

**MINUTES**  
**BEECH MOUNTAIN TOWN COUNCIL**  
**Regular Meeting – November 10, 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 November 10, 2015 in the Town Hall Council Chambers. Other Council Members present were Paul Piquet, Alan Holcombe, and E. 'Rick' Miller. Councilwoman Cindy Keller was not present. Town Attorney Stacy C. Eggers, IV. was present. Staff members present included Town Manager Ed Evans; Town Clerk Jennifer Broderick, Finance Officer Steve Smith, Tax Collections Administrator Rebecca Ward, Town Planner James Scott, 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 be amended to add § VII New Business b. 'BB&T, Mountain Community Bank, and First Citizens Bank Authorized Signer(s)' and c. 'Amended Fire Contract with Avery County'. Mayor Owen stated that the agenda would stand as amended.

***V. Approval of Minutes***

Councilman Holcombe motioned to approve the June 9, 2015 Closed Session Minutes, July 14, 2015 Closed Session Minutes, July 15, 2015 Closed Session Minutes, August 11, 2015 Regular Minutes, August 11, 2015 Closed Session Minutes, August 18, 2015 Closed Session Minutes, August 25, 2015 Closed Session Minutes, September 8, 2015 Closed Session Minutes, September 18, 2015 Closed Session Minutes, October 13, 2015 Regular Minutes, October 13, 2015 Closed Session Minutes. Vice Mayor Piquet seconded the motion and the vote passed unanimously.

***VI. Public Hearing***

***a. Public Hearing for Burning Ordinance Amendment*** – Vice Mayor Piquet motioned to open the public hearing. Councilman Miller seconded the motion and the vote passed unanimously. Town Planner James Scott stated that Beech Mountain has large tracts of land which is the type of land this proposed amendment would apply to. Renee Castiglione, of 104 Wild Turkey Lane, questioned the definition of large tracts and whether this was defined to include vacant lots where there were multiple

owners. Mr. Scott stated that as long as the open burning met State standards then under this amended ordinance the burning would be permissible. Ms. Castiglione spoke to embers catching onto trees. Fire Chief Bob Pudney stated that the Town has large areas of open land. Developers have come forward and asked about open burning. The State would prefer that large amounts of vegetation not be removed from the site due to diseases that could be spread. If North Carolina's statutes, rules and regulations are followed, then a permit would have to be issued. The Fire Department will then be able to address weather concerns and be ready to move should the need arise. Hearing no more 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 Special Events Ordinance*** – Councilman Holcombe motioned to open the public hearing. Vice Mayor Piquet seconded the motion and the vote passed unanimously. Mayor Owen stated that he has spoken to several people about this ordinance. Not everything that Council has a public hearing on is adopted. Sometimes due to feedback from the public subjects are tabled to be further developed or put aside. Town Planner James Scott stated that he has received a lot of feedback on this ordinance in the past couple of days. Some of the points that have been brought up have encouraged staff to ask that Council consider tabling this ordinance versus adopting it today. The scope of the ordinance would cover any town roads, right of ways or placement of demands on Town services that would cause greater staffing to be necessary. The key requirements of this ordinance amendment would ask applicants of special events to come to the Town further ahead of time in order for staff to look at the impact of the special event to ensure that necessary safety measures are put in place. Also, there would be a more detailed internal staff review and sign off and requirements for medical plans, inclement weather plans, parking plans, and proof of liability with the Town named as an insured. Payment in advance for expenditures for larger events would be required up front. Mr. Scott stated that the intent of this ordinance is to ensure that there is better special event planning to provide safety and less intrusion on Town residents and guests while assisting in making special events even more successful. Mr. Scott recommended again that Council consider stepping back and further reviewing the proposed ordinance. Brian Barnes, of the Beech Mountain Club, stated that staff has had an opportunity to review and make recommendations. Mr. Barnes stated that when he looks at the definition of what is covered he would have to pull permits about every day. The Club has a congregation of 100 individuals on a regular basis. Mr. Barnes stated that there has been some events in the Town that residents and Council did not feel were appropriate. Fred's Concerts were used as an example of an event that draws over 100 individuals. Mr. Barnes hoped that Council would table the proposed ordinance amendments and perhaps create a committee to have further input. Gil Adams of, 105 Shagbark Road, stated that this is not a retirement community. Mr. Adams stated that he was here to speak on behalf of the Ski Resort. Mr. Adams stated that the Ski Resort has been opened since the late sixties. Mr. Adams felt that revision of the proposed ordinance should exclude activities that the Ski Resort provides. Sandy Carr, of 505 Pine Ridge Road, appreciated Council and

