

MINUTES  
BEECH MOUNTAIN TOWN COUNCIL  
June 14, 1994

CALL TO ORDER

Mayor Fred Pfohl called the regular meeting of the Beech Mountain Town Council to order at 6:02 PM. Other Council Members present were Tim Holland, Shiela Fletcher, and Ed Waligroski. Kakii Handley was absent. Also present was Town Manager Seth Lawless, Town Attorney David Paletta, Public Works Director Joe Perry, Town Engineer Ed Powell, Police Chief Jay Hefner and Code Enforcement Officer Don Fulkerson. There were a number of interested spectators in the audience.

1. Public Hearing - Zoning of Hemlock Hills Annexation.

Mayor Pfohl opened the public hearing on the question of zoning the recently annexed Greco property adjacent to the Hemlock Hills Subdivision, such hearing having been duly advertised in the Watauga Democrat editions of May 23 and 30, 1994. Seth Lawless indicated that the staff had recommended, and the Planning Board had concurred, that the property be zoned R-2 (minimum 15,000 sq. ft. lot size), which is consistent with surrounding property. There were no comments or questions from the audience. Tim Holland moved that the public hearing be closed. Shiela Fletcher seconded the motion and the hearing was declared closed at 6:05 PM.

2. Public Hearing - Proposed Change in Setback Requirements. All Zoning Districts.

Mayor Pfohl opened the public hearing on proposed changes to the setback requirements in the Zoning Ordinance, such hearing having been duly advertised in the Watauga Democrat editions of May 23 and 30, 1994. Don Fulkerson explained that the Council had previously amended the setback requirements, but the amendment had created more confusion than the previous requirement, so the Planning Board recommended the setbacks be returned to their original 20 feet off the roadway and 15 feet off side and rear lot lines, which would apply to all portions of structures. Walkways less than four feet in width and stairways would not be covered. There were no questions or comments from the audience. Tim Holland moved that the public hearing be closed. Ed Waligroski seconded the motion and the hearing was declared closed at 6:08 PM.

Seth Lawless asked that the following items be added to the Agenda:

- a. Request from the Chamber of Commerce to amend the advertising budget to transfer \$690.00 from their contingency line item into printed media. It was placed at item "j" under New Business.
- b. Review of construction of Town used firing range at Buckeye Lake recreation area. It was placed at item "k" under New Business.

## MINUTES

June 14, 1994

- c. Two additional offers to purchase property received after the agenda packet was sent: AA-546 and an offer to purchase all 83 lots which the Town owns. These were placed as part of item "d" under New Business.
- d. Resignation of the 3rd Alternate to the Board of Adjustment requires selection of a replacement to serve the unexpired term. This item was placed as the first order of business under New Business.

Tim Holland moved that the proposed changes be approved. Ed Waligroski seconded the motion and it passed unanimously.

### 3. Consent Agenda.

Tim Holland moved the Consent Agenda be approved. Shiela Fletcher seconded the motion and the following items were approved without dissent:

- a. Minutes of Meeting May 5, 1994.
- b. Minutes of Tour DuPont Meeting May 9, 1994.
- c. Minutes of Meeting May 27, 1994.

### 4. Committee Reports.

There were no committee reports.

### 5. Old Business.

- a. Consider Amendment to Chapter 2, Motor Vehicles and Traffic. Mr. Lawless indicated that, in an effort to accommodate the somewhat unique parking problems inherent within the Town, the staff had drafted a proposed amendment to Chapter 2 of the Code of Ordinances which would permit, after all available off street parking had been used, on street parking after placing warning signs before the obstruction to warn traffic approaching from either direction. He noted that after the proposed amendment had been prepared, it was suggested that the provision that such an arrangement would only be allowed for an eight hour stretch in any 48 hour period be changed to allow such parking for a 12 hour period in any 24 hour period. This would accommodate the normal work schedule of contractors. David Paletta had recommended that both paragraphs in the proposed amendment be combined, rather than having one paragraph referring to construction personnel and another referring to non commercial vehicles, since the provisions of both were identical.

