

MINUTES  
BEECH MOUNTAIN TOWN COUNCIL  
November 5, 2002

***CALL TO ORDER***

Mayor Rick Owen called the regular meeting of the Beech Mountain Town Council to order at 6:00 p.m. in the Council Chamber at Town Hall. Other Council Members present were Gil Adams, Pete Chamberlin, Tim Holland and Dr. Ed Waligroski. Also present were Town Manager Seth Lawless, Town Engineer Mike Slusher, Police Chief Jay Hefner, Public Works Director Riley Hatch, Town Attorney David Paletta and Building Inspector Keith Cook. There were a number of interested parties in the audience.

***Invocation*** – Charlie Burleson opened the meeting with prayer.

***Pledge of Allegiance***

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

***1. Adoption of Agenda***

Mr. Lawless requested that a change order on the sewer repairs be added under other business. The agenda was adopted as amended.

***2. Public Hearings***

***a. Occupancy Tax***

Mayor Owen opened the public hearing on Occupancy Tax at 6:04 p.m. Mayor Owen noted that recently passed legislation would allow for an increase in the Avery County portion of the Town to 6%, making the occupancy tax for the entire Town 6%. Hearing no further comments from the public Mayor Owen closed the hearing at 6:05 p.m. upon a motion by Mr. Chamberlin. Mr. Holland seconded the motion and it passed unanimously.

***b. Zoning Ordinance Amendments***

Mayor Owen opened the public hearing on the Zoning Ordinance Amendments at 6:05 p.m. Mayor Owen reported that the purpose of the hearing was to allow for public input on the proposed creation of a 'MH' District for manufactured housing. The area is currently zoned R-2 and is located in Westerly Hills. Mr. Lawless presented a map representing the proposed changes.

Fred Pfohl asked how the new district would be affected by the Deed of Restriction set up by Carolina Caribbean. Town Attorney David Paletta responded by saying that the Town enforces the Ordinances, private parties enforced the Deed of Restrictions. The new District would not alter the Deed of Restrictions. Mr. Pfohl then commented

that it looked as though the Town were tossing out the Deed of Restrictions that had been important in the past.

Roger Bullock, Chair of the Planning Board, gave an overview of the process leading to the new designation. The Planning Board began studying the issue in May 2001 when a modular home was brought into Town. This started the process of looking at the state requirements with respect to modular homes as well as manufactured homes.

Mr. Bullock found that a modular home meets the state building code and it is the same as a stick built home regardless of how it looks. The Planning Board was concerned about the potential of manufactured homes being placed in other districts if appropriate zoning were not in place.

Mr. Bullock explained that the Planning Board then started the process of finding property that would be suitable for manufactured homes. A criterion was created 1: Size - large enough to meet future needs. 2: Accessibility – the area involved had to be reasonably accessible with regard to the topography not being too steep. 3: Reasonable cost – meaning that the area has to be sufficiently developable, not excessively steep and have access to the amenities. 4: Expandability – the area had to be large enough for future growth. 5: Existing Homes - the impact on existing homes was taken into consideration, Old Beech Mountain area already has manufactured homes and this is very near the area. 6: Town taxes - it was considered that if this were popular that the tax value of the property could increase. Mr. Bullock pointed that the MH District designation would not mean that the property would be exclusive for manufactured homes, and that stick built would also be permitted.

Mr. Bullock reported that along with proposing an area for a manufactured homes district that the Planning Board had also submitted requirements for the manufactured homes.

Mr. Pfohl asked what the designation between a manufactured home and a modular home was. Mr. Bullock responded that a modular home meets the state building codes and a manufactured home does not. Mr. Bullock further stated that the Planning Board felt that an ordinance had to be created – if someone wanted to place a manufactured home on a lot in the Town and the Town did not have a designated area zoned for that type of home, they could do so because state law overrides the local ordinance. Having a designated area protects the value of existing homes in the Town.

Hearing no further comments Councilman Chamberlin moved to close the hearing at 6:33 p.m. Mr. Holland seconded the motion and it passed unanimously.

c. Mariah Paving Assessments

Mayor Owen opened the public hearing at 6:34 p.m. on Mariah Circle Paving Assessments. Mayor Owen noted that the Town had received two letters in opposition to the Preliminary Assessment Roll one from Mr. Donald Carlson

and the other from Ms. Antoinette Ellwood. Both are condominium owners in Mariah III.

Hearing no comments, Mr. Holland moved to close the hearing at 6:35 p.m. Dr. Waligroski seconded the motion and it passed unanimously.

**3. *Consent Agenda***

Mr. Holland moved to accept the minutes of the October 8<sup>th</sup> Regular Meeting and the minutes of the October 16<sup>th</sup> Special Meeting as submitted. Mr. Chamberlin seconded the motion and it passed unanimously.

**4. *Old Business – Board of Adjustment Vacancy***

Mr. Holland made a motion to move Kakii Handley up from alternate on the Board of Adjustment to member and to nominate Mr. George Busser and Jim Weaver as alternates. Mr. Burlison, who is currently an alternate, would be the first alternate. Dr. Waligroski seconded the motion. Mr. Adams indicated that he did not know Mr. Weaver to which Mr. Holland reported that he was one of the candidates interviewed for the TDA. The motion passed unanimously.

**5. *New Business***

**a. Call for Public Hearing – Thoroughfare Plan**

Mr. Lawless reported to the Council and audience that the Town had attached itself to Banner Elk's Thoroughfare Planning. The Town is attempting to get the current passing lanes on Beech Mountain Parkway extended and a turning lane at the end of Highway 184 at the entrance to Ski Beech. Lydia McCoy, from the Department of Transportation is expected to attend. The Council agreed to set the Public Hearing for 6:00 p.m. on December 10<sup>th</sup>.

**b. Consider Zoning Ordinance and Map Amendments**

Mayor Owen noted that the Town had received three letters of opposition to the rezoning. The letters are from Mr. Calvin L. Coy who owns BHW-152, Mr. Walter L. Nocito who owns a 6.49-acre tract on Canterwood and Mr. & Mrs. Ted Taylor.

Mayor Owen, noting previous discussion during the Public Hearing, indicated that although not everyone agreed, it was for the protection of the Town to have an area zoned for manufactured homes. Mr. Holland agreed with Mayor Owen.

Mayor Owen reported that he had had a conversation with the Taylor's at Town Hall earlier in the day and he was trying to come up with a solution to help the property owners protect their investment. Mayor Owen then asked the Council and Mr. Paletta if it would be possible to trade lots from the Town's various properties with the individuals who are affected by the proposed rezoning.

After a lengthy discussion with all the pros and cons for trading lots, Mayor Owen asked if the Council had had sufficient time to study the requirements from the Planning Board. Council indicated they had and Mr. Chamberlin made a motion to adopt the Zoning Ordinance and map amendments as submitted. Mr. Holland seconded the motion.

Mr. Adams indicated that he did not feel anyone would bring a manufactured home into the Town limits and pay the property tax and it was a moot issue. After a brief discussion the motion passed unanimously.

- c. Consider Resolution 02-11-01 – Abolishing District W and Levying Additional Occupancy Tax

Mr. Holland moved to adopt Resolution 02-11-02 allowing for the additional 3% occupancy tax to take effect on July 1, 2003. Dr. Waligroski seconded the motion and it passed unanimously.

- d. Consider Resolution 02-11-02 – Confirming Mariah Assessment Roll and Levying Assessments

Mayor Owen noted that the Council was in receipt of two letters from property owners of Mariah North III, Donald Carlson on 11/4/02 and Antoinette Ellwood on 11/5/02, both of whom felt it was unfair that they have to participate in the assessment of Mariah Circle. Mayor Owen noted that the way in which the assessment of the paving had been set and agreed upon by the Council was based upon Mr. Paletta's interpretation of the state law prior to the paving. All abutting property owners are to be billed on an individual basis whether it be a home or a condominium and regardless of the location of the driveway used to enter their property.

