

MINUTES
BEECH MOUNTAIN TOWN COUNCIL
December 9, 1997

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. Council Members-Elect Tim Holland and Jim Herbert were also present. Also present were Town Manager Seth Lawless, Judge Alexander Lyerly, 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. There were a number of interested parties in the audience.

Invocation - Pastor Hayst Harrold.

The meeting was opened in prayer by Pastor Hayst Harrold.

Pledge of Allegiance to the Flag.

Those present joined in the pledge of allegiance to the flag.

Administration of Oaths of Office by Judge Alexander Lyerly.

Mayor Pfohl thanked the Council and Staff for their service during the past four years. Judge Alexander Lyerly then administered the oath of the office of Mayor to Tim Holland, and the oath of office of Council Member to Jim Herbert, Reub Mooradian, Rick Owen and Ed Waligroski.

Presentation of Plaque of Appreciation to Shiela Fletcher.

Mayor Holland presented a plaque to Shiela Fletcher for her four years of service to the community as Council Member and Vice Mayor.

1. *Adoption of Agenda.*

Reub Mooradian moved the agenda be approved as presented. Ed Waligroski seconded the motion, which passed unanimously.

2. *Consent Agenda.*

Ed Waligroski moved the Consent Agenda be approved as presented. Rick Owen seconded the motion, and the following items were unanimously approved:

- a. Minutes of Regular Meeting November 13, 1997.
- b. Minutes of Special Organizational Meeting November 20, 1997.
- c. Resolution Releasing Funds to Region D

3. *Committee Reports.*

There were no committee reports. Mayor Holland reappointed Shiela Fletcher to serve on the Resort

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Towns Association; Ed Waligroski to Region D Council of Governments; Kakii Handley to Watauga County Recreation; and Joe Perry to the Basin-wide Management Committee. He noted that no one person was being asked to attend either the Watauga or Avery County Commissioners meetings, but each Council Member is encouraged to do so from time to time.

4. Persons Wishing to Address the Council.

- a. **Robert Gottfried, Nuisance Hearing.** Seth Lawless outlined the history of the situation and actions taken by the Town to date: In 1995 Mr. Charles Schaus, a homeowner on Spring Branch Road, called on more than one occasion and asked Mr. Lawless to look at a problem concerning mosquitoes. Mr. Schaus said he thought the problem was being caused by water behind a dam on Mr. Gottfried's property. Mr. Lawless visited the area after each complaint and never found any high concentration of mosquitoes. The same complaints surfaced again in 1996. This past summer, when the complaints recurred, Mr. Lawless did notice a swarm of mosquitoes in the area. The pond in question was low, the water stagnant and milky and pond scum was beginning to form. Within several days of that visit Mr. Schaus came into the Town Hall to show how swollen and red his arm and hand were from mosquitoes. Mr. Lawless again visited the pond and found a concentration of mosquitoes again. At that time a Nuisance Ordinance violation was issued, and a hearing on the issue was scheduled. Mr. Gottfried indicated his desire to attend the hearing, but after conversation with Mr. Lawless submitted a letter. Upon Mr. Lawless' review of the letter, he did not see anything which would eliminate the problem which existed. During this time Mr. Lawless received letters from two other property owners in the area complaining about the dam. Subsequently Mr. Lawless issued an Order of Abatement (requesting the dam be destroyed), which has been appealed by Mr. Gottfried.

David Paletta indicated Council needed to ascertain to its satisfaction (1) if the dam constitutes a nuisance and (2) if so, what method of abatement does the Council wish to pursue.

Mr. Anthony diSanti, representing Mr. Gottfried, addressed the Council. He distributed a letter received from John Rowell, a landscape designer in Valle Crucis, who had been retained to render an opinion on the dam. Mr. Rowell accompanied Mr. diSanti to Mr. Gottfried's house on October 31st, and noted the pond was only half full, but it was obvious that normally the water flowed over the spillway. It was Mr. Rowell's opinion that the extremely dry summer and fall caused this low water level, and that the pond will function normally in years of average rainfall.

Mr. diSanti distributed recent photographs of the pond, showing the water level to be at the top of the dam. He asked that Council not find the pond a nuisance, but rather that the pond be given a chance to rebound in the spring. Mr. Paletta pointed out that Council may, if it decides not to find the pond a nuisance that evening, reappraise the situation in the spring/summer and ask for an abatement if it appears a problem persists.

Reub Mooradian said he visits the location often throughout the year and that the pond is usually choked up with weeds, etc. He said he would be unwilling to release the Order of Abatement unless there is some assurance that it will be kept up. He noted he had received numerous informal complaints about the dam over the past several years, prior to Mr. Schaus official complaint to the Town Manager.

Mr. diSanti indicated Mr. Gottfried would agree to contract with Mr. Rowell to insure there is

no problem with the pond in the future. He would be happy to enter into an agreement with the Town to monitor the situation and correct any deficiencies before they become nuisances. Mr. Gottfried reiterated that he had been a property owner there for thirty years and this was the first time he had ever received any complaint.

After some further discussion, Reub Mooradian moved Council suspend the Order of Abatement and ask our Town Attorney to work with Mr. diSanti on an agreement acceptable to Council to fix the problem without destroying the dam. The Town will monitor the situation this spring and summer and if everything is working properly there should be no problem. If not, Council can uphold the Order of Abatement at that time. Ed Waligroski seconded the motion and it passed unanimously.

