

MINUTES
BEECH MOUNTAIN TOWN COUNCIL
Special Meeting, November 2, 1995

CALL TO ORDER

Mayor Fred Pfohl called a special meeting of the Beech Mountain Town Council to order at 12:00 noon on Thursday, November 2, 1995, in the Council Chamber at Town Hall. Other Council Members present were Tim Holland, Shiela Fletcher and Ed Waligroski. Also present was Town Manager Seth Lawless. Mayor Pfohl noted the purpose of the meeting was to pass a resolution designating Joe Perry as the Town's agent for the purpose of requesting financial assistance under the Stafford Act.

Seth Lawless indicated the Mayor and Joe Perry had attended a meeting held at the Watauga County Agricultural Extension Office in Boone to get details in applying for disaster relief. The first step is to pass the proposed resolution to allow Mr. Perry to deal with FEMA agents and to sign forms necessary to request relief for Hurricane Opal. As soon as the resolution is signed an appointment will be made with a representative to visit Beech Mountain and look at 32 sites of damage which Mr. Perry has enumerated.

Mayor Pfohl said it was his understanding that the Act allowed payment for the extra personnel the Town hired to work on cleanup, as well as the overtime which will be paid.

Tim Holland moved Resolution 95-11-01 be approved as submitted. Shiela Fletcher seconded the motion and it passed unanimously.

ADJOURN

There being no further business to come before the Council, Ed Waligroski moved the meeting be adjourned. Tim Holland seconded the motion and it passed unanimously. The meeting was adjourned at 12:20 PM.

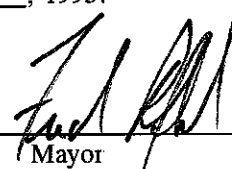
Respectfully submitted,



Barbara L. Mooradian
Town Clerk

BLM/hs

Minutes approved by the Town Council on November 14, 1995.



Mayor

ATTEST:



Town Clerk

MINUTES
BEECH MOUNTAIN TOWN COUNCIL
November 14, 1995

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, Shiela Fletcher, and Ed Waligroski. Councilman Kakii Handley was absent. Also present were Town Manager Seth Lawless, Public Works Director Joe Perry, Chief of Police Jay Hefner, Town Attorney David Paletta and a number of interested parties.

1. ***Adoption of Agenda.***

Tim Holland moved the agenda be adopted as submitted. Shiela Fletcher seconded the motion and it passed unanimously.

2. ***Public Hearing, Proposed Amendment to Zoning Ordinance.***

Don Fulkerson noted that while the Town already has a Soil Erosion Ordinance, the Town Attorney felt it would be better if the provisions of the ordinance were part of the Zoning Ordinance. Mr. Paletta agreed, indicating that the Board of Adjustment would be the body to hear any requests for variances, and that if there was an appeal from the Board's decision, it would be by review of the courts. This would keep the Council from having to deal with each instance of soil disturbance, and having to set fines for any violations of the ordinance.

Mayor Pfohl said he felt the size designation of one acre was too big, and wished it could be smaller. David Paletta indicated Boone had changed theirs to one-half acre. Seth Lawless noted the Planning board intended to review the content further, and Mayor Pfohl urged they consider the one-half acre concept.

There being no questions or comments from the audience, Tim Holland moved the Public Hearing be closed. Ed Waligroski seconded the motion and it passed unanimously.

3. ***Consent Agenda.***

Shiela Fletcher moved the consent agenda be approved as submitted. Ed Waligroski seconded the motion and the following items were unanimously approved:

- a. Minutes of Regular Meeting, October 10, 1995.
- b. Minutes of Special Meeting, October 24, 1995.
- c. Minutes of Special Meeting, November 2, 1995.

Before proceeding, Mayor Pfohl thanked everyone for coming out to the meeting on such a snowy evening. He also congratulated Reub Mooradian and Rick Owen on their election to the Council.

4. ***Committee Reports.***

Ed Waligroski reported that Region D is concerned about bringing natural gas into the region. The competition continues, and this matter is critical to the development of the region. It may come to getting

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support from local governments. He distributed an article on the subject to all Council Members.