staff protecting the Town residents and visitors however, Mrs. Carr stated that it may be wise to allow those that put on special events to form a committee to review this ordinance. Hearing no more comment Vice Mayor Piquet motioned to close the public hearing. Councilman Holcombe seconded the motion and the vote passed unanimously.

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

Renee Castiglione, of 104 Wild Turkey Lane, thanked Alan Holcombe and Cindy Keller for their time on the Town Council. Mrs. Castiglione's statement was followed with a round of applause from all.

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

- a. Water Plant Project Update*** – Dale Schepers, Construction Administrator West Consultants stated that we are seventy-eight days into the contract which is about fifteen percent. Going forward there has been two pay requests. The contractors are through the hard rock, which took considerable pounding to get through the rock. The contractors have approximately seventy percent of the foundation excavation completed along with approximately forty percent of the underground piping in place. There was a site meeting on the 20<sup>th</sup> of October with the United States Department of Agriculture site representative. They were satisfied with the work being completed. The next construction meeting will be on the 19<sup>th</sup> at Buckeye Recreation Center. Mayor Owen asked how Mr. Schepers felt about the project. Mr. Schepers stated that he felt good about it and about the technology that was being used. Councilman Miller asked if the project had gained any days. Mr. Schepers stated that the project is about a week ahead of schedule for what the contractor had layed out. Public Utilities Director Robert Heaton stated that he was happy to have Mr. Schepers on site.
- b. BB&T, Mountain Community, and First Citizens Bank Authorized Signer(s)*** – Finance Officer Steve Smith made a recommendation to Council that the Town have four authorized check signers for each of the Town's three bank accounts. Vice Mayor Piquet motioned to approve Mayor Rick Owen, Vice Mayor Paul Piquet, Town Manager Ed Evans, and Finance Officer Steve Smith as authorized check signers for BB&T, Mountain Community Bank, and First Citizens Bank for the Town of Beech Mountain. Councilman Holcombe seconded the motion and the vote passed unanimously.
- c. Amended Fire Contract with Avery County*** – Fire Chief Bob Pudney stated that section eleven of the contract had been modified along with the dates to reflect July 1, 2015 through June 30, 2016. The contract is with Avery County and Avery County Fire Commission and the Town. Currently they owe the Fire Department approximately \$20,000. Fire Chief Pudney recommended that Council approve the amended contract. Fire Chief Pudney stated that negotiations for the upcoming years' contract will begin shortly. Councilman Miller motioned to approve the amended

Fire Contract with Avery County and Avery County Fire Commission. Councilman Holcombe seconded the motion. Attorney Eggers stated that this has been aggravating for budgeting purposes but that he has been in touch with the Avery County's attorney on what should be in section eleven of this contract moving forward. Mayor Owen called the vote and the vote passed unanimously.