5 **Old Business:**

- a **Discussion of West Blueberry Waterline Extension.** Mr. Lawless explained that the Beech Mountain Water and Sewer Use Ordinance calls for extension of water and/or sewer lines to subdivisions which were platted prior to incorporation upon request of affected property owners, in which case 25% of the cost will be borne by the Town and 75% of the cost borne by properties receiving the benefit of the extension. Mr. Perry had, at Council's request, estimated the cost of the extension to be some \$33,500 exclusive of any blasting which might have to be done. Reub Mooradian moved Council authorize the Town Engineer to proceed with drawing up plans for the extension, to be submitted to the State for approval. Ed Waligroski seconded the motion which passed unanimously.
- b **Consider Resolution 97-12-01 to Rescind Street Closing Order.** Mr. Lawless stated the Town had received an offer to purchase the right-of-way at the southwest corner of Mariah Circle for \$3,000. Mr. Paletta indicated that, since no deeds had yet been exchanged, the Council could rescind its previous resolution which would divide the property among abutting land owners, and accept the offer to purchase. The intent to sell would, of course, have to be advertised for upset bids. Ed Waligroski moved to rescind the street closing order. Reub Mooradian seconded the motion. Mr. Mooradian expressed his concern that the abutting property owners would not receive a portion of the property which they might be expecting. Mayor Holland asked if the adjoining property owners would be notified of the potential sale, and Mr. Lawless replied they would, as a matter of courtesy. He noted that the property is a Town asset not needed by the public which, in its sale, would be converted into a cash asset. The question was called and the motion passed four votes to one with Mr. Mooradian dissenting.

6 **New Business:**

- a **Consider Adoption of Amended Municipal Records Retention & Disposal Schedule.** Mr. Lawless explained that the Town had adopted the retention and disposal schedule prepared by the Division of Archives in 1989. It has now been amended, and the staff recommends Council adopt the revised schedule. Reub Mooradian moved the schedule be adopted. Ed Waligroski seconded the motion and it passed unanimously.
- b **Consider Tax Releases.** Rick Owen moved the four tax releases presented by the Tax Administrator be approved. Ed Waligroski seconded the motion and it passed unanimously.

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- c **Consider Naming of Bear Paw Path Extension and Renaming of Road.** Mr. Lawless referred Council to a memorandum from the Town Clerk. After some discussion Ed Waligroski moved the extension of Bear Paw Path into Mr. Hodges' property be named Bear Paw Path, and that the unconstructed road below Wild Iris Lane be renamed Bear Cub Lane. Reub Mooradian seconded the motion and it passed unanimously.

- d-f **Consider Committee Appointments.** Mayor Holland indicated that all individuals serving on committees whose terms expire this month have indicated their willingness to serve again. Rick Owen moved Roger Bullock be reappointed to the Planning Board; that Norma Buchanan and Bill Hagna be reappointed to the Board of Adjustment; that Kakii Handley and Nancy Hoffman be reappointed as Board of Adjustment Alternates; and that Ricky Holcombe be reappointed to the Economic Development Committee. Ed Waligroski seconded the motion, which passed unanimously.

- g **Consider Adoption of Revised code of Ordinances.** David Paletta explained that after Boone had its ordinances recodified, he approved of the manner in which the ordinances were grouped by subject, and recommended Beech Mountain's be done in the same manner. He had worked with the Town Clerk, and recommended recodification as outlined in the agenda packet. He noted there were no actual changes in the codes, but some had been combined and it was recommended to include both the Subdivision Regulations and Sign Ordinance in the Zoning Ordinance, so as to have all ordinances pertaining to land use in a single location. He noted that the Planning Board should be asked to approve this combining into the Zoning Ordinance, and a public hearing should be held on the matter. Reub Mooradian moved to adopt the recodification, and that the public hearing on the Zoning Ordinance be held at the beginning of the January 13th meeting. Rick Owen seconded the motion and it passed unanimously.

7. **Staff/Consultant Reports:**

- a **Town Engineer's Report.** Ed Powell had no report. When asked about the new sewer plant he indicated it was working well, although final payment has not gone to the contractor as they have not completed their punch list.

- b **Public Works Director's Report.** Joe Perry had no report. When asked about street repairs he indicated he was working to get the asphalt crews up, but it was dependent upon weather.

- c **Town Attorney's Report.** David Paletta had no report.

- d **Chief of Police's Report.** Chief Hefner had no report.

- e **Town Manager's Report.** Mr. Lawless reminded Council of the school for newly elected officials being held in Boon January 21 - 23. Reub Mooradian and Jim Herbert asked that they be put on the list to attend.

Mr. Lawless said the new computer system should be installed this coming week and asked indulgence of Council and the public for some delays which may be occasioned by the changeover.

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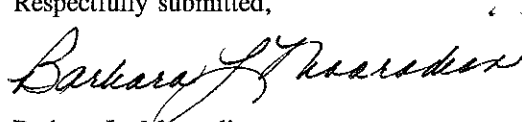
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Mr. Lawless announced that Ralph McKinney had been hired as equipment operator in the Public Works Department.

ADJOURN

There being no further business to come before the Council, the meeting was adjourned at 7:15 PM.

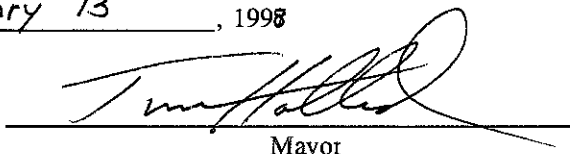
Respectfully submitted,



Barbara L. Mooradian
Town Clerk

SL/blm

Minutes approved by Town Council on January 13, 1998



Mayor

ATTEST:



Town Clerk