Tim Holland asked about the use of cones, since they might be easier for builders to purchase than signs. Ed Waligroski suggested the

June 14, 1994

signs or cones be placed 1/8 mile from the obstruction. Seth Lawless suggested the wording might be "reasonable distance" since every road has a different configuration. Tim Holland asked what Mr. Lawless meant by "right-of-way" and he replied "from boundary line to boundary line." Mr. Holland asked if a builder stopping by his site for a quick visit would have to post the signs or cones, and Mr. Lawless said he thought it would be a wise idea.

Frank Caputo asked about delivery men, such as the UPS van, and Mr. Lawless said he thought the ordinance would apply to them as well. Le O'Neal suggested the ordinance state "more than 30 minutes but less than 12 hours." Roger Bullock asked about the placement of the signs or cones for private parties. Ed Calvin spoke against further parking restrictions, and urged everyone to be reasonable. John Kurzman urged the Council not to feel it had to make regulations, and Mayor Pfohl pointed out that this entire matter was a result of repeated complaints by citizens.

Rick Miller recommended the signs or cones not be further from the obstruction than 100 feet. He urged the Council to reconsider the proposed ordinance in light of the additional hazards posed by snow in the winter months. Roger Bullock asked that the Council consider soliciting voluntary cooperation from the contractors when they get their building permit, rather than making another rule.

Tim Holland moved that the question be turned over to the Planning Board for study, as most of the members of that Board had been present in the audience and heard the suggestions. Shiela Fletcher seconded the motion and it passed unanimously.

- b. Set Date for Workshop on Smoke Detector Ordinance. Council set 7:00 PM on Tuesday, July 19, 1994 as the date and time for a joint workshop with the Planning Board on the subject of smoke detectors.
- c. Presentation of Petitions Regarding Recreational Vehicles. The Council was presented with several petitions which had been received urging a prohibition of recreational vehicle parking in residential areas. Mayor Pfohl asked the Planning Board to study the matter, and indicated any future petitions received will be turned over to that Board.
- d. Consider Amendment to Town Attorney Compensation. Mr. Lawless reminded the Council that David Paletta had requested review of his fee structure. Tim Holland moved that Mr. Paletta be paid \$75 per hour and that he be reimbursed for his travel expenses incurred on Town business. Ed Waligroski seconded the motion and it passed unanimously.

## MINUTES

June 14, 1994

### 6. New Business.

- a. Appoint Replacement for Jay Tischenkel as 3rd Alternate on Board of Adjustment. Ellen Anderson indicated she had received a letter of resignation from Jay Tischenkel and suggested the appointment of Reid Smith to serve out Mr. Tischenkel's unexpired term. Tim Holland moved that Mr. Smith be appointed. Ed Waligroski seconded the motion and it passed unanimously.
- b. Consider Zoning District for Hemlock Hills (Greco) Annexation. Shiela Fletcher moved that the Greco property be zoned R-2. Tim Holland seconded the motion and it passed unanimously.
- c. Consider Proposed Changes to Zoning Ordinance - Setback Requirements. Tim Holland moved that the setbacks be returned to 20' from road side and 15' from side and rear lot lines. Shiela Fletcher seconded the motion and it passed unanimously.
- d. Consider Offers to Donate Lots.
  - (1) LG-56. Seth Lawless indicated that \$146.50 was outstanding on Town taxes and \$73.12 on Watauga County taxes. Ed Waligroski moved that the Town accept the donation. Shiela Fletcher seconded the motion and it passed unanimously.
  - (2) C-361 and TC-42. David Paletta stated that the owners of both properties had asked to donate the lots to the Town in the middle of the foreclosure process. The total owed on C-361 in taxes, legal fees and court costs to date is \$1,242.65. The total owed on TC-42 in taxes, legal fees, court costs and outstanding road paving assessment is \$2,161.39. He pointed out that if the Council did not accept the donations, it would cost an additional \$300 to \$400 per lot to finish the foreclosure procedure. This would add to the price the Town would have to ask for the lots if it were to end up with them. Tim Holland said he believed the lots should go to foreclosure, hoping they would be purchased by a party other than the Town. The consensus of the Council was not to accept the donations.
- e. Consider Offers to Purchase Lots. Council was asked to consider four offers to purchase Town lots; three on individual lots and one offer for all 83 lots which the Town owns. (The three individual lots being part of the 83.)
  - (1) Tim Holland said he would like to consider the three individual offers first: AA-301 for \$1,000; PA-117 for \$1,500 and AA-546 for \$729.68. Shiela Fletcher moved that all three offers be accepted, and that the prospective sales be advertised for the

