

MINUTES
BEECH MOUNTAIN TOWN COUNCIL
July 11, 1995

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, Kakii Handley and Ed Waligroski. Also present was Town Manager Seth Lawless, Public Works Director Joe Perry, Town Engineer Ed Powell, Police Chief Jay Hefner, Code Enforcement Officer Don Fulkerson and Town Attorney David Paletta. Present in the audience were a number of interested spectators.

1. *Adoption of Agenda.*

Mayor Pfohl announced several proposed additions to the agenda, the first being a Public Hearing on a request for a gated community in the Emerald Mountain Subdivision, which would be inserted as item 1a. The other additions, to be inserted under "New Business," were (f) Preliminary Assessment Resolutions 95-07-01 and 95-07-02 regarding proposed paving of Pinnacle Ridge Road, (g) a request by Ricky Holcombe for erection of a planter at the intersection of Beech Mountain Parkway and Pine Ridge Road, and (h) Discussion of Town right-of-way at Hemlock Spur. Tim Holland moved that the agenda be approved with those changes. Shiela Fletcher seconded the motion and it passed unanimously.

- a. *Request for Gated Community in Emerald Mountain Subdivision.* Mrs. Frances Leidy, representing the developer of Emerald Mountain, stated she had asked for this hearing to allow the land owners an opportunity to speak their minds regarding public vs. private roads within their subdivision. The consensus of the owners is that they would prefer a gated community. At a minimum, the owners ask that public toilets be installed to alleviate people using the private property as toilet facilities. Mrs. Leidy said she did not expect any ruling at the moment, but would like the Council to consider the plight of the owners in this subdivision which attracts so many people, being at the very top of the mountain.

Curtis Sherrod, an owner at Emerald Mountain, said he was troubled at the removal of the gates, since he had purchased specifically to be in a more secure and private area. He indicated he had done some research and had satisfied himself (although he is not "satisfied" with the situation) as to how the removal of the gates came about. He thanked the members of the Town staff who assisted him in his research, and indicated they were very professional. He noted there is a definite problem with traffic in the subdivision, but that even returning the gates would not solve the problem, as there are many hikers who walk up the ski slopes into the property. He echoed the request for public restroom facilities.

There were no further comments from the public, and the Public Hearing was closed at 6:10 PM.

2. *Consent Agenda.*

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

- a. Minutes of the Regular Meeting of June 13, 1995.

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- b. Minutes of the Special Joint Planning Committee Meeting of June 14, 1995.
- c. Minutes of the Budget Workshop of June 14, 1995
- d. Minutes of the Special Meeting of June 27, 1995.

3. ***Committee Reports.***

Kakii Handley reported that the Waste Management Committee had lost Mark Combs, who will be sorely missed. The Recreation Committee is glad that the budget is settled, and worked hard to work within the confines of the budget.

Shiela Fletcher reported that Harold Triplett, the Tax Collector, is now out of office.

4. ***Old Business:***

- a. ***Consider Passage of Smoke Detector/Fire Extinguisher Ordinance.*** Seth Lawless noted that most of the work on this proposed ordinance had been done. The Legislature passed the bill which will allow the Town to require smoke detectors and fire extinguishers in rental properties, and a public hearing on the matter has been held. The proposed ordinance would require that each owner, or agent of an owner, of rental property fill out an affidavit annually indicating that the home is properly equipped and that the items are in working order.

Kakii Handley asked if the Fire Department was going to be checking the items, and Mr. Lawless stressed that it will be the owner or his agent who will do that and certify that they are in working order. Ed Calvin asked if this had anything to do with the occupancy tax, and was told that it did not. Mayor Pfohl pointed out that this was strictly a safety measure for visitors to the Town. Dr. Calvin suggested that the list of rental owners who file the affidavits might be used to see if they have been collecting and paying occupancy tax. Tim Holland noted that if an owner had been evading paying the occupancy tax, he would probably also not complete a smoke alarm/fire extinguisher affidavit.

Phil Buchanan asked about the requirement that these items be in place within 90 days of adoption of the ordinance, and suggested that some owners will not be visiting within that time. Mr. Lawless pointed out that the affidavits needed to be completed before the first of the year. Mr. Buchanan asked if the Building Inspector would be sending out the affidavits, and Mr. Lawless said the Town would make every effort to have them properly distributed.

Mr. Buchanan asked the Town Attorney what sort of liability the rental agency would incur by filing the affidavits for their properties, and Mr. Paletta said he felt it would be slight, and certainly defensible if they were not falsified. Tim Holland pointed out that the affidavit simply indicate that the items were checked and found in working order at the time. It does not require continual monitoring.

Tim Holland moved that the Council adopt Chapter 42 of the Code of Ordinances requiring smoke detectors and fire extinguishers in rental properties. Shiela Fletcher seconded the motion and it passed unanimously.

- b. ***Consider Proposed Amendment to Zoning Ordinance Adding an R-2A District, and Set Date for Public Hearing on the Rezoning of Skiloft Subdivision.*** Mr. Lawless pointed out that the Public

Hearing which had been held on June 27th addressed changing the Zoning Ordinance to add an R-2A district, but did not specifically address any change in zoning for Skiloft Subdivision. Therefore, while the Council may elect to adopt the amendment to the Zoning Ordinance at this meeting, a Public Hearing on the proposed rezoning would have to be scheduled.

Kakii Handley voiced her disapproval of the proposed amendment, fearing that future developers might use the fact that the district exists and try to create a subdivision with the specifications for R-2A. Frances Leidy said she agreed with Mrs. Handley. Ellen Anderson reiterated her previously-voiced objection to the R-2A district. Tim Holland moved that the proposed amendment to the Zoning Ordinance be adopted as presented. Shiela Fletcher seconded the motion and it passed, three votes to two, with Mrs. Handley and Dr. Waligroski dissenting.

The Council agreed on 6:00 PM Tuesday, August 8, 1995 as the date and time for the Public Hearing on the proposed rezoning of Skiloft Subdivision.

5. ***New Business:***

- a. ***Introduce Bond Order and Set Date for Public Hearing on Bond Re-Funding.*** Mr. Lawless went over the steps required to re-fund the street improvement bonds. Mayor Pfohl pointed out the savings that the Town will incur once the re-funding has taken place. The following Bond Order was introduced and its title was read: "BOND ORDER AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS OF THE TOWN OF BEECH MOUNTAIN IN THE MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF \$725,000.00 FOR THE PURPOSE OF REFUNDING THE TOWN'S GENERAL OBLIGATION STREET BONDS, SERIES 1985, AND PAYING FOR THE COST OF ISSUANCE THEREOF." (complete Bond Order attached). Tim Holland moved that the Bond Order be "introduced." Ed Waligroski seconded the motion and it passed unanimously.

The following Resolution was introduced and its title was read: "RESOLUTION PROVIDING FOR PUBLIC HEARING ON BOND ORDER FOR \$725,000 GENERAL OBLIGATION REFUNDING BONDS AND PUBLICATION OF BOND ORDER AND NOTICE OF HEARING AND OTHER ACTION." (complete Resolution attached). Tim Holland moved passage of the resolution. Ed Waligroski seconded the motion and it passed unanimously.

- b. ***Consider Agreement with Emerald Mountain.*** Seth Lawless referred to copies of the proposed agreement which had been included in the agenda packet, explaining that the road in Emerald Forest had been completed, and needed to be guaranteed against defects for one year. Emerald Mountain Development Company currently has monies equal to 100% of the cost of the road in escrow with the Town Attorney. This amount needs to be reduced by 75%, holding 25% as guarantee against defects. After one year has passed from the time the road is dedicated to the Town, the 25% will be returned to Emerald Mountain Development. The proposed agreement covers these arrangements. Shiela Fletcher moved that the agreement be approved. Tim Holland seconded the motion and it passed unanimously.
- c. ***Consider Agreement with Frisbie Family.*** Mr. Lawless indicated that the proposed agreement was actually two documents: an easement and an agreement. At a recent meeting between the Frisbies and members of the Town staff, Mayor and Vice Mayor, several mutual interests had been discussed. The Frisbies indicated they do not intend immediate subdivision of their property.

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Installation of a 6" water line between the Crest of Beech and Emerald Mountain would, however, be of benefit to the Town because it would alleviate some problems not only in the Crest of Beech subdivision, but on that west side of the mountain. A right-of-way over the Frisbies' road would also be of benefit to the Town. The agreement calls for the Frisbies to pay for all materials, and the Town to install the 6" water line within the next two years. The right-of-way across the road will be granted, and the Town will assume costs of maintaining the road.

Kakii Handley asked if the road would be gravel, and Joe Perry indicated it would. Mrs. Handley asked if the Frisbies would be required to pave the road when they wish to proceed with the subdivision of their property, and Mr. Lawless indicated that was in the agreement. Frances Leidy sought assurances that installation of the 6" line would not hinder development within Emerald Mountain subdivision, and that the Emerald Mountain Development Company would be guaranteed that they would not be asked to erect another water tank. Ed Powell noted that the original installation of the water tank had been intended to assist the Town in providing water for not only the Emerald Mountain subdivision, but the northwest side of the Town. He stated that Emerald Mountain would not be required to erect another water tank.

Tim Holland moved to accept the easement and agreement. Kakii Handley seconded the motion and it passed unanimously.

- d. ***Consider Awarding Contract on Tractor/Mowing Equipment Bids.*** Mr. Lawless reported that three bids had been opened that morning at 11:00 AM. They were: Carolina Truck and Tractor: Kubata tractor \$39,375.00; Mountaineer Equipment Company, John Deere tractor \$46,900.00; and Marion Equipment Company, Ford tractor \$44,077.20. Mr. Perry recommended the Ford tractor, even though the bidder was not the lowest. He said the Public Works Department has had a good deal of experience with the Kubata, which has proved less than dependable, and the Ford tractor was a good deal heavier, as well, which would provide greater safety. David Paletta advised that the Council could award the contract to a higher bidder if it based upon a rational basis, which basis Mr. Perry has given. Mr. Lawless noted that any motion would have to indicate that funds for the purchase would come from unrestricted fund balance. Due to the long bidding process the previous fiscal year has ended, so funds originally set aside for the purchase had been swept into the fund balance.

Tim Holland moved to accept the bid from Marion Equipment Company for \$44,077.20 for the Ford tractor, with funding to come out of the unrestricted fund balance. Kakii Handley seconded the motion and it passed unanimously.

- e. ***Consider Authorizing Tour DuPont to Return to Beech Mountain in 1996.*** Shiela Fletcher reported that Medalist Sports, the promoter of the Tour DuPont, had indicated they wished to plan a finish venue at Beech Mountain again in 1996. The race will not go back to Asheville next year, but will end just outside of Atlanta, due to the Summer Olympics. She reported that an arrangement had been worked out with Blowing Rock to house and feed the athletes and their entourages, as the start the following day would be from there. Hence, although Beech Mountain will assist Blowing Rock in every way possible, it will not be faced with the feeding and housing in 1996. Kakii Handley moved the Town sign a letter of intent to host a finish venue of the 1996 Tour DuPont. Ed Waligroski seconded the motion and it passed unanimously.

- f. ***Consider Preliminary Assessment Resolutions 95-07-01 and 95-07-02.*** Seth Lawless indicated that the Town would be advertising for bids on the paving of Skiloft Road and Galax Lane and, since the Council had agreed that paving a portion of Pinnacle Ridge Road would be in the best interests of the Town, perhaps bidding the paving projects together would result in a better price. Two Preliminary Assessment Resolutions have been prepared, one for Beech Mountain Parkway to Hawthorne Road and a second from Hawthorne Road to Aster Trail. Should the bid be favorable enough, Hawthorne to Aster could be done during this fiscal year.

Phil Buchanan asked, about the paving of Skiloft Road, if the roadway would be widened, thereby making some homeowners lose their parking. Ed Powell said that it was not the intent of the Town to take away anyone's parking, but that if they have always been parking in the roadway, it will become apparent after paving. Some may need to enlarge their parking areas -- some need to enlarge their parking areas even now. Kakii Handley moved that both Preliminary Assessment Resolutions be passed. Shiela Fletcher seconded the motion and it passed unanimously. The Public Hearing on the project will be held at 6:00 PM Tuesday, August 8, 1995 in the Council Chamber.

- g. ***Request for Planter.*** Mayor Pfohl referred to a letter received from Ricky Holcombe asking that a planter be installed by the Town staff, during a slack period, at the corner of Beech Mountain Parkway and Pine Ridge Road. Mrs. Holcombe indicated she would be responsible for the initial load of dirt and perennial bulbs/plants. Seth Lawless indicated Mr. Perry's men have a lot to do this summer and are running behind because of earlier rain. If the Council wants to grant this request, he would ask their patience. Tim Holland felt the matter should be tabled for the time being. Mayor Pfohl wondered if this even needed to come before the Council, and Mrs. Handley said she felt the Council needed to talk about it. Would this open the door for other people to request Town-built planters at other corners? Fred Pfohl suggested it be turned over to the Economic Development Committee, and this was agreed.

- h. ***Discussion of Town right-of-way at Hemlock Spur.*** Mr. Lawless stated he had gotten a request from Tom Fehl, Century 21/Beech Mountain Realty, for clarification regarding the Town's right-of-way across the golf course at the end of Hemlock Spur. He wanted to assure access to lots GH-57 and GH-58. Tim Holland said he thought the right-of-way belonged to the Beech Mountain Club. David Paletta said this matter had been researched some years ago, and there seemed to be no right-of-way problem. It would be the responsibility of the property owner to widen the existing cart path, if necessary, and if any damage to the cart path was caused by him he would be required to repair it. He believed there was no way a property owner could be kept from using the right-of-way on which the cart path sits. Joe Perry said there is a water line under the cart path and the Public Works Department had always considered that the Town had a utility easement and road easement as marked on the plat. Bill Sposato said the Club was aware that the owners of those lots have a right-of-way.

6 ***Staff/Consultant Reports:***

- a. ***Town Engineer's Report.*** Ed Powell stated that plans are ready to call for bids on the Skiloft Road improvement. His company will bring Pinnacle Ridge Road into the project for bidding purposes. The ammonia feed system is almost ready for use. Davis-Martin-Powell is also working with Mr. Lawless on the development of an SOC for expansion of the Grassy Gap Wastewater Treatment Plant.

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- b. **Public Works Director's Report.** Joe Perry had no report. Mayor Pfohl thanked Mr. Perry for getting the paving done, and Mr. Perry said it was not quite finished. Tim Holland asked about the striping on Tamarack, and Mr. Perry said the State would be back in the fall and it would be done at that time.
- c. **Town Attorney's Report.** Mr. Paletta asked for a closed session to discuss a lawsuit against the Town.
- d. **Chief of Police's Report.** Chief Hefner had no report. Shiela Fletcher thanked Chief Hefner for the fine job done with the 4th of July crowds.
- e. **Town Manager's Report.** Mr. Lawless reported that the auditors had begun work on the Town's books. He noted that the financial statement included in the agenda packet was a year-end statement, but had not yet been audited.

Regarding the SOC, Mr. Lawless reported that the draft document included two provisions that the Town wishes to remove: First regarding fining the Town for past violations; and the other reducing the construction time limit from June 30, 1997 to December 31, 1996, which would not allow adequate time for completion. Both provisions have been protested, and it is hoped they will be removed.

Mr. Lawless reported that the Town Clerk had prepared a brochure on composting, which contained some interesting information, and which will be distributed around Town. He reported that Public Works had continued the Pond Creek Trail from where it dead-ended on Greenbriar Road. They cleaned behind Lake Santis and erected a bridge across the creek.

The Lake Coffey dredging schedule is beyond the date anticipated for completion. It is all dependent upon the contractor the Resort is hiring. Water Plant #1 on Tamarack Road has been painted and is being spruced up, which should help the look of the neighborhood. He reminded everyone that the filing period for Town Council opened the previous Friday and goes through August 4th at noon. Interested parties should file at the Watauga County Courthouse and pay a \$5.00 filing fee.

The tax collection rate for the past fiscal year was 98.69%, which is above last year. He congratulated Missy Norwood on the fine job. He reported that the many power outages have been traced to the Banner Elk substation, and Mountain Electric is looking into the problem. High Country Cablevision has removed the head-in from Beech Mountain, so the current weather shown is that from Boone and will so remain. The satellite dishes will be removed by the end of 1996. Ellen Anderson asked about another NBC station, and Mr. Lawless said he would look into it.

Mr. Lawless reported that GDS will be paying for a newsletter on recycling, since so many changes have been made and people don't always utilize the deposit area properly. It will also emphasize what the Town does for the convenience of people in the Town, and encourage them to take care at the recycling center, read the signs and obey them. Rick Miller remarked that he has witnessed two contractors from off the mountain depositing their debris in the recycling center. Mayor Pfohl said if that occurs again to get their license numbers and report them.

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8. *Closed Session.*

Tim Holland moved the Council go into closed session under the provisions of N C G.S. 143-318.11(a)(3) and (6), to confer with the Town Attorney on a suit against the town and to discuss a personnel matter. Shiela Fletcher seconded the motion and the Council went into closed session at 8:00 PM. The Council came out of closed session at 9:01 PM.

ADJOURN

There being no further business to come before the Council, the meeting was adjourned at 9:03 PM.

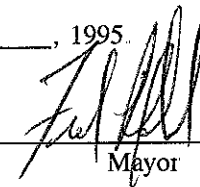
Respectfully submitted,



Barbara L. Mooradian
Town Clerk

BLM/hs

Minutes approved by Town Council on August 8, 1995.



Mayor

ATTEST:



Town Clerk