5. ***New Business:***

- a. ***Consider Amendment to the Zoning Ordinance.*** and
- b. ***Consider Repeal of Chapter 18 of the Code of Ordinances.*** Tim Holland moved that the amendment to the Zoning Ordinance be approved as submitted, and that Chapter 18 of the Code of Ordinances be repealed. Ed Waligroski seconded the motion and it passed unanimously.
- c. ***Consider Offers to Purchase Lots CR-111, CR-232, PA-45, RW-190, RW-325, RW-376, RW-385 and TC-103; Offer to Purchase WPC-11; and Offer to Purchase RW-453.*** Seth Lawless reported the Town had received offers to purchase ten lots. Three of the offers were duplicated by a gentleman who offered to purchase eight lots. He inquired of the Town Attorney if it was correct that, if the Council accepted the offer to purchase the eight lots, any upset bid would have to be made on all eight lots, and Mr. Paletta said that was correct. Tim Holland moved the offer of \$10,233 for eight lots be accepted, subject to the intent to sell being advertised for the statutory period without upset. Ed Waligroski seconded the motion and it passed unanimously. Tim Holland moved the Council accept the offer of \$2,700 for WPC-11 and the offer of \$500.00 for RW-453 subject to the same provision. Shiela Fletcher seconded the motion and it passed unanimously.
- d. ***Set Date for Organizational Meeting, Council-Elect.*** After brief discussion, Monday, December 4, 1995 at 6:00 PM was set as the date and time for a brief organizational meeting.
- e. ***Consider Tax Releases and Refund.*** Mr. Lawless explained that one release was for a 3.25 acre tract on the corner of Elderberry Ridge Road and the Beech Mountain Parkway that is not in the Town limits. The refund is related to that, in that they paid 1994 Town taxes on the site by error. The other release was for a piece of property which had an improper value placed on it. Shiela Fletcher moved both releases and the refund be approved. Tim Holland seconded the motion and it passed unanimously.
- f. ***Consider Budget Transfer and Amendment.*** Mr. Lawless explained that the budget transfer was to put \$660.00 from contingency in admin to refund of prior year taxes. There is no way to allow for such refunds in the budgetary process. The budget amendment was to appropriate funds for Hurricane Opal damage repairs. He indicated that FEMA has indicated there will be some assistance available to the Town. Joe Perry is working on the forms and paperwork, and inspectors will review each site and decide how much the Town is eligible for based upon a formula they have established. Whatever funds are received will go back into unrestricted fund balance to offset this budget amendment. Tim Holland moved the budget transfer and amendment be approved. Shiela Fletcher seconded the motion and it passed unanimously.
- g. ***Consider Ski Pass Ordinance.*** Chief Hefner reported the ski resort has had quite a problem in years past with falsified ski passes and people using ski passes which are not their own. Presently there is no law under which violators can be prosecuted. They had tried prosecuting them for obtaining property by false pretenses, but that is a felony and the District Attorney declined to prosecute. They then tried to prosecute for defrauding an innkeeper, but the D.A. said that, too, was an incorrect charge. After discussion with our Town Attorney, it seemed the best means would be to have a Town ordinance prohibiting the use of stolen, fictitious or borrowed ski

passes. Shiela Fletcher noted that a similar act had been introduced in the legislature, but had languished in committee. She felt certain that it would be reintroduced in the next session, perhaps worded slightly differently. Reub Mooradian suggested other Towns which have ski areas should be contacted about possibly passing a similar ordinance. David Paletta said that might help to get the D.A. to prosecute, and also suggested that any state law should be at least as strong as our ordinance. Shiela Fletcher moved the Ski Pass Ordinance be adopted as Chapter 43 of the Code of Ordinances. Tim Holland seconded the motion and it passed unanimously.

- h. **Consider Mutual Aid Resolution.** Mr. Lawless explained that the proposed resolution would authorize the Chief of Police to enter into mutual aid with surrounding towns and counties. It will allow him to respond to emergencies in other jurisdictions and allows us to send people or machinery. It in no way would leave the Town unprotected. Chief Hefner noted that the Town has always been responsive to requests for mutual aid and this resolution was simply a form of "housekeeping." Tim Holland moved the resolution be adopted. Ed Waligroski seconded the motion and it passed unanimously.

- i. **Direct Clerk to Investigate Sufficiency of Petition for Annexation and set Date for Public Hearing on the Matter.** Mr. Lawless explained that Tony Catoe had invited him down to Archer's Inn to show him the portion of property they wish to annex into the Town. What the owners have done is request that the restaurant be incorporated into the Town through satellite annexation. The property is about ½ acre in size and includes the restaurant and some vacant property. The tax value of that building is approximately \$97,000, and the ½ acre approximately \$25,000. The total value is \$122,000 which would produce a little over \$1,000 to the Town in ad valorem taxes if the rate was the same as this year's. The only services they would get from the Town would be some patrols by the Police Department. The Zoning Ordinance would apply to that property, but they would not receive Town water and sewer.

Mr. Catoe said the reason they wished to annex into the Town was to be able to sell liquor and wine. The restaurant contains approximately 100, and competition from restaurants in Banner Elk and Beech Mountain results in low profits, since they can't serve alcoholic beverages. He explained that they do already feel as if they are part of the Town and try every way possible to participate in Town activities. Their limited budget would not allow them to pay the additional taxes to the Town if the entire property, including the Inn, were incorporated.

Shiela Fletcher said the consensus of feelings among people she had spoken with was either annex all of the property or nothing. She wondered if the Inn would not profit by collecting occupancy taxes and, therefore, being included in the advertising they provide. Mr. Catoe said he could understand some of the other restaurants objecting, but pointed out they receive water and sewer from the Town. He has to spend considerable monies to maintain their septic tank and drain field. He understands that there is no way the Town can provide those services to him, but said he just doesn't make the extra money required to pay Beech Mountain Taxes. He said if the majority of townsfolk are against the annexation they would do *something*, give away alcohol if that's what it takes.

Mayor Pfohl pointed out that if the Inn and restaurant were in the Town limits and received water and sewer service they would be paying some \$8,040 annually for the size meter required. The in-Town restaurants and Inns pay this amount in addition to their taxes. Mr. Catoe reiterated that the bottom line is that they don't have that kind of money. Tim Holland wondered if they would

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not make sufficient additional money off of liquor sales to offset the taxes, and Mr. Catoe replied that he did not expect to make money off of liquor, but rather off of food.

Shiela Fletcher said the people she polled were mainly lodging people, and they were all against the annexation of the restaurant, only. Candi McClamma pointed out that the Inn and the restaurant were separate corporations, and they were only representing the restaurant. Tim Holland felt it would be advisable to hold a Public Hearing on the matter, and they decided upon 6:00 PM on Tuesday, November 28, 1995. Shiela Fletcher moved the resolution directing the Clerk to investigate the sufficiency of the petition be passed. Tim Holland seconded the motion and it passed unanimously.

6 *Staff/Consultant Reports:*

- a. *Town Engineer's Report.* Mr. Powell was not present.
- b. *Public Works Director's Report.* Mr. Perry had no report. Tim Holland thanked Mr. Perry for having two of his personnel help put chains on the fire trucks. Shiela Fletcher thanked Mr. Perry for having the roads cleared so promptly.
- c. *Town Attorney's Report.* Mr. Paletta had no report.
- d. *Chief of Police's Report.* Chief Hefner had no report. Tim Holland inquired about an upcoming vacancy in the Department and Chief Hefner indicated he intended to promote a reserve officer, Debbie Case, to full time to fill the position. She is already very familiar with the Town and so the transition should be very smooth.
- e. *Town Manager's Report.* Mr. Lawless distributed brochures on the School for Newly Elected Officers, and encouraged even incumbents to attend.

Mr. Lawless reported that he and Shiela Fletcher had attended the Farm-City Banquet at which the Town of Beech Mountain was recognized and awarded first place in the community development division.

The DOT, Town, Chamber of Commerce and Sports Car Club of America had a meeting the previous week and following another meeting will present a contract to the Town Council between the Town, the DOT and the Sports Car Club of America. The signs are all very positive that the Hill Climb will be at Beech Mountain the last weekend in April.

Mr. Lawless announced that a sewer audit will be conducted on the Pond Creek plant later in the week. They will endeavor to identify steps which can be taken to extend the life of the plant at its present capacity.

The Skiloft Road paving project is on hold due to weather. We must simply wait for a few days of mild weather to complete the project.

Mr. Lawless pointed out that he had made a transfer of \$310 from Tour DuPont contingency to telephone expense due to some late phone bills.

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ADJOURN

There being no further business to come before the Council Tim Holland moved the meeting be adjourned. Ed Waligroski seconded the motion and the meeting was adjourned at 7:30 PM

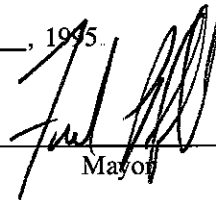
Respectfully submitted,



Barbara L. Mooradian
Town Clerk

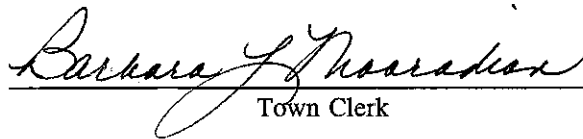
BLM/hs

Minutes approved by Town Council on December 12, 1995



Mayor

ATTEST:



Town Clerk