- d. Resolution for Daily Deposit** – Manager Evans stated that North Carolina General Statute §159-32 allows the governing board to enable staff to hold a maximum of \$250 on premises up to the last business day of the month. This is in the best interest of the staff. Councilman Holcombe motioned to adopt the resolution. Vice Mayor Piquet seconded the motion and the vote passed unanimously. Resolution 2015-12 'Resolution Authorizing \$250.00 Threshold for Daily Deposits' is attached as Exhibit A and incorporated by reference as if fully set out within these minutes.
- e. Budget Amendment** – Mayor Owen stated that this budget amendment had to do with the period of time Town Planner James Scott took over the interim Town Manager duties. Councilman Miller motioned to approve the budget amendment. Vice Mayor Piquet seconded the motion and the vote passed unanimously.
- f. Off Duty Policing Fee Schedule** – Police Chief Shawn Freeman stated that the fee schedule in front of Council was achieved through calling comparable municipalities and collecting their fee schedule. Police Chief Freeman stated that when comparing Town rates further staff was making an amended recommendation to the figures that were first proposed. Police Chief Freeman asked that Council consider approving a fee schedule with an Officer Hourly Rate of \$25, Patrol Vehicle Hourly Rate of \$40, and Patrol Vehicle Daily Rate of \$120. Vice Mayor Piquet motioned to approve the Off Duty Policing Fee Schedule as amended to reflect an Officer Hourly Rate of \$25, Patrol Vehicle Hourly Rate of \$40, and Patrol Vehicle Daily Rate of \$120. Councilman Holcombe seconded the motion and the vote passed unanimously.
- g. Tree Cutting Request** – Mayor Owen asked Tree Committee Chairperson Renee Castiglione what she felt about these types of decisions being made by the Tree Committee. Mayor Owen asked if the Tree Committee was okay with making the decision or if they preferred to make a recommendation to Town Council and then have the Town Council make a final decision. Mrs. Castiglione stated that the Tree Committee could handle these types of decisions if Council pleased. Councilman Holcombe asked who was going to pay for cutting the trees. Mr. Scott stated that the individual wanting the trees cut has always taken care of this cost. Vice Mayor Piquet stated that an individual brought up the point of having a certified arborist involved in the process of making a final decision. Mrs. Castiglione stated that Tony Hunter, an arborist on the Tree Committee, would have an opportunity to look at the tree. Councilman Miller asked who would be cutting the trees. Councilman Miller state that a qualified individual who knows what not to cut and what to cut should be involved in the process. Councilman Holcombe motioned to have the Tree Committee make all final decisions on issues dealing with trees on Town property until such time that Town Council reversed this authority. Vice Mayor Piquet

seconded the motion. Attorney Eggers stated that the Tree Committee would have approval and that any appeals would need to be addressed with Town Council. Mayor Owen called the vote and the vote passed unanimously. Town Planner James Scott reiterated that he heard that Council desired that an arborist be a part of the Tree Board approval process. Town Manager Evans had also made a recommendation that cleanup be included in this process. Council was in agreement.

