

**MINUTES
BEECH MOUNTAIN TOWN COUNCIL
Regular Meeting – October 13, 2015**

I. CALL TO ORDER

Mayor Owen called the regular meeting of the Beech Mountain Town Council to order at 4:04 p.m., Tuesday October 13, 2015 in the Town Hall Council Chambers. Other Council Members present were Paul Piquet, Alan Holcombe, Cindy Keller, and E. 'Rick' Miller. Town Attorney Stacy C. Eggers, IV. was present. Staff members present were Interim Town Manager James Scott; Town Clerk Jennifer Broderick, Finance Officer Steve Smith, Tax Collections Administrator Rebecca Ward, Public Works Director Riley Hatch, Public Utilities Director Robert Heaton, Fire Chief Robert Pudney, Police Chief Shawn Freeman, Director of Tourism and Economic Development Kate Gavenus, and Parks and Recreation Director Sean Royall.

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 Minutes

- a. September 8, 2015*** – Councilman Miller motioned to approve the September 8, 2015 regular meeting minutes as amended. Councilman Holcombe seconded the motion and the vote passed unanimously.

VI. Public Comment – There was no public comment.

VII. New Business

- a. Appeal of Ad Valorem Discovery Taxes*** – Attorney W. McNair Tornow addressed Council on behalf of Bonbern Inc. about the discovery taxes Bonbern Inc. had been billed providing Council with the history of the current situation. Interim Town Manager Scott and Tax Administrator Rebecca Ward provided further input. After much discussion Councilman Holcombe motioned that Bonbern Inc. pay the taxes due for 2011, 2012, and 2013 minus twenty percent for the two parcels. Vice Mayor Piquet seconded the motion and the vote passed unanimously.
- b. Charter Hills Road Appeal of Utility Penalty (\$1.28)*** – Councilman Holcombe motioned to abate the \$1.28 penalty with a caution that Colonel Martin turn his future payments in on a timely manner. Councilman Miller seconded the motion. Mayor Owen stated that this is a onetime deal. Mayor Owen called the vote and the motion passed unanimously.

- c. *Water Plant Project Update*** – Public Utilities Director Robert Heaton informed Council that Dale Scheffer, Construction Administrator for West Consultants, is in the audience and will be taking over future reporting during the construction process. Mr. Heaton stated that Contracts with Frizzell Construction Co. were executed September 2, 2015. A preconstruction meeting was held September 10, 2015. The Notice to Proceed was issued on September 10, 2015 to be effective September 21, 2015. Therefore, the Substantial Completion deadline is February 12, 2017. Actual work started on site September 21, 2015. Most work to date has consisted of excavations for the building foundation and under-slab pipe and structures. Due to the presence of very hard rock, the excavation is proceeding slowly. Concrete mix design has been submitted for review and it will be revised, but in any case concrete is not expected to be poured this calendar year due to night-time freezing potential. An application for payment in the amount of \$234,540.75 has been submitted by Frizzell, but it is under review and may have to be reduced. Councilman Miller asked that work be completed efficiently.
- d. *Budget Amendment*** – Finance Officer Steve Smith stated that this was requested by the Police Department. It is an addition of Fund 25. This would be placed in the current year budget. Councilwoman Keller asked if it was income and not expense. Mr. Smith stated that it was both. Councilman Miller motioned to approve the budget amendment. Councilman Holcombe seconded. Mayor Owen asked about the amount of money. Police Chief Shawn Freeman stated that the department received some paperwork from the Office of Equitable Sharing and that this needed to be completed to be in compliance. Attorney Eggers stated that this assists with receiving Federal and State monies, noting that the Federal share was more favorable. Mayor Owen called the vote and the motion and the vote passed unanimously.
- e. *Policy on Off Duty Policing*** – Police Chief Shawn Freeman stated that the department has been asked to have off duty officers perform services for different companies and organizations on the mountain. Police Chief Freeman stated that he looked at the Town's current policy and found it to be subpar. Police Chief Freeman stated that the proposed contract in front of Council addresses wear and tear on vehicles, workers compensation and who is covering. An outcome of passage of this contract would be an internal departmental policy to emulate the contract. Mayor Owen stated that this contract is extremely detailed, questioning whether individuals wishing to have these services enter into this agreement. Police Chief Freeman stated that there is a lot of verbiage but that the most important thing was the Town having adequate coverage. Mayor Owen asked about smaller parties asking for coverage. Police Chief Freeman stated that this contract would need to be completed by all. Councilwoman Keller asked if off duty officers can make an arrest. Typically this is why they hire these off duty officers because they can still function under the color of the law. The secondary employer does not make the decision on arrests. Officers still exercise their independent judgement when executing an arrest. Also, if there is a dire need of assistance on the mountain by the Police Department the Office may leave to go provide assistance. The advantages is that the Town does have a

