

MINUTES
BEECH MOUNTAIN TOWN COUNCIL
JANUARY 13, 2004

CALL TO ORDER

Mayor Rick Owen called the regular meeting of the Beech Mountain Town Council to order at 6:01 p m in the Town Hall. All Council members were present, as well as staff Seth Lawless, Jay Hefner, Riley Hatch, Keith Cook, Engineer Ed Powell and Town Attorney David Paletