

MINUTES  
BEECH MOUNTAIN TOWN COUNCIL  
Special Meeting, August 4, 1994

CALL TO ORDER

Mayor Pfohl called a special meeting of the Beech Mountain Town Council to order at 11:00 AM on Thursday, August 4, 1994, such meeting having been duly advertised in The Watauga Democrat edition of July 29, 1994. Other Council Members present were Tim Holland, Shiela Fletcher and Ed Waligroski. Also present were Town Manager Seth Lawless and Public Works Director Joe Perry.

1. *Award Bid for Charter Hills Road Resurfacing.*

Joe Perry indicated he concurred with Ed Powell's recommendation that the centerline and sideline striping be removed from the contract and done by the State. Mayor Pfohl asked that the alternate bid be explained that the pavement patching, leveling course and pavement striping had been requested as a bid outside the main project, as some or all of those three items could be dropped if the main bids had far exceeded monies budgeted for the project. Tim Holland moved that the bid be awarded to the low bidder, R & G Construction Company for both the base project and the alternate bid *less the edge and centerline striping*. Shiela Fletcher seconded the motion. Ed Waligroski asked how long it was estimated that it would take the State to do the striping, and Mr. Perry replied they would probably do it when they came up in the fall to do the rest of the Town's roads. Tim Holland asked how long it would take to get the project started, and Mr. Perry said that once the contracts have been signed they will be given an order to proceed. After that order is issued they will have ten days to start the work. The question was called and the motion passed unanimously.

2. *Consider Budget Transfer, Charter Hills Road Resurfacing Capital Project.*

Mr. Lawless indicated that, due to the amount of the low bid awarded, both Construction Cost and Engineering and Inspection needed to be increased from the Contingency line item for a total transfer from Contingency of \$11,420. Tim Holland moved that the budget transfer be approved. Shiela Fletcher seconded the motion and it passed unanimously.

3. *Consideration of E 9-1-1 System Upgrade.*

Mr. Lawless explained that some 45 days previously, the Town had begun experiencing problems with the E 9-1-1 system computer, in that it would lock up. The 9-1-1 phone system would work, but the computer did not display the property records. Both InterACT and Data General sent representatives and they agreed that the Town has run out of hard drive disk space. This was not anticipated to happen so quickly when the system was purchased, but additional data has been produced by the computer aided dispatch system which was installed. The computer has been temporarily fixed so that it will function, but it removes that memory necessary for InterACT's office in Asheville to provide help to us via modem. Several alternatives have been developed to correct the problem.

Mr. Lawless went over the three options (distributed to the Council Members and attached hereto) and said that Mark Lavendoski (who looks after our administrative computer system) had recommended that option #1 was the best answer. Shiela Fletcher moved that the Council accept option #1, and approve the \$2,830 budget transfer from E 9-1-1 Reserve to pay for the upgrade. Tim Holland seconded the motion. Ed Waligroski asked why the Town was in such a situation so quickly after purchasing the computer system, and Shiela Fletcher explained that every year technological advances occur which make even relatively new systems obsolete. The question was called and the motion passed unanimously.

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ADJOURN

There being no further business to come before the Council, Tim Holland moved that the meeting be adjourned. Ed Waligroski seconded the motion and it passed unanimously. The meeting was adjourned at 11:15 AM.

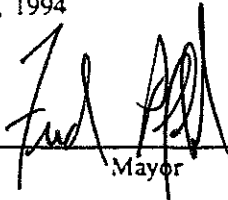
Respectfully submitted,



Barbara L. Mooradian  
Town Clerk

BLM/hs

Minutes approved by Town Council on AUGUST 16, 1994

  
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Mayor  
\_\_\_\_\_  
Town Clerk

MINUTES  
BEECH MOUNTAIN TOWN COUNCIL  
August 16, 1994

CALL TO ORDER

Mayor Fred Pfohl called the regular meeting of the Beech Mountain Town Council to order at 6:00 PM. Other Council Members present were Tim Holland, Kakii Handley, Shiela Fletcher and Ed Waligroski. 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. Don Gardner and Mike Hupcoe from TVA and Robert Oakes and Joe Thacker from Mountain Electric Cooperative were present to address the Council. There were also a number of interested spectators in the audience.

1      *Special Presentation by TVA/Mountain Electric on Substation Project.*

Don Gardner, of the Tennessee Valley Authority (TVA), who will be the construction engineer on the project to bring additional power to a Beech Mountain electric substation, addressed the Council and audience. He indicated they had started the right-of-way clearing, and anticipate the line's arrival at the top of the ridge line in another couple of months. Roger Bullock, Chairman of the Planning Board, asked if the line was going to come closer than 300' to any structure except the Club Ski Lounge, and Mr. Gardner replied that it would not.

Mayor Pfohl asked what the Town could expect, as far as clearing is concerned, for the line route from the ridge line down to the substation. Mr. Gardner indicated they would fell trees and leave them lying below the line (after trimming them of branches). When they get to the slope area they will chip the felled trees. They intend to leave all low growing vegetation in place. They will take every precaution from the substation up to the ridge line to keep damage to a minimum. They will not construct a roadway from which to erect poles, but rather will set them with a helicopter. Mr. Bullock asked about the width of the slash and Mr. Gardner indicated it would be approximately 100' wide. Wherever vegetation is disturbed it will be reseeded and mulched.

Cindy Keller asked why they leave the cut trees laying on the ground below the line, and Mr. Gardner said it helped in erosion control and also provided a good habitat for small animals and birds. Mayor Pfohl asked how many poles there would be on the side below the ridge line to the substation, and Mr. Gardner said there would be one pole near the Ski Lodge and one other near Beech Towers. From the ridge line to the Ski Lodge there would be no poles.

Le O'Neal asked if there was anything which would be in the substation itself which would create a hazardous condition in case of fire, such as PCBs, and Mr. Thacker of Mountain Electric said there would not. There will be some oil in the substation, but there will also be a containment system which would hold it in the event of a leak.

Tim Holland asked what type of screening would be done at the substation, and Joe Thacker indicated they had not decided, since they do not yet know the configuration the substation will have. They will work closely with the Town Council on making the project as unobtrusive as possible, and are fully committed to effective screening. Roger Bullock suggested that the entry road be curved as much as possible to help with screening. Mr. Bullock suggested that the computer model of how the service line will look be available at the Town Hall to familiarize residents with what to expect, and Mayor Pfohl said he would

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leave the aerial photo showing the route of the line at the Town Hall as well. Mr. Thacker thanked the Town Council for everyone's support in trying to get the project done, and said he hoped it would be ready in the fall of 1995.

2. *Presentation of Certificate by Don Rabon, N.C. Justice Academy.*

Mr. Rabon presented a plaque to Barbara King in recognition of her receipt of her criminal investigator certificate. He praised our Police Department for the number of officers who have completed the course. Chief Hefner also presented an award to Officer King for all her work in conceiving and carrying out the first annual Police Fair which was held August 13th

3. *Adoption of Agenda.*

Mr. Lawless indicated that the Avery County Tax Settlement which was included in the agenda was incorrect and should, therefore, not be considered. Tim Holland moved the agenda be approved with that deletion. Shiela Fletcher seconded the motion and it passed unanimously

4. *Consent Agenda.*

Kakii Handley pointed out a typographical error in the minutes of the meeting of August 4, 1994 (first page, fifth line from bottom, change "accept option 31" to "accept option #1") Tim Holland moved the Consent Agenda be approved with that change. Ed Waligroski seconded the motion and the following items were unanimously approved:

- a. Minutes of meeting of July 12, 1994.
- b. Minutes of Tour DuPont meeting of July 19, 1994
- c. Minutes of Joint Workshop of July 19, 1994.
- d. Minutes of Special Meeting of August 4, 1994 (with correction).

5. *Committee Reports.*

- a. *Region D Council of Governments.* Tim Holland reported that the State had created various economic development regions, but had neglected to place this area into one. There had been discussion at the Region D meeting about which region to join, and the consensus is that it will probably be the region which contains Asheville.
- b. *Watauga County Commission.* Shiela Fletcher reported that their meeting was being held at the same time, and that our offer to sell our motorgrader to Watauga County was on their agenda.
- c. *Tour DuPont.* Mayor Pfohl indicated that he, Mr. Lawless and Mr. Holland had gone to Greensboro that day to attend the press conference announcing the 1995 Tour DuPont route. Beech Mountain will again host a finish, on May 5th (a Friday), when the cyclists will arrive from Asheville.

6. *Old Business.*

- a. *Emerald Mountain Matters.*

- (1) *Offer of Dedication of Water System Improvements.* Mr. Lawless indicated he had received a letter from Emerald Mountain Development offering the dedication of the pump station and ground storage tank to the Town. The improvements are completed. Tim Holland moved that the improvements be accepted by the Town. Ed Waligroski seconded the motion and it passed unanimously.
- (2) *Consideration of Maintenance Agreement for Improvements.* Mr. Lawless referred to a proposed maintenance agreement to be in effect for one year following its adoption to be secured by a letter of credit in the amount of \$36,563. After one year, maintenance of the system would become the responsibility of the Town. Tim Holland moved Council approve the agreement. Shiela Fletcher seconded the motion and it passed unanimously.
- (3) *Discussion of Liquidated Damages.* Seth Lawless gave a brief background of the project and various delays which it had encountered, and indicated that some \$6,900 in liquidated damages had been assessed to the developer by the Town. Emerald Mountain has asked that they be released from this obligation. Frances Leidy indicated that she was pleased that the project has been completed, that it will serve some 500 homes and thus represents a significant gift to the Town, that it cost considerably more than originally planned and requested the Council waive the liquidated damages.

Ed Waligroski said that after reviewing the material with which Al Greene had provided the Council and the material Mrs. Leidy sent, he felt the Town did receive a major addition to its utility system and it should dismiss the liquidated damages with the exception of some \$2,000 which it had incurred in legal expenses due to the delays.

Tim Holland stated that he had been on the Council since the original negotiations on the project began in 1988 or 1989, and while he appreciated the new management of Emerald Mountain, he felt the Town had bent over backwards in some of the extensions which had been granted. He said the penalty had been agreed to by both parties at the time of execution of the agreement and so felt the Council should hold to the penalty called for.

Shiela Fletcher agreed with Mr. Holland that it is, certainly, a business proposition but suggested that the damages be halved in a spirit of compromise.

Kakii Handley indicated she felt that the compromise had been reached when the Town Council agreed to "stop the clock" on the accumulation of liquidated damages some months ago. Had it not, the developer would be facing damages totalling almost \$28,000. She felt this was compromise enough and saw no reason the Town should not receive the entire \$6,900 penalty.

Mayor Pfohl indicated that, having read the literature provided, he felt that mistakes were made on both sides and he was inclined to agree with Dr. Waligroski's suggestion that legal fees be covered.

Frances Leidy asked what damages the Town actually incurred. David Paletta explained that there were damages which could not be listed as easily as his own bill, to include Town Manager and staff's time, additional engineering fees and so forth. Roger Bullock

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asked if a compromise in this instance would prejudice any future imposition of liquidated damages and Mr. Paletta replied that it would not.

Mrs. Handley indicated that there were concrete damages which could be alluded to, such as the fact that the delays caused an increase in the cost of the foundation from some \$40,000 to \$58,000. The Town also did not get to move the Skiloft tank to the Summit area as planned. Mrs. Handley moved that the Council stand firm with the \$6,900 liquidated damages figure. Tim Holland seconded the motion and it failed two votes to three, with Messrs. Pfohl and Waligroski and Ms. Fletcher dissenting.

Shiela Fletcher moved that the liquidated damages figure be reduced to \$3,450. Ed Waligroski seconded the motion and it passed, three votes to two, with Mr. Holland and Mrs. Handley dissenting.

David Paletta suggested that Mr. Lawless write a letter to Emerald Mountain conveying the decision of the Council and requesting payment of the liquidated damages no later than five days prior to expiration of the letter of credit. Once paid, that letter of credit could be cancelled and another procured to guarantee the maintenance agreement approved.

- b. ***Consider Resolution Setting Date for Public Hearing on Proposed Smoke Detector Ordinance.*** Shiela Fletcher asked if the date for the September meeting could be changed due to a conflict in her schedule. After discussion it was decided to hold the September Council meeting at 6:00 PM on Thursday, September 8th. Norma Buchanan asked if the date for the public hearing could be some time later than that, as it did not allow a lot of time for notification. Tim Holland moved that the public hearing on the proposed smoke detector ordinance be held at 6:00 PM on Tuesday, October 11, 1994. Shiela Fletcher seconded the motion and it passed unanimously.

David Paletta said the sequence of events after the public hearing would be first for the Council to pass a resolution asking the General Assembly to pass the necessary legislation, then action by the legislature and then, finally, adoption of the ordinance.

c. ***Planning Board Recommendations.***

- (1) ***Proposed Recreational Vehicle Regulations.*** Roger Bullock indicated that the Planning Board had carefully considered the possible increased regulation of recreational vehicles and reached the conclusion that the present ordinance is adequate and should remain unchanged, to wit: no recreational vehicle can be used as a dwelling. Ed Waligroski pointed out that the full Board had not been present and requested that the Planning Board consider the question when the full Board was present. Tim Holland asked about the vote and was told it was unanimous (3-0) so pointed out that the two additional votes would not have changed the outcome even had they dissented.
- (2) ***Proposed Parking Ordinance Amendments.*** Mr. Bullock said the Planning board had been requested to look at the parking problems by the Council, and that they had endeavored to look at each different type of problem individually. He said the Board had concluded that the current ordinance is sufficient. He said they had felt the short time parking of delivery vehicles was of little concern. He indicated that builders were

already cooperating voluntarily with the request to place out cones, and that the Board suggested an item #12 be added to the Building Inspector's list of requirements for construction which would formalize this request. With regard to parties, the Board felt that a request in the MountainEar that homeowners post warnings would be the proper forum for compliance with parking restrictions. With regard to periods when the roads are snow covered, Mr. Bullock said there seemed to be two sub-sets of problems: first being the renter who brings more cars than the property can accommodate. These would best be served by rental agencies warning their clients of the number of cars which can be accommodating and requesting that additional vehicles be left at the rental agency. He noted that at least one agency already does this, and suggested that the Town remind rental agencies of the parking restrictions before the winter season. The second problem during the winter is either plowed snow blocking entry into the parking area, or cars being abandoned because they cannot proceed further. The Board felt the existing ordinance is adequate for these circumstances, and that the Police can use their best judgment as to whether such vehicles block the flow of traffic or create an undue hazard. Then the remedy of a ticket and/or towing exists.

Chief Hefner indicated that a couple of tickets had been issued this summer to people attending parties who had been parked either in such a way as to present a clear hazard, or too close to a fire hydrant. He indicated the Department was trying to follow a policy of calling the host and advising them that certain cars need to be moved, and Tim Holland suggested that good public relations would be for the officer to visit the home and speak personally with the host or whomever was parked illegally, rather than just a telephone call.

- (3) *Curbside Recycling Plan.* Mr. Bullock indicated the Planning Board had begun to study the possibility of having curbside recycling, the cost of which would be passed on to the customers in the form of an increase in their sanitation bills. They had not yet addressed the question of large condominiums or commercial users. Tim Holland said a lot of questions with regard to the transient needed to be addressed before any such program were instituted, and Mayor Pfohl suggested further study on the part of the Council, after receiving further information on the subject. Perhaps a joint workshop with the Council and the Planning Board could be held when more information was available.

7. *New Business.*

- g. *Consider Bids on New Motorgrader.* This item was taken out of order so that attending bidders could be excused. Mr. Lawless referred to a bid tabulation sheet, showing the four bids which had been received and recommended the contract be awarded to the low bidder for a Gallion vehicle. The total bid, including a 5 year extended power train warranty would be \$109,918. Joe Perry was asked his opinion, and he stated that he had always preferred Caterpillar products, but there was no question that their bid was much higher. Ed Waligroski asked if much additional training would be required for the employees to learn to operate the Gallion, but Mr. Perry said the controls are pretty standard. Woody Jones, of Carolina Equipment, urged purchase of the Caterpillar. Mr. Wayne Noll, representing Gallion, urged purchase of his vehicle and pointed out the considerable difference in cost. Tim Holland moved the Council approve the purchase of the Gallion at \$109,918. Shiela Fletcher seconded the motion and it passed unanimously.

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- a. ***Appoint Replacement for Unexpired Term of Bill McClung, Economic Development Commission.*** Fred Pfohl indicated the EDC had recommended the appointment of Jay Tischenkel to fill out Bill McClung's unexpired term. Tim Holland moved that Mr. Tischenkel be appointed to the post. Shiela Fletcher seconded the motion. Ed Waligroski said he would recommend Charlie Burleson. Tim Holland pointed out that, while Mr. Burleson would be an excellent choice, this would place two rental agents on a three-person committee, and would not provide enough diversity of opinion. The question was called and the motion passed four votes to one with Dr. Waligroski dissenting.
- b. ***Consider Offer to Donate Lot TC-132.*** Mr. Lawless indicated the owner of TC-132 had offered to donate the lot to the Town, and that \$90.40 in taxes was owed to the Town and \$57.85 to Watauga County. Shiela Fletcher moved that the Town accept the donation. Ed Waligroski seconded the motion and it passed unanimously.
- c. ***Consider Offer to Purchase Lot TC-42.*** and
- d. ***Consider Offer to Purchase 19.78 Acre Tract off Bear Paw Path.*** Tim Holland moved that the offer to purchase TC-42 for \$2,500 and the offer to purchase the 19.78 acre tract for \$7,500 be accepted, or the highest offer received after advertising the proposed sales for the statutory period of time. Shiela Fletcher seconded the motion and it passed unanimously.
- e. ***Consider Budget Amendment, Advertising.*** Mr. Lawless indicated that the EDC had recommended transfer of \$750 from reserves into the operating budget for the purpose of producing a video. The video would be produced by Channel 6 and would run on that channel for 360 days, showing the various amenities available here in the Town. Kakii Handley moved that the transfer be approved. Ed Waligroski seconded the motion and it passed unanimously.
- f. ***Accept Tax Settlements of Watauga County (Vehicles) and Beech Mountain Tax Administrator for 1993.*** Mr. Lawless explained that the Machinery Act requires that the accounting of the previous year's tax collection be accepted by the Town Council before it can charge the tax collectors with collection of the next year's taxes. The reports attached show a 98.31% collection rate for the Beech Mountain Tax Administrator and 93½% for the Watauga County Tax Collector. He said this rate of collection on vehicles should increase now that it is tied to the procurement of annual license tags. Tim Holland moved that the settlements presented by the Watauga County Tax Collector and the Beech Mountain Tax Administrator be approved. Ed Waligroski seconded the motion and it passed unanimously.
- h. ***Consider Installment Purchase Contract, Motorgrader.*** Seth Lawless indicated that he wished to purchase the motorgrader through a five year lease purchase program. He had received two bids, one from Southern National for 4.9% interest and one from Wachovia for 5.45% interest. He asked permission of the Council to accept the low bid and enter into a contract for a five year lease purchase. Shiela Fletcher so moved. Ed Waligroski seconded the motion and it passed unanimously.
- i. ***Consider Declaring old Motorgrader Surplus.*** Mr. Lawless said that Watauga County had indicated its interest in purchasing our old motorgrader, and asked that a resolution declaring it surplus and allowing its sale to another municipal body be approved. Kakii Handley so moved. Shiela Fletcher seconded the motion and it passed unanimously.