uniformed officer available that is able to communicate directly to dispatch about any situation that is occurring where further assistance is needed. Councilwoman Keller stated that off duty officers will be wearing the Town's uniform and have access to a Town vehicle. Councilwoman Keller did not want the Town to find themselves in a situation where they were having to pay for another vehicle. Police Chief Freeman stated that the contract provides for reimbursement for the use of vehicles. Vice Mayor Piquet motioned to approve the contract. Councilman Holcombe seconded the motion. Councilman Miller stated that he believed that the Police Chief Freeman and Attorney Eggers have done a great job on this contract. Police Chief Freeman stated that the proposed amended Special Events Ordinance ties in with this. Mayor Owen called the vote and the vote passed unanimously. Attorney Eggers stated that Council may want to put this into a fee schedule. Mayor Owen requested that this be brought before Council for consideration into the Town's fee schedule.

- f. Tax Releases* – Mayor Owen stated that Council had two tax releases before them. Vice Mayor Piquet motioned to approve the two tax releases. Councilman Holcombe seconded the motion and the vote passed unanimously.
- g. Avery County Board of Elections* – Mayor Owen stated. Attorney Eggers stated that for approximately twenty years there has been an agreement between the Avery County Board of Elections and the Watauga County Board of Elections that Watauga County would take care of Beech Mountain's municipal elections so there would be only one voting site for Beech Mountain's municipal elections. The North Carolina Board of Election Office in Raleigh sent out a memorandum for the 2015 elections stating that they wanted each county to take care of its own elections. The counties can no longer have cross county agreements. The municipality is also required to reimburse for the cost of the County providing this service. Attorney Eggers stated that Watauga County has billed and the Town has paid in the past. The location of the polling places in the agreement are in line with the rules. The Avery County Electoral Board has designated Banner Elk Town Hall as the polling place for voters who reside in Avery County within Beech Mountain's Town voting in the 2015 election. In the future the Town could address this site selection by making a request to use Town Hall in Beech Mountain, for example. Vice Mayor Piquet motioned to approve the amended proposed agreement with Avery County Board of Elections by striking the entire third WHEREAS from the proposed drafted agreement. Councilman Miller asked if the Town could have the voting site changed to be located here. Attorney Eggers stated that if any voter goes to the wrong voting site they will receive a provisional voting ballot. Councilman Miller seconded the motion. Mayor Owen called the vote. The vote carried 4 to 1 with Mayor Owen, Vice Mayor Piquet, Councilwoman Keller, and Councilman Miller voting Yea. Councilman Holcombe voted Nay.
- h. Request Public Hearing for Special Ordinance* – Interim Manager Scott stated the scope of this ordinance includes all events that meet any of the following criteria: events that take place upon or require the temporary closing of public streets, trails, squares, or other rights of way, events that are anticipated to place demands upon

town services or personnel such that normal functions are disrupted or events that are anticipated to draw a crowd of greater than 100 individuals. Key provisions of this ordinance include: earlier required application deadline, requirements for staff review and sign off, requirements for maps, medical plans, evacuation plans, inclement weather plans, parking plans, may be required of the applicant as determined by Town staff, and requirements for proof of liability insurance. Though this process will require more forethought for applicants, it is hoped that these amendments will make events on Beech Mountain better planned, safer, and therefore more enjoyable for all participants and more successful for event organizers. There was a recommendation made that perhaps Council should consider adding a statement that does not require reoccurring events to continue to execute this application. Vice Mayor Piquet motioned for staff to schedule a public hearing at Councils next regularly scheduled meeting. Councilman Holcombe seconded the motion and the vote passed unanimously. Councilman Miller inquired about selling alcohol. Attorney Eggers stated that this was governed by the State.

