

MINUTES
BEECH MOUNTAIN TOWN COUNCIL
December 10, 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, Public Works Director Joe Perry, Code Enforcement Officer Don Fulkerson, Tax Administrator Missy Norwood, Captain R. L. Dunn and, representing Davis-Martin-Powell, Mike Slusher. There were a number of interested persons in the audience.

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.

Presentation of Plaque, Ellen Anderson. Mayor Pfohl presented a plaque denoting the appreciation of the Council and the citizens for her fourteen years of service on the Board of Adjustment.

Public Hearing, Proposed Change to Zoning Map. Pursuant to due advertisement in the November 27 and December 4, 1996 editions of The Watauga Democrat, a public hearing on the zoning of recently-annexed Archer's Inn and Jackalopes View Restaurant was called to order by Mayor Pfohl at 6:03 PM. Seth Lawless indicated that the Planning Board had considered the zoning, and recommended unanimously that the property be zoned CS-1, Commercial. There were no questions or comments from either the audience or the Council. Shiela Fletcher moved the public hearing be closed. Ed Waligroski seconded the motion and it passed unanimously. The public hearing was closed at 6:05 PM.

1. **Adoption of Agenda.**

Seth Lawless asked that consideration of an amendment to Chapter 22 of the Code of Ordinances be placed under Other Business. Reub Mooradian moved the agenda be approved with that change. Shiela Fletcher seconded the motion and it passed unanimously.

2. **Approval of Minutes, November 12, 1996.**

Rick Owen moved the minutes of the previous meeting be approved as submitted. Reub Mooradian seconded the motion and it passed unanimously.

3. **Committee Reports.**

Kakii Handley reported that the fees will be going up in the coming year at the Watauga County Parks and Recreation sites.

Shiela Fletcher reported that she attended a Resort Towns Association meeting, and that two resolutions of support were contained in the agenda packet for consideration by the Council.

4. **Old Business:**

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a. *Consider Appointments/Reappointments to Committees:*

- (1) *Board of Adjustment.* Mayor Pfohl stated that Ellen Anderson had decided not to continue to serve on the Board of Adjustment, and thus a replacement needed to be appointed to fill her slot. Sherry Garris' term was also expiring the end of the month, as were all three Alternates. Ed Waligroski moved that Alternate Paul Piquet be appointed for a three year term, that Sherry Garris be reappointed for a three year term, and that Alternates Kakii Handley and Nancy Hoffman be reappointed for one year terms. Shiela Fletcher seconded the motion and it passed unanimously. Mayor Pfohl suggested the appointment of the third Alternate be delayed until the January meeting, so as to receive recommendations from the Board and citizens at large.
- (2) *Planning Board.* Mayor Pfohl announced that the two individuals whose terms were expiring had expressed their interest in serving on the Board again. Shiela Fletcher moved that Joe Pavelchak and John Hoffman be appointed to the Planning Board for three year terms. Ed Waligroski seconded the motion and it passed unanimously.
- (3) *Economic Development Committee.* Mayor Pfohl said that Calder Smoot, whose term was expiring, had expressed his willingness to serve on the Committee again. Rick Owen moved that Calder Smoot be reappointed to the EDC for a three year term. Ed Waligroski seconded the motion and it passed unanimously.

- b. *Consider Zoning for Archer's Inn/Jackalopes View Restaurant.* Shiela Fletcher moved that Archer's Inn and Jackalopes View Restaurant be zoned CS-1. Ed Waligroski seconded the motion and it passed unanimously.

5. *New Business:*

- a. *Consider Proposed Ordinance: Christina Pauk.* Christina Pauk expressed the concern of some parents with an incident which had occurred to her son a couple of months ago, when a driver hit the boy on his bicycle and left the mountain without ever reporting the incident to either the parents or to the Police. She read a draft of a proposed Moving Vehicle Contact Ordinance, which is attached hereto and made a part hereof as if fully set forth herein. She reiterated that this was a draft, and that she would try to have the final suggested ordinance ready to be included in the January agenda packet. Mayor Pfohl thanked Mrs. Pauk and indicated the Council would act upon the suggestion once it appears in final form and they have had a chance to work with the Police, the Town Manager and Town Attorney.
- b. *Consider Adoption of Chapter 47 of Code of Ordinances, An Ordinance Regulating Weapons.* Seth Lawless indicated the subject had been discussed pretty thoroughly at the previous meeting, and the recommended ordinance was the result of that discussion. David Paletta indicated the intent of the ordinance would be to accomplish the same objective as previously expressed (that of making the Town a wildlife sanctuary) but going about it in a different manner so as to increase the probability it would withstand a challenge. He read the proposed ordinance, which is attached hereto and made a part hereof as if fully set forth herein.

Andy Porter said he thought the ordinance should list more prohibitions, such as pellet rifles, dynamite, etc. He said he would really like to see the Town petition the State for the right to

become an animal sanctuary David Paletta said that would be an option, and that the first step would be to contact one of our Senators and Representatives and feel them out. Mr. Porter asked if the suggested fine had to be so low (\$50.00) and Mr. Paletta replied he would research what the maximum penalty could be. Reub Mooradian asked why the words "up to" could not be used, rather than "not to exceed." Mr. Paletta said it was advisable for a civil penalty to be set forth exactly in an ordinance, so as to avoid the Council from having to hold a hearing on a violation, and having to decide what penalty to levy. Such a procedure would leave the Council open to a challenge of the fairness of the amount.

Roger Bullock commented that the thrust of the Council's aims seemed to have shifted from the prior meeting, when they wanted to make the Town a wildlife sanctuary, to focusing on the damage to property or harming of an animal. He felt that the proposed ordinance was too severe, in that it would prevent a child from playing with a bow and arrow or boomerang. Andy Porter asked why the Animal Protection Ordinance could levy a \$500 fine and the proposed ordinance only \$50, and Mr. Paletta explained that there were different Statutes which governed the authority municipalities could wield over various circumstances.

There was quite a bit of additional discussion on the various aspects of the proposed ordinance, after which both those in the audience and the Council agreed that the thing to do was to pursue becoming a wildlife sanctuary. Rick Owen moved the Town Attorney prepare a resolution for the Council to pass asking the Legislature to grant the Town permission to declare itself an animal sanctuary. Shiela Fletcher seconded the motion and it passed unanimously. Roger Bullock asked if the Council would make a very careful definition of animals, so as not to preclude getting rid of mice, etc.

- c. ***Consider Passage of Resolution 96-12-01, Preliminary Assessment Resolution and Setting Date for Public Hearing on Paving of Christie Way.*** Seth Lawless noted that the Council had received a petition from owners of property on Christie Way at the last meeting, requesting the Town pave the road, with the owners paying 100% of the cost. The estimate received from the Engineer had proven to be \$1,000 higher than the owners had originally thought, and two of the petitioners withdrew their petitions. There still remained a majority of owners, owning a majority of the lineal front footage along the road, to warrant paving and assessing. The proposed resolution would set the date for a Public Hearing on the matter. The Town Clerk was asked to notify the owners of the estimated cost at the same time they are notified of the Public Hearing. Shiela Fletcher moved the resolution be passed, with 6:00 PM Tuesday, January 14, 1997, being the date and time for the Public Hearing. Reub Mooradian seconded the motion and it passed unanimously.
- d. ***Consider Tax Release.*** Reub Mooradian moved the tax release on CR-155 be approved as submitted. Shiela Fletcher seconded the motion and it passed unanimously.
- e. ***Set Date for Public Hearing on Cable Franchise Renewal.*** Seth Lawless reported that Booth Communications wished to the Town to renew its franchise to provide cable television service for another ten years. He reported that they had acceded to every demand made of them, with the exception of providing service to every dwelling in the Town. They have given the Town a weather station for reporting the weather on BeechVision, and a character generator to print announcements as well. The new channel lineup will go into effect January 6th, and will include a second NBC channel. He announced that the cable company is being sold to Hellicom from

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Greensboro, but they have assured us that everything Booth has agreed to will remain the same. Ellen Anderson asked about cable fees, and Mr. Lawless replied they had not indicated a change, but the Town only has to approve changes in basic service, not expanded basic or premium channel fees. After further discussion Reub Mooradian moved 6:15 PM Tuesday, January 14, 1997 be set as the date and time for the Public Hearing. Rick Owen seconded the motion and it passed unanimously.

- f. **Grassy Gap Wastewater Treatment Plant.** Mr. Lawless said that Council could see from the bid list, the lowest bid for the Grassy Gap Wastewater Treatment Plant expansion required by the State is \$150,000 over the original estimate. The Town had secured financing from the Clean Water Fund at 2.94%. Mr. Lawless said he had asked both the engineer and Robert Heaton to look at all options. While we have a 40,000 gallon per day plant, and could simply build another 40,000 gallon plant and continue to operate the old one, Mr. Heaton recommended the Town pursue additional low interest loan money if it was available and build an entirely new 80,000 gallon plant. The Town is on the agenda of DEHNR this coming Thursday for them to consider our request for additional funding. Davis-Martin-Powell are also seeking a \$5,500 increase in project management fees, citing additional inspections, visits and developing operation and maintenance manuals as justification.