Mr. Chamberlin indicated that he felt that it was unfair and it was not the way it had been done before. Mr. Paletta indicated that the way the billing process was set up was based upon state legislation and prior billings that were done in a different manner would have been based upon the property owners requesting the paving and the Town's participation in the process. Mr. Holland indicated that the Council had accepted the process when the paving petitions were accepted.

Mr. Holland moved to adopt Resolution 02-11-02 confirming the assessment roll for Mariah Circle. Dr. Waligroski seconded the motion. Voting for the motion were Adams, Holland, Owen and Waligroski. Mr. Chamberlin voted in opposition to the resolution. The motion passed 4-1.

- e. Consider Resolution 02-11-03

Mr. Lawless informed the Council of the loan financing inquiries that he and the Finance Officer had done with regard to an existing water and sewer bond held by Wachovia Corporation. The refinancing would save the Town \$57,365 over the next 6 year with the reduction of the rate from 7.62% to 5.92%. The interest on the issue is taxable.

Mr. Chamberlin moved to adopt Resolution 02-11-03 Authorizing An Amendment to the Beech Mountain Sanitary District Water & Sanitary Sewer Refunding Bond Dated June 29, 1988 and Issued in the Original Principal Amount of \$1,222,000. Mr. Holland seconded the motion and it passed unanimously.

Mayor Owen expressed his and the Council's appreciation for all the effort that Mr. Lawless and Mrs. Rominger put into maintaining the Town finances.

e. Review Releases

1. Bogel Road Assessment
2. McCall Road Assessment
3. Amerson Road Assessment
4. Brockington Personal Property Tax

Mr. Holland moved for approval of all four releases. Mr. Chamberlin seconded the motion and it passed unanimously.

f. Proposal to hold Beech Mountain Triathlon – Bob Barinowski

Mr. Bob Barinowski, representative for Young Life Committee of the High Country, addressed the Council asking permission to hold a fund raising triathlon on Beech Mountain in June of 2003. The area of interest would be around the Buckeye Lake Recreation facility and would consist of a ½ mile swim, 12½-mile bicycle ride and a 3-mile run. If the Council approves, Mr. Barinowski stated that his next move would be to have the triathlon organizers to look at the area to see it would lend itself to such an event.

Mayor Owen asked if a swim would be permitted in Buckeye Lake to which Mr. Lawless responded that it was permitted within a certain distance of the water intake.

Mr. Holland expressed his support for the idea and the Council all agreed to allow Mr. Barinowski to have the organizers look at the area and to return to the Council with their decision.

g. Consider Contract for FY 2002/03 Audit

Mr. Lawless reported that the audit contract was identical to the years previous, including cost.

Mr. Chamberlin made a motion for the Town to enter into the contract with Holder, Copeland & Associates, P.A. for the 2000/03 audit. Dr. Waligroski seconded the motion and it passed unanimously.

h. Request to Construct Well Outside Requirements of Water/Sewer Ordinance – Curtis Varnado

Mr. Curtis Varnado, quoting Town Ordinance, indicated that his property was less than the 200' from the nearest waterline, which is located on Wild Daisy Lane. This would be more suitable for his needs than drilling a well.

After a brief discussion Mr. Hatch noted that Mr. Varnado would have to put in a pump on the line to get the water from the meter below the property up to the house. Mr. Slusher indicated that it was the Town's responsibility to get the proper pressure to the meter, it was the homeowner's responsibility to get the necessary water pressure after the meter.

Mr. Paletta indicated that it did not appear to be a question that the Council would have to answer, it should be directed to the staff. Mr. Hatch and Mr. Varnado will look into the question of where to place the Town meter and the placement of the line.

## 6. *Staff/Consultant Reports*

### a. Town Engineer's Report.

Mr. Mike Slusher reported that the plans for the Grassy Gap effluent relocation project were still being reviewed by the Division of Water Quality and that the Special Order of Consent, (S.O.C.) was still in review in the Winston-Salem office of D.E.N.R.

Mr. Holland asked about the paving on Skiway Circle that Smith & Sons had indicated would be repaired. Mr. Hatch replied that Mr. Powell had spoken with Mr. Smith and they had agreed that the repairs would be made. Mr. Slusher's report was accepted as submitted.

### b. Public Works Director's Report.

Riley Hatch reported 1) He had taken a look at the Ash Lane – Upper Grouse Ridge intersection, as requested by Mr. Chamberlin at the last meeting, to see whether or not a stop sign should be installed. After a brief discussion Mr. Chamberlin made a motion to have a stop sign installed at the Ash Lane – Upper Grouse Ridge intersection. Mr. Holland seconded the motion and it passed unanimously. 2) Mr. Hatch reported that the figures for the recycling were not complete because they were not available until the 1<sup>st</sup>. 3) Utility patching was scheduled for Thursday. 4) The Christmas lights were scheduled to be put up on Friday. 5) Buckeye Construction is doing repairs on Jack Pine Road. Mr. Lawless indicated that they had completed 300', which was 5% of the total job.

Mr. Holland noted that the Public Works employees had started the CPR classes. Mr. Hatch's report was accepted as submitted.

### c. Town Attorney's Report.

Mr. Paletta had no report.

d. Police Report.

Chief Jay Hefner gave an overview of the report noting that the sign vandalism had been repaired and a wench stolen from the front of a truck had yet to be recovered, but the case was under investigation. The police had an emergency commitment of an individual making threats and the department had made a drug arrest with 7½ pounds of marijuana being confiscated. The report was accepted as submitted.

e. Town Manager's Report.

Mr. Lawless reported the following: 1) The Chamber of Commerce has set their annual meeting for November 19<sup>th</sup> at Jackalopes starting at 5:30 p.m. 2) The Thoroughfare Plan recommendations have been submitted for the Transportation Improvement Plan. 3) The Town has rented a hydraulic lift to help with the Christmas decorations scheduled for Friday. 4) Mr. Lawless reported that he would be attending an e-government workshop on November 14<sup>th</sup>. 5) The Long-Range Planning Committee/Recreation Committee will meet on Friday, November 22<sup>nd</sup> at 10:00 a.m. in the Town Hall

f. The Tax Collection and Building Inspections Report were accepted as submitted.

**7. Other Business**

The Council agreed to discuss Other Business prior to going into Executive Session.

a. Sewer Change Order

Lee Humphries had inadvertently left the asphalt patching out of the contract specifications, the change order was to make this correction as well as changing the time limit from February 3<sup>rd</sup> to February 17<sup>th</sup>. After Buckeye Construction started the work they found the sewer line and the water lines were too close, thus creating a construction problem.

Mr. Holland moved to accept the change order as submitted. Mr. Adams seconded the motion and it passed unanimously.

Mr. Holland reminded the members of the Golf Cart Committee that their comments were necessary before another meeting could be scheduled.

Upon a motion from Councilman Holland, Seconded by Gil Adams, the Council voted to enter into executive session. The motion passed unanimously and the Council took a short break prior to the session.

**8. Executive Session – G.S. 143-318.11 (3)**

Pete Chamberlin voted to come out of executive session at 8:40 p.m. The motion was seconded by Dr. Waligroski and passed without dissent. No action was taken.

9. *Adjournment*

Mr. Adams moved for adjournment at 8:40 p.m. Mr. Holland seconded the motion and it passed unanimously.

Respectfully submitted,

Reba G. Greene  
Town Clerk

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Minutes approved by Town Council on 12/18, 2002.

ATTEST:

  
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Mayor

  
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Town Clerk