June 14, 1994

statutory ten day period. Should upset bids received, then the Town Manager is authorized to accept the highest bid on each lot once the statutory advertisement period has elapsed. Tim Holland seconded the motion and it passed unanimously.

- (2) Mr. Lawless presented an offer to purchase 83 lots which the Town owns (now reduced to 80). The offer tendered was for \$24,900. Roger Bullock pointed out that this offer came to only \$300 per lot, and did not come close to the amount which the Town had expended to acquire the properties. He cautioned that the purchaser might well select a certain number on which to pay taxes, and the Town might find itself having to foreclose on the others all over again.

There was general discussion on the pros and cons of accepting the offer, and Tim Holland said he would like to discuss the matter in Executive Session and so moved. Shiela Fletcher seconded the motion and it passed unanimously.

- e. Consider Agreement with Fire Department on Fire Hydrants. Seth Lawless presented a proposed agreement whereby the Town would contract with the Fire Department to inspect, oil, test, paint, number and locate fire hydrants throughout the Town's system. This procedure is not only necessary if the Department is to secure a lower fire insurance rating, but of benefit to the Public Works Department as well. Shiela Fletcher moved that the agreement be approved as submitted. Ed Waligroski seconded the motion and it passed unanimously.
- f. Consider Quotes for Appraisal of Brooks Property Access to Cliff Elder Property. Mr. Lawless noted that the Council had previously discussed the possibility of leasing a portion of Cliff Elder's property between Jim Brooks' property and the Pinnacle Inn for use as a marshalling yard. The least expensive means of access seemed to be across the Jim Brooks property, and Mr. Brooks had requested a survey be done of the property upon which negotiations on price for a Town right-of-way might be based. Mr. Lawless had secured quotes from four certified appraisers, and presented them to Council. Tim Holland moved Council award the bid to Elliot and Company for \$500. Shiela Fletcher seconded the motion and it passed unanimously.
- g. Consider Foreclosure Action on 23.34 Acre Tract owned by R. H. Anderson. Mr. Lawless referred to the Tax Administrator's report. Tim Holland moved that the Town proceed with the foreclosure action. Shiela Fletcher seconded the motion and it passed unanimously.

## MINUTES

June 14, 1994

- h. Consider Resolution to Amend Chapter 28 of the Code of Ordinances. Mr. Lawless referred to Resolution 94-06-01 proposing an amendment to the Water and Sewer Use Ordinance which would reduce the period of time after an account becomes delinquent before the service may be terminated from 90 days to 60 days. Tim Holland moved the resolution be adopted. Ed Waligroski seconded the motion and it passed unanimously.
- i. Consider Resolution to Amend Chapter 29 of the Code of Ordinances. Mr. Lawless referred to Resolution 94-06-02 proposing an amendment to the Solid Waste Management Ordinance which would replace the listing of collection fees with wording allowing the Council to set, from time to time, fees to meet solid waste collection and disposal costs. This would do away with the necessity of amending the ordinance each time fees need to be changed. Shiela Fletcher moved that the resolution be adopted. Tim Holland seconded the motion and it passed unanimously.
- j. Consider Chamber of Commerce Budget Request. Seth Lawless indicated the Chamber of Commerce was requesting the transfer of \$680.00 from contingency to printed media in the Advertising Budget (Occupancy Tax funds). The transfer was needed to cover advertising on the back page of the special Tour DuPont issue of the Mountain Times and the Touch and Go system. Shiela Fletcher moved that the request be approved. Tim Holland seconded the motion and it passed unanimously.
- k. Consider Police Firing Range, Buckeye Lake Ball Field. Mr. Lawless indicated that the previous Town Council had approved the use of the ball field as a firing range under very supervised conditions, but that he had concerns, since the area was designated as a recreation area. Mayor Pfohl indicated he was also concerned, and did not like the idea. Ed Waligroski said he agreed with the Mayor. Chief Hefner explained the reasons for the requests, including the difficulty of securing a nearby area for the officers to qualify, and the safety rules which would be followed if the range was approved. Mr. Lawless asked how many times a year it was anticipated that the range would be used, and Chief Hefner said about five days a year. Ed Lotz expressed his concern about liability to the Town if someone used the range when it was not being used by the Police. Frank Caputo (a retired police officer) said he had visited the site and felt, with the proper warning signs, there should be no liability. Chief Hefner said that there would be no increase in insurance rates. Mayor Pfohl reiterated his concern, and said he would be willing to pay the extra expenses necessary for the police to qualify elsewhere. Ed Waligroski moved that the firing range be disapproved. Fred Pfohl seconded the motion it resulted in a tie vote, with Mayor Pfohl and Dr. Waligroski voting aye and Ms. Fletcher and Mr. Holland voting nay. It was asked that the question