## **IX. Old Business**

- a. ***Vote on Burning Ordinance Amendment*** – Vice Mayor Piquet questioned the distance from standing structures. Fire Chief Bob Pudney stated that the burn must be 200' (feet) from any road and 50' (feet) from any structure. There is also a smoke contingency in the State requirement that does not permit burning. Vice Mayor Piquet stated that he still feels like the wording could be changed so that it was not as ambiguous. Councilman Miller stated that approximately eight-five percent of the lots on Beech Mountain are one-third of an acre. Councilman Miller asked if one-third of a lot is considered small acreage. Fire Chief Pudney stated that residential brush cannot be burned in the Town when there is public pick up, which the Town provides. Fire Chief Pudney stated that larger tracts is the term that is used because it is difficult to define. The Planning Board also struggled with this definition. Councilman Miller stated that he is trying to attach some acreage to the definition so that it reads clearer. Town Planner James Scott stated that this ordinance is not tied at all to lot size however the whereas statements used words that make individuals think of lot sizes. Mr. Scott stated that there is no size requirement in this proposed ordinance, it simply takes into consideration how far the burn pile is from a residential home and how far it is from the street. Vice Mayor Piquet recommended removing the second whereas so that an individual is not confused. Attorney Eggers stated that whereas phrases are just recitals, what gets codified is the area below section one. The regulations that the Fire Chief will enforce are in the Town's Code of Ordinances in § 90.03 Burning. Vice Mayor Piquet motioned to approve the Burning Ordinance Amendment with the removal of the second whereas and the removal of 'on larger lots' in the third whereas. Councilman Holcombe seconded the motion and the vote passed unanimously. Ordinance No. 2015-07 '*An Ordinance to Amend the Town of Beech Mountain Regulations Regarding Burning and Outdoor Fires*' is attached as Exhibit B and incorporated by reference as if fully set out within these minutes.
- b. ***Vote on Special Events Ordinance*** – Mayor Owen stated the last intention of Council was to stop any business from doing any normal business activity that they were already doing. Mayor Owen liked the idea of developing a committee to discuss this issue. Councilman Miller motioned to table the proposed ordinance. Vice Mayor Piquet encouraged interested parties and the Planning Board to revisit this proposed ordinance to create improvements. Town Planner James Scott stated that the Planning Board was not a part of the creation of this proposed ordinance. Mayor Owen was happy for staff to work with a committee or to work with the Planning Board. Mayor Owen stated that an advantage to working with the Planning Board

would be that any interested party could participate in a public forum through the Planning Board. Planning Board Member Pete Chamberlin had no qualms of putting this through the Planning Board but he wanted to make sure that the major players had a say so in the development of this ordinance. Planning Board Member Mike Chase was also in favor. Vice Mayor Piquet seconded the motion to table the ordinance. Mayor Owen called the vote and the vote passed unanimously.

**X. *Town Manager, Staff Reports, and Council Concerns***

***Update on North Carolina Appalachian Regional Commission Grant Application*** – Manager Evans stated that the Appalachian Regional Commission has requested clarification from the North Carolina Department of Transportation on further items and clarity on economic development performance measures. Manager Evans stated that in spite of this additional requested information the grant application still looks very positive.

***Recycling Center Security*** – Manager Evans stated he received an estimate on a security camera for the Recycling Center. Public Works Director Riley Hatch and Town Planner James Scott were a part of a situation of dealing with a contractor that placed a large amount of contractor materials into the dumpster. Manager Evans stated that staff is already working on providing signs at the recycling center that will specify the ordinance number for the fines and what types of materials can be deposited. This will specifically address the issue of contractors dumping illegally in the Town's Recycling Center. Staff will then reassess the situation to see if the signage has put a stop to illegal materials being left or if further measures, such as installing a camera, might be justified.

***Organizational Meeting*** – Manager Evans stated that currently staff has Councils organizational meeting scheduled for their next regular meeting date and time, December 8<sup>th</sup> at 4:00 p.m. Council was in agreement. The Oaths of office will be given to the newly elected at this meeting. Manager Evans stated that staff will also be providing Council with an Organizational Packet of information. It is anticipated that this information will be received by next Tuesday. Manager Evans asked about Council photos. Council stated that they wanted to have the photos a couple of months later.

***Councilman Holcombe*** – Mayor Owen thanked Councilman Holcombe for his service to the Town and Council. Councilman Holcombe received a round of applause.

***High Country Council of Government Meeting*** – Councilman Miller stated that he would like Town staff to make a presentation to the High Country Council of Government at their regular monthly meeting.

The Council took a recess at 5:10 p.m.

**XI. Closed Session – Pursuant to NC GS 143-318.11(a)(3) Attorney Client Matters** – At 5:24 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. The motion was seconded by Councilman Holcombe and passed unanimously. Upon motion by Vice-Mayor Piquet, seconded by Councilman Miller, the Council voted unanimously to exit closed session at 5:38 p.m.

**XII. Other Business**

**Organizational Meeting** – Mayor Owen discussed the organizational meeting. It was determined that final decisions would be made prior to the meeting.

