

MINUTES
BEECH MOUNTAIN TOWN COUNCIL
November 12, 1996

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 Shiela Fletcher, Reub Mooradian, Rick Owen and Ed Waligroski. Also present were Town Manager Seth Lawless, Town Attorney David Paletta, Town Engineer Ed Powell, Public Works Director Joe Perry, Chief of Police Jay Hefner, Code Enforcement Officer Don Fulkerson and Tax Administrator Missy Norwood. Present in the audience were a number of interested parties.

Invocation. The meeting was opened in prayer by Pastor Hayst Harrold.

Pledge of Allegiance. Ed Waligroski led those present in the Pledge of Allegiance to the Flag.

Public Hearing, Preliminary Assessment Roll, Pinnacle Ridge Paving Project. A Public Hearing on the Preliminary Assessment Roll for the Pinnacle Ridge Paving Project was called to order following due notice in The Watauga Democrat edition of October 30, 1996. Seth Lawless read a letter from Richard Stearns, owner of RW-232, protesting the method of assessing benefitting properties, attached hereto and made a part of these minutes as if fully set forth herein. Mayor Pfohl noted that the policy of the Town in the past had been to assess benefitting properties by linear feet abutting the improvement regardless of length. Reub Mooradian asked if the State law did not designate this as the means for assessing owners, and Mr. Lawless said it did. Ed Powell indicated this has come up in the past, but no relief had ever been granted. Reub Mooradian said he recalled past owners whose property was on a sharp curve, and who paid much more than any individual whose property was on the straightaway. Mayor Pfohl asked Mr. Lawless to write Mr. Stearns and explain the policy of the Town.

Lawrence Briest, owner of LG-306, protested the assessment of \$141.08 for 16.52' of his property, stating he believed that portion of his lot to be in the intersection of Columbine Lane. He produced a survey, which differed somewhat from the recorded plat of the lot and abutting road. David Paletta indicated the Council could proceed with adoption of the resolution which confirmed the assessment roll, and Mr. Briest's assessment could be considered under appeal. Mayor Pfohl agreed that the Council Members would visit the site before the December meeting and make their ruling then. There being no further comments or questions from the audience, Reub Mooradian moved the Public Hearing be closed. Ed Waligroski seconded the motion, which passed unanimously, and the Public Hearing was closed at 6:18 PM.

Public Hearing, Preliminary Assessment Roll, Skiloft/Galax Roads Paving Project. A Public Hearing on the Preliminary Assessment Roll for the Skiloft Road and Galax Lane Paving Project was called to order following due notice in The Watauga Democrat edition of October 30, 1996 and The Avery Journal edition of October 31, 1996. Seth Lawless noted the method of payment for this road improvement differed from that of Pinnacle Ridge Road in that the owners had agreed to divide the costs equally among the pieces of property, so each lot was assessed an identical amount. There were no questions or comments from the audience. Ed Waligroski moved the Public Hearing be closed. Shiela Fletcher seconded the motion, which passed unanimously, and the Public Hearing was closed at 6:20 PM.

Presentation of Award: Tim Holland.

Mayor Pfohl presented the Volunteer of the Year Award for Watauga County to Tim Holland. Mayor Pfohl spoke of all the volunteer work Mr. Holland has done over the years, noting his service on the Town Council for a

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number of years and his current position as Fire Chief

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

Ed Waligroski moved the agenda be approved as submitted. Reub Mooradian seconded the motion and it passed unanimously.

2. ***Consent Agenda.***

Reub Mooradian moved adoption of the Consent Agenda. Ed Waligroski seconded the motion and the following items were unanimously approved:

- a. Minutes of the regular meeting of October 8, 1996
- b. Resolution releasing Beech Mountain's share of Lead Regional Organization funds to Region D.

3. ***Committee Reports.***

There were no committee reports.