Mike Slusher said he felt the chances for the Town receiving the additional funds are good. Ed Waligroski asked why there was such a large discrepancy between the bids and Davis-Martin-Powell's estimate, and Mr. Slusher said they were shocked. He feels the bidders were worried about the size of the facility and worried about blasting near the present plant. Andy Porter said his construction company often has a rock clause, which would allow the bidder to set a price, and if they find they have to blast, the Town would have to pay the price for blasting. Mr. Slusher said he could ask the bidder, since they were allowed to negotiate with the low bidder. Mr. Slusher explained that the alternate bid found on the bid sheet was for demolishing and disposal of existing structures.

Reub Mooradian remarked this was not the first time estimates from the Engineer had been way off, and indicated he was not happy with such a large difference. He also disliked the idea of the increased project management fees requested, since the job itself had not changed. Mayor Pfohl said he would like to see some negotiation on the engineer's fee, as well as working with the low bidder to lower the price. Mr. Lawless reminded Council that an expert from the State had done a survey of the facilities and addressed Council at their planning retreat. He said he could contact that gentleman and get his opinion on whether or not to rebuild the entire 80,000 gallon facility or use the old one and add an additional 40,000 gallon facility.

Council agreed, and indicated their willingness to have a special meeting following discussions with Davis-Martin-Powell on possible savings.


- g. **Consider Donation of Lot C-529.** Mr. Lawless indicated the owner of lot C-529 had offered to donate the lot to the Town. Reub Mooradian moved the Town accept the offer. Shiela Fletcher seconded the motion and it passed unanimously.
- h. **Consider Resolutions of Support.** Mr. Lawless said the Resort Towns Association Board had asked its membership to adopt a couple of resolutions supporting a request that the League of Municipalities investigate alternative means to protect municipalities from loss of tourist generated

revenues resulting from natural disasters and also to assist in the establishment of a program of cooperation for the benefit of municipal governments that would address uniform guidelines for the implementation of interlocal cooperation in the event of natural disasters. Reub Mooradian moved Council adopt both resolutions. Rick Owen seconded the motion and it passed unanimously.

- i. **Consider Proposed Budget Amendment.** Mr. Lawless said he had proposed two means of reducing payroll expansion, and felt the wording in the Budget Ordinance, Section 5 should be deleted. Mayor Pfohl said Council had felt merit increases had been given out too freely, and the wording in the Ordinance was designed to restrict merit increases to those who have given meritorious service. After further discussion relative to holding the line on payroll expansion, Reub Mooradian moved the wording be removed. Rick Owen seconded the motion and it passed unanimously.

6. **Staff/Consultant Reports:**

- a. **Town Engineer's Report.** Mike Slusher reported that the water tank painting project has been completed, and all concerned are pleased with the work.
- b. **Public Works Director's Report.** Joe Perry had no report
- c. **Town Attorney's Report.** David Paletta had no report
- d. **Chief of Police's Report.** Chief Hefner was not present, and Captain Dunn had no report
- e. **Town Manager's Report.** Mr. Lawless reported that Mayor Pfohl, Roger Bullock and he had attended a workshop called The Economics of Aesthetics. The emphasis had been on how things which are done as a community to beautify and create an identity benefit businesses and city coffers in the long run and, in some cases, the short run. It spoke of how some communities demand excellence and how they deal with fast food restaurants, as an example, and with the ecology and environment. There were a number of workshops which Mr. Lawless had found interesting, and the day resulted in a few ideas for our community.

The Town is ready to start sanitation pickups on Monday, but the trucks have not arrived. GDS will continue their service until the Town receives its trucks. 

Mr. Lawless will have a report for the next meeting on which projects in the drainage and stormwater areas can be addressed with the grant funds we receive.

Cindy Keller asked about results of the citizen survey, and Mr. Lawless said over 1,100 had been returned, which is over 25%. Results will be tabulated in three to four weeks.

7. **Other Business:**

- a. **Consider Amendment to Chapter 22, Code of Ordinances.** Mr. Lawless said that in light of Council's not passing the proposed Chapter 47, there was no need to make a change to Chapter 22.

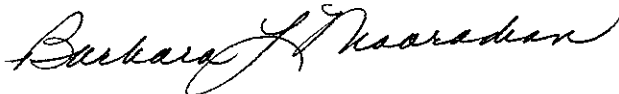
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ADJOURN

There being no further business to come before the Council, Ed Waligroski moved the meeting be adjourned. Rick Owen seconded the motion and it passed unanimously. The meeting was adjourned at 8:00 PM.

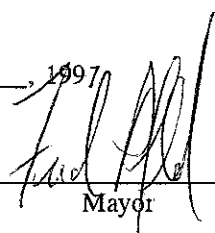
Respectfully submitted,



Barbara L. Mooradian
Town Clerk

BLM/hs

Minutes approved by Town Council on January 14, 1997



Mayor

ATTEST:


Town Clerk