**XIII. Adjourn** – At 5:43 p.m., Vice-Mayor Piquet moved to adjourn, which was seconded by Councilman Holcombe. The motion passed unanimously.

Minutes approved by Town Council on December 8, 2015.

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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. 2015-12: Resolution Authorizing \$250.00 Threshold for Daily Deposits (1 page)

**EXHIBIT B** – ORDINANCE No. 2015-07: ‘An Ordinance to Amend the Town of Beech Mountain Regulations Regarding Burning and Outdoor Fires’ (2 pages)





Ed Evans, MPA, Town Manager  
Stacy C. Eggers, IV, Attorney

# Town of Beech Mountain

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Council Members  
Rick Owen, Mayor  
Paul Piquet, Vice Mayor  
Alan Holcombe  
Cynthia A. Keller  
R. "Rick" Miller

## RESOLUTION No. 2015-12

### TOWN OF BEECH MOUNTAIN

#### RESOLUTION AUTHORIZING \$250.00 THRESHOLD FOR DAILY DEPOSITS

**WHEREAS**, the Town of Beech Mountain, North Carolina receives moneys on a daily basis for utilities, taxes, rental fees and miscellaneous fees; and

**WHEREAS**, all taxes and other moneys collected or received by an officer or employee of a local government or public authority shall deposit his collections and receipts daily; and

**WHEREAS**, the Town of Beech Mountain routinely receives small amounts of moneys on certain days; and

**WHEREAS**, NCGS 159-32 provides that the governing board may give its approval that deposits shall be required only when the moneys on hand amount to as much as two hundred fifty dollars (\$250.00); and

**WHEREAS**, NCGS 159-32 provides that a deposit shall be made on the last business day of the month.

**NOW THEREFORE BE IT RESOLVED** by the Council of the Town of Beech Mountain that in accordance with NCGS 159-32, Town staff is authorized to hold collected or received moneys for deposit until the total funds on hand reach \$250.00. In addition, regardless of the amount, all moneys on hand will be deposited on the last business day of each calendar month.

Approved this the 10<sup>th</sup> day of November, 2015.

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Richard H. Owen, Mayor

Attest:

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Jennifer Broderick, CMC  
Town Clerk

Eastern America's Highest Town

**Ordinance No. 2015-07**

**TOWN OF BEECH MOUNTAIN**

**AN ORDINANCE TO AMEND THE TOWN OF BEECH MOUNTAIN  
REGULATIONS REGARDING BURNING AND OUTDOOR FIRES**

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

**WHEREAS,** The State of North Carolina has adequate protections that govern open burning that would ensure such activities would be conducted in a safe and unobtrusive manner.

**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, Section: §90.03  
'Burning,' is hereby adopted by the Town Council and codified as follows:

§ 90.03 BURNING.

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(B) *Purpose.* The purpose of this section is to regulate outdoor burning in order to protect the public from the hazards of uncontrolled fires and pollution. This ordinance shall not be construed to apply to:

- i. Approved gas-fueled appliances used in accordance with their manufacturer's instructions and any other applicable laws.
- ii. Fixed outdoor fireplaces provided such fireplaces are constructed and utilized in accordance with the standards for chimneys and fireplaces contained in the North Carolina State Building Code and any other applicable laws.
- iii. Open burning for land clearing or right of way maintenance as provided for in the North Carolina Administrative Code under 15A NCAC 02D, provided that North Carolina State Law and any other applicable laws are adhered to, including the requirement for a burn permit. Burn permits compliant with this Section must be obtained from the Fire Official of the Town of Beech Mountain.

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 10<sup>th</sup> day of November, 2015.

This Ordinance Adopted the 10<sup>th</sup> day of November, 2015.

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Richard H. Owen, Mayor

Attest:

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Jennifer Broderick, CMC  
Clerk to the Board