, Clerk