- j. **Consideration of Informal Bids for Summit Water Tank.** Mr. Lawless reminded the Council that the plan to move the Skiloft tank to the Summit fell through because the old tank was so rusted that it could not be sand blasted and painted. Since the pad had already been poured and the water line installed, he asked Mr. Powell to seek informal bids for a new tank. The results of Mr. Powell's inquiry were in the agenda packet, and the low bidder was R & G Construction at \$28,750. Kakii Handley expressed concern that the monitoring would be done by the old system that overflowed all the time, but Mr. Powell said that had been a result of freezing conditions at the Skiloft site. Shiela Fletcher moved that the contract for a new tank be given to R & G Construction Company. Tim Holland seconded the motion and it passed unanimously.
- k. **Consideration of Budget Amendment for Summit Water Tank Project.** Mr. Lawless indicated that the figure in the amendment was higher than the contract amount due to engineering expenses and a built-in contingency. Any money left over would be returned to the reserve. Tim Holland moved that \$33,250 be transferred from availability fees to taps and system maintenance for the purchase and installation of the tank at the Summit. Ed Waligroski seconded the motion and it passed unanimously.
- l. **Budget Transfer of Excess Donations into Tour DuPont Reserve.** Mr. Lawless explained that this was a housekeeping matter so that the monies left over from the 1994 Tour DuPont would not go into the General Fund, but would be held for the Tour DuPont 1995. Shiela Fletcher moved that the transfer be approved. Tim Holland seconded the motion and it passed unanimously.

8. **Staff/Consultant Reports.**

- a. **Town Engineer's Report.** Ed Powell reported that the contract documents for the Charter Hills paving project have been prepared. There will be a preconstruction conference on August 24th and a notice to proceed would follow the next day. Mr. Powell anticipates that work would commence immediately and would be completed within the 60 days allowed.

The underground storage tanks have been removed and the above-ground tanks installed. They are ready to receive fuel now.

- b. **Public Works Director's Report.** Joe Perry had no report. Fred Pfohl thanked Mr. Perry for the good work his department has been doing, and mentioned a letter of praise which had been received regarding him, personally. Reub Mooradian asked about the planting of trees to mask the above-ground fuel tanks, and Fred Pfohl said he had spoken with Mr. Perry and they had decided to do that work when the tree planting grant trees are planted in September.

- c. **Town Attorney's Report.** Mr. Paletta reported that most of the foreclosures for the year had been taken care of, and very few of the lots had to be purchased by the Town.

Tim Holland presented Mr. Paletta with his card acknowledging that he had attended the adult CPR class and is now able to administer CPR.

- d. **Chief of Police's Report.** Chief Hefner had no report beyond the one included in the agenda packet. Fred Pfohl thanked the Chief for all the hard work done over the weekend to raise money for needy families. Chief Hefner thanked all the members of the Council and most of the

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members of the audience for their help in putting on the Fair, and announced that it had netted over \$4,000.

- e. ***Town Manager's Report.*** Mr. Lawless reported that the Town's water supply has again been found to contain an overabundance of trihalomethanes, so there will be an announcement in the paper and all water customers will receive a notice to that effect.

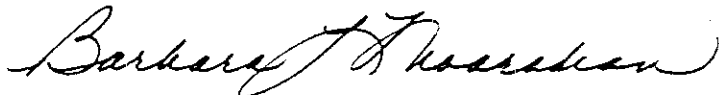
The Economic Development Commission asked permission to remember Bill Mallung with a small plaque to be installed at the Town entrance at the time the landscaping of that area is done. All thought it was a good idea.

- f. ***Financial Report, Tax Report and Building Inspections Report.*** Fred Pohl asked that Missy be commended for her outstanding tax collection rate.

## ADJOURN

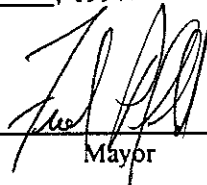
There being no further business to come before the Council Ed Waligroski moved that the meeting be adjourned. Shiela Fletcher seconded the motion and it passed unanimously. The meeting was adjourned at 9:00 PM.

Respectfully submitted,



Barbara L. Mooradian  
Town Clerk

Minutes approved by Town Council on September 8, 1994.

  
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Mayor

ATTEST:

  
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Town Clerk