be placed on the next month's agenda for reconsideration when the entire Council is present.

7. Staff/Consultant Reports.

- a. Town Engineer's Report. Ed Powell reported that the Charter Hills waterline replacement project was completed, and that patching of the road surface has been done. They anticipate having bids for the repaving of the road for the July 12th Council meeting.

There has been a holdup in the replacing of the underground fuel storage tanks due to a delay in delivery of the diesel fuel tank. It should be in by mid-July, and the construction would proceed apace shortly after the tanks arrive.

Emerald Mountain's water tank pumping station control system has been installed, and the contractor is presently working to complete the work.

- b. Public Works Director's Report. Joe Perry reported that he has hired a part time employee to work on the roadsides. Ed Waligroski complimented the work done on the Parkway, but asked that the residential areas not be forgotten.

Mr. Perry reported that an expansion joint had burst at the Mill Pond pumping station, and flooded the structure. However, after drying it out and having it checked by an electrician, it is back on line.

Tim Holland asked about replacement of the hemlocks along the public works driveway, and Mr. Perry said the contractor intends to replace the dead trees shortly, but wanted to wait until all the new growth had appeared, so that those without new growth can be replaced as well.

- c. Town Attorney's Report. Mr. Paletta had no report.

- d. Chief of Police's Report. Chief Hefner reported there had been six larcenies in May, but they had been solved by the arrest of two individuals, with return of almost all of the stolen property.

Chief Hefner asked the Council's approval of a fair to be put on by the Police Department to raise funds to help needy families at Christmastime. He said they would have some race cars on view, some vehicles from surrounding areas on display, a demonstration by the K-9 unit, a dunking booth (which he hoped would be populated by Council Members) and so forth. They would sell hamburgers and hot dogs. He wanted to do this on Saturday, August 13th. He reiterated that none of the money raised would be for the Police

## MINUTES

June 14, 1994

Department, but would all be deposited with Sally for helping needy families at Christmas. Mayor Pfohl said it sounded like a good idea. Tim Holland moved that the Council support the effort. Ed Waligroski seconded the motion and it passed unanimously.

- e. Town Manager's Report. Mr. Lawless reported that the special legislation to allow us to use Town forces to complete the Bear Branch sewer outfall project had passed in the House (HB 1880) and will be taken up to the Senate in the next couple of days. The other piece of special legislation, HB 1881, to authorize the Town to make street assessments without receipt of petitions is still in the finance committee.

The N.C. Utilities Commission has heard the appeal of the Skiview Condominium group and has fifteen days to deliver a decision. There are only six individuals on the Commission (due to a resignation) so if there is a tie vote they will go with the original committee's decision, which was in Mountain Electric's favor, though not unanimous.

Mr. Lawless reminded the Council of the special meeting set for 7:00 PM Monday, June 20th, called to have a public hearing on the 1994-95 proposed budget, hold a budget workshop and adopt the Budget Ordinance.

He indicated that he, Ms. Fletcher and Dr. Waligroski would be going to Raleigh for Town Hall Day June 21st.