4. ***Old Business.***

- a. ***Consider Resolution 96-11-01, Confirming Assessment Roll and Levying Assessments for Pinnacle Ridge Road Paving Project.*** Rick Owen moved the resolution be adopted. Ed Waligroski seconded the motion and it passed unanimously.
- b. ***Consider Resolution 96-11-02, Confirming Assessment Roll and Levying Assessments for Skiloft Road/Galax Lane Paving Project.*** Ed Waligroski moved the resolution be adopted. Rick Owen seconded the motion and it passed unanimously.
- c. ***Consider Resolution 96-11-03, Resolution to Accept State Revolving Loan.*** Seth Lawless explained that the matter had been before the Council several times over the past year and, in fact, the Town is presently soliciting bids to expand the Grassy Gap Wastewater Treatment Plant. In looking for ways to fund the improvement the Town applied for a low interest State revolving loan. The Town's request was approved, and the proposed resolution will allow the Town to accept a \$250,000 loan at 2.9% interest over ten years. Reub Mooradian moved the resolution be adopted. Shiela Fletcher seconded the motion and it passed unanimously.

5. ***New Business.***

- a. ***Consider Amendment to Chapter 10, Code of Ordinances, Establishing a Wildlife Sanctuary.*** Seth Lawless explained that while the staff had prepared a possible amendment to Chapter 10, due to several requests of citizens, David Paletta had indicated that State law prohibited the prevention of hunting within the Town, due to the State's desire for uniform hunting laws. Mr. Paletta agreed that the Statute prohibits local regulation of hunting. The possibility of establishing a bird sanctuary is an exception to this rule. The Statute also allows local ordinances regulating cruelty to animals. Mr. Paletta said he would like to explore some other options to see if the Town can obtain its objective by another method, as it appears amending the bird sanctuary ordinance could

not withstand a challenge. Reub Mooradian expressed his disbelief that the State intended that people be able to hunt in downtown Charlotte, or Raleigh. Andy Porter said he had been told there was a State law against hunting in municipalities, and Mr. Paletta said he was unaware of this. He suggested there might be a means which would allow a local act to be passed by the Legislature.

Tim Holland asked if the Town's Chapter 31, Animal Protection Ordinance, was legal, and Mr. Paletta replied that it is. Mr. Holland asked how this could allow hunting, and Mr. Paletta explained the difference, pointing out the specific wording of the Town's ordinance. Mr. Holland wondered how someone could kill an animal without doing at least one of the prohibited acts. Andy Porter suggested the ordinance prohibiting the use of guns within the Town could be expanded to include bow and arrows, or any weapons which could cause harm. Mr. Paletta said he would look into that aspect as well, and would have something for the next meeting.

When asked about the possible penalties the individual who killed Nikki could face, Mr. Paletta explained the usual procedure, and suggested the Council might wish to write a letter to the District Attorney strongly supporting his prosecuting the individual to the maximum extent. He also suggested a phone call to the Assistant District Attorney who would be handling the case, and Andy Porter said he had been told that the District Attorney himself would be trying this case, due to a request from the State Attorney General.

Eve Skelton suggested signs be erected indicating there is no hunting in the Town, and Mayor Pfohl showed the "no hunting" signs which have already been received, and indicated they would be erected in several areas in the Town.

- b. ***Consider Amendment to Sign Ordinance.*** Mr. Lawless read a suggested amendment to the Sign Ordinance which had been recommended by the Planning Board. Reub Mooradian noted there was no size restriction suggested for the chalkboards, and Mr. Paletta agreed there should be some indication of a size limit. Don Fulkerson said the Planning Board had intended it be four square feet. David Paletta suggested the words "This sign cannot be larger than four square feet" be added at the end of Section 8-6 (e), and also that a heading "Special Advertisements" be inserted. Reub Mooradian moved the amendment be approved with the two above changes. Rick Owen seconded the motion and it passed unanimously.
- c. ***Consider Amendment to Solid Waste Management Ordinance.*** Seth Lawless read the suggested amendment to the Solid Waste Management Ordinance which had been recommended by the Planning Board, and also indicated the Town is going to order a lot of plastic tops for dumpsters which it will offer to install on dumpsters which would help their overall appearance. David Paletta suggested that the dumpster users be given until December 1, 1997, to screen their dumpsters, rather than the recommended November 1, 1997. Shiela Fletcher moved the amendment be approved with Mr. Paletta's change. Reub Mooradian seconded the motion and it passed unanimously.
- d. ***Consider Petition for Paving of Christie Way.*** Mr. Lawless presented petitions from the majority of property owners on Christie Way, requesting the paving of their street and agreeing to pay 100% of the cost. Jack Moore, a property owner on Christie Way, indicated the owners had been told they would be assessed 1/16 of the total cost (pay equal shares). Reub Mooradian moved that Mayor Pfohl be excused from discussion of the matter, being a property owner on Christie Way.

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Ed Waligroski seconded the motion and Vice Mayor Fletcher took over the meeting. There was general discussion and a consensus was reached to have the Town Clerk certify the sufficiency of the petitions prior to the next meeting. Shiela Fletcher moved Mayor Pfohl be allowed to return to the meeting. Ed Waligroski seconded the motion and it passed unanimously.

- e. ***Consider Amendment to Allocation Tables, Personnel Ordinance.*** Mr. Lawless outlined the grades into which it was suggested the four new sanitation employees be inserted. Reub Mooradian objected to the foreman being a grade 13, pointing out that Dolin Carpenter, who is the Assistant Public Works Director, is also grade 13, and that it is difficult for anyone to supervise someone when they are in identical grades. Joe Perry explained the reasons for suggesting this as a grade 13 slot, and after further discussion, Shiela Fletcher moved the suggested grades be approved. Ed Waligroski seconded the motion and it passed four votes to one, with Mr. Mooradian dissenting.

- f. ***Consider Budget Amendments, General Fund.*** Mr. Lawless explained that the first amendment is in response to the Police Department receiving a \$9,000 block grant if the Town would add \$1,000 to the monies. This money would be used to purchase a Police computer package to be added to Citipak. Shiela Fletcher moved the amendment be approved. Reub Mooradian seconded the motion and it passed unanimously.

The second suggested budget amendment would adjust expenses charged to the Road Maintenance Department and Vehicle Maintenance Department which would result from the establishment of a Sanitation Department. Rick Owen moved the amendment be approved. Ed Waligroski seconded the motion and it passed unanimously.

- g. ***Consider Tax Releases.*** Mr. Lawless noted that the tax bills had recently gone out, and a number of errors had surfaced as a result. Mayor Pfohl pointed out these releases are no reflection on Miss Norwood's competence, but rather revealed errors in material received from the two counties. Ed Waligroski moved the releases be approved as submitted. Shiela Fletcher seconded the motion and it passed unanimously.

- h. ***Consider Budget Amendment, Sanitation Department.*** Mr. Lawless explained this amendment was, in effect, the sanitation budget. The Town anticipates starting garbage collection on December 1st, but this is dependent upon delivery of the trucks. The amendment would appropriate \$11,640 out of the \$19,000 sanitation reserves, and the budget includes payment of the 4.9% five year lease-purchase with BB&I for the trucks. Shiela Fletcher moved the budget amendment be approved as submitted. Ed Waligroski seconded the motion and it passed unanimously.

- i. ***Consider Fee Increase, Sanitation.*** Mr. Lawless referred to a schedule of proposed monthly fees which had been inserted into the agenda packet, noting that it reflects a \$2.00 per month increase on all sanitation rates. Rick Owen moved the rates be increased as proposed. Shiela Fletcher seconded the motion and it passed unanimously.

- j. ***Consider Change Order, Water Tank Painting.*** Ed Powell indicated that the costs for painting the 63,000 gallon Meadows tank and the 100,000 gallon Tamarack tank had been so lowered by action taken at the last Council meeting, that the 200,000 gallon tank in the Meadows could also be painted, while keeping the costs under budget. Seth Lawless agreed the project would be well

under budget, and the intent was to turn back the excess at the end of the fiscal year, and budget for painting another one or two tanks next year. Reub Mooradian moved the change order be approved. Shiela Fletcher seconded the motion and it passed unanimously.

- k. ***Set Date for Public Hearing, Zoning Map Amendment.*** Mr. Lawless indicated the Planning Board had suggested the zoning map be amended to zone Archer's Inn/Jackalopes View Restaurant CS-1, but that a Public Hearing is required on such matters. Shiela Fletcher moved Council hold the Public Hearing at 6:00 PM Tuesday, December 10, 1996. Ed Waligroski seconded the motion and it passed unanimously.

6. ***Staff/Consultant Reports.***

- a. ***Town Engineer's Report.*** Ed Powell said he had no further report. Eve Skelton asked about the reflectors in Charter Hills Road, and Joe Perry said they would be replaced in the spring. Mayor Pfohl also indicated the center and side lines would be repainted in the spring.
- b. ***Public Works Director's Report.*** Joe Perry had no report. Reub Mooradian asked about the status of the fire hydrants and was told that two had been replaced on Charter Hills Road and one repaired. They will continue as possible with this work. Mayor Pfohl noted the replacement trees had been planted at the Public Works building and along the Parkway.
- c. ***Town Attorney's Report.*** David Paletta reported that the mediation scheduled for Thursday on the landfill suit had been cancelled, or continued, as a result of ASU's request that one of their motions be ruled upon prior to the mediation. He said he believed the Mayor's letter to the editor of the Watauga Democrat had done some good, and had resulted in an editorial urging the County to drop its lawsuit and just meet the costs by adding \$1 or so to the tipping fees.
- d. ***Chief of Police's Report.*** Chief Hefner had no report.
- e. ***Town Manager's Report.*** Mr. Lawless reported that the Town had been visited by OSHA the past week, and could expect some citations for minor violations. The staff will have to do some training and policy adjustments.

Mr. Lawless announced that it appears the Town will receive \$123,000 in grant money due to damages sustained in Hurricane Opal. Much of these funds will go towards repairing private property which was damaged, but some money can be used for the Town's upgrades in stormwater control discussed in the October meeting.

Mr. Lawless and Shiela Fletcher had attended the League meeting, where it was announced that a \$45,000,000 clean water trust fund had been established. The purpose of the resulting grant program will be to protect surface water, which could result in the Town's getting more money for stormwater and sewer improvements.

Mr. Lawless said the DOT had assured the Town that reflectors for the Parkway will soon be installed. He noted that the Town of Beech Mountain had received first place among Watauga County Towns for community development for 1996.

- f. ***Financial Report and Building Inspections Report.*** Mr. Lawless pointed out that the financial

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statement indicated revenue from metered sales of water was very close to the budgeted amount in spite of reading the meters quarterly

7. *Other Business.*

Reub Mooradian presented three suggestions for dedication of the Lake Coffey Fitness Trail for Council's consideration.


Christina Pauk requested action from the Town to avoid a recurrence of an incident whereby her son was hit by a vehicle while on his bicycle. Other mothers in the audience spoke of a requirement that any such person involved in an accident with a minor be required to notify the parents, even if it appears the child was not hurt. Eve Skelton suggested something in the MountainEar suggesting people be more considerate and caring, and Mayor Pfohl suggested the spring edition might be the best vehicle for such an article.

Margaret Brannon thanked those responsible for the Halloween Trick or Treating for their work.

ADJOURN

There being no further business to come before the Council, the meeting was adjourned at 8:05 PM.

Respectfully submitted,

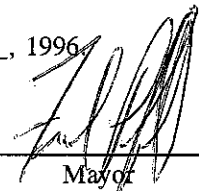


Barbara L. Mooradian
Town Clerk

BLM/hs

Minutes approved by Town Council on December 10, 1996

ATTEST:


Town Clerk
Mayor