- i. ***Request Public Hearing for Burning Ordinance Amendment*** – Interim Manager Scott provided a brief overview. Councilman Miller motioned for staff to schedule a public hearing at Councils next regularly scheduled meeting. Vice Mayor Piquet seconded the motion and the vote passed unanimously.

VIII. Town Manager, Staff Reports, and Council Concerns

Appalachian Regional Commission Grant – Interim Manager Scott reported to Council that there had been a discussion about a match for paving Buckeye Creek Road. Mr. Scott reported that the news that the Town has received is that the Town's application has been moved into a no match category so if awarded this would be one hundred percent funded through the Appalachian Regional Commission. A letter from Pat McCrory has tentatively awarded this money. It has to go through the federal permission level. Mr. Scott stated that it looks very promising and that a final answer will be had by Halloween. Councilwoman Keller pointed out that Director of Tourism and Economic Development Kate Gavenus worked hard on this grant. Mr. Scott stated that the grant was due largely to Mrs. Gavenus' hard work in tying this project in with the neighboring communities.

Streetscape – Interim Manager Scott reported to Council that the Town has a \$250,000 grant to complete the Streetscape Project. North Carolina Department of Transportation will be contacting the Town about executing a reimbursement agreement. Councilwoman Keller asked about going from the Recycling Center to the Beech Mountain Apline, then what. Interim Manager Scott stated that the Town could then potentially look at doing the other side of the road and that it ties into other Town amenities. Several easements were secured, where easements were not secured the trail will be on the North Carolina Department of Transportation right of way. This will dead end into an existing private trail. The owner of the property has indicated that the Town could have access to this path but that they would not deed it. Councilman Miller stated

that he was pleased that the Town had received the money and the project was shaping up nicely.

Avery County Broadband Survey – Interim Manager Scott stated that a broadband survey for Avery County was being conducted. Completing this survey may assist with initiatives for the county.

Condemnation, Pre-condemnation, and Repair Update – Building Inspector John Merritt stated that there have been some updates along with photographs to the Condemnation, Pre-condemnation, and Repair Update report in front of them.

Solid Waste Management Report – Public Works Director Riley Hatch stated that of the one hundred counties in North Carolina Watauga, based on per capita, we were number 8 in public recycling and number 3 in household recyclables.

Gravel / Chat on the Road – Public Works Director Riley Hatch stated that 300 tons of the number 9 experimental gravel would be purchased this year and tested. It has been determined that the two places to test would be Tamarack Road and Village Road.

Police Cameras – Police Chief Shawn Freeman stated that the Department of Justice has informed the Police Department that they will be able to begin releasing funds next week. Once the funds are released the Police Department will order the cameras.

North Carolina League of Municipalities Annual Conference – Councilman Miller stated that he attended the North Carolina League of Municipalities Annual Conference with Interim Manager Scott and that the conference had a lot of good information.

Town Manager – Interim Manager Scott stated that Ed Evans will be stepping into the position of Town Manager for Beech Mountain this coming Monday October 19, 2015. Councilman Holcombe asked about a meet and greet. Councilman Miller stated that a meeting will be held with the Town Staff on Monday to meet the new Town Manager. Council determined that they would consider a meet and greet at a future time. Mayor Owen stated that Council was very appreciative of what Interim Manager Scott has done while serving in this capacity.

The Council took a recess at 5:45 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*** – At 6:01 p.m., Vice Mayor Piquet moved to enter closed session pursuant to N.C. Gen. Stat. §143-318.11 (a)(3) for the purpose of discussing attorney-client matters, including the Town of Beech Mountain vs. Milligan; the Town of Beech Mountain vs. Genesis and pursuant to N.C. Gen Stat. §143-318.11 (a)(6) for the purpose of discussing personnel matters. The motion was seconded by Councilman Miller and passed unanimously. Upon motion by Vice-Mayor Piquet, seconded by Councilman Holcombe, the Council voted unanimously to exit closed session at 6:23 p.m.

X. Other Business – There was no other business.

XI. Adjourn – At 6:23 p.m., Vice-Mayor Piquet moved to adjourn, which was seconded by Mayor Owen. The motion passed unanimously.

Minutes approved by Town Council on November 10, 2015.

Richard H. Owen, Mayor

ATTEST:

Jennifer Broderick, CMC
Town Clerk