- f. Financial Report, Tax Report and Building Inspections Report. The reports were received without comment. Mr. Lawless announced that the tax collection rate was now up to 98.14%, which is better than the 97.32% rate at the end of the last fiscal year, and commended Missy Norwood for her endeavors.

### 8. Other Business.

Rick Miller asked that the two fir trees at the intersection of Pine Ridge Road and the Beech Mountain Parkway be removed, as they block the line of sight for motorists entering the Parkway.

John Kurzman asked about maintenance of the road above North Pinnacle Ridge Road, and was informed that this was private property and would not be maintained by the Town, even though some people do utilize it for access into Emerald Mountain.

### 9. Executive Session.

Tim Holland moved the Council go into executive session under the provisions of N.C.G.S. 143-318.11 (a) to consider the sale of Town property

MINUTES

June 14, 1994

and consult with the Town Attorney. Ed Waligroski seconded the motion and the Council went into executive session at 8:20 PM. The Council came out of executive session at 8:35 PM.


10. Reconsideration of Donation of Lots C-361 and TC-42.

Tim Holland moved that Council reconsider its decision regarding the donation of the above lots, and moved that the Town accept the offers. Shiela Fletcher seconded the motion and it passed unanimously.

ADJOURN

There being no further business to come before the Council, Tim Holland moved that the meeting be adjourned. Shiela Fletcher seconded the motion and it passed unanimously. The meeting was adjourned at 8:40 PM.

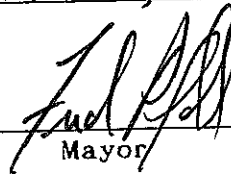
Respectfully submitted,



Barbara L. Mooradian  
Town Clerk

BLM/hs

Minutes approved by the Town Council on JULY 12, 1994, 1994.

  
Mayor

ATTEST:

  
Town Clerk



MINUTES  
BEECH MOUNTAIN TOWN COUNCIL  
Special Meeting, June 20, 1994

CALL TO ORDER

Mayor Fred Pfohl called a special meeting of the Beech Mountain Town Council to order at 7:00 PM on Monday, June 20, 1994, notice of such meeting having been published in the Watauga Democrat edition of June 10, 1994. Other Council Members present were Shiela Fletcher, Kakii Handley and Ed Waligroski. Also present were Town Manager Seth Lawless and Public Works Director Joe Perry. Present in the audience were Ed Lotz and Charlie Burleson.

1. Public Hearing - FY 1994/95 Budget.

Mayor Pfohl opened the public hearing at 7:01 PM. He asked Seth Lawless to summarize the proposed budget. Mr. Lawless went over fund totals, rates and the capital outlay schedule.

Mayor Pfohl recognized Ed Lotz, who passed out a graph illustrating Town spending in relationship to tax valuation and the tax rate over the last 14 years. He congratulated the Town Council on holding the tax rate at its current level, then went over his chart. He requested the Council do a line item by line item review of the budget in an effort to reduce spending, and Mayor Pfohl responded that they had done that at the first budget workshop.

Charlie Burleson spoke in favor of the current policy of transferring General Fund money into the Water and Sewer Fund.

Dr. Lotz then spoke on an unrelated matter, saying that he felt the Town should own the land which they use as a marshalling yard.

There being no further comments or questions from the audience, Mayor Pfohl declared the public hearing closed at 7:30 PM.

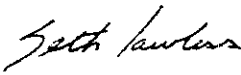
2. Consideration of Budget Ordinance.

Kakii Handley moved that the Budget Ordinance for FY 1994/95 be adopted as presented. Ed Waligroski seconded the motion and it passed unanimously.

ADJOURN

There being no further business to come before the Council, the meeting was adjourned at 7:40 PM.

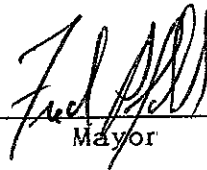
Respectfully submitted,

  
Seth Lawless  
Town Manager

MINUTES

June 20, 1994

Minutes approved by the Town Council on July 12,, 1994.

  
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Mayor

ATTEST:

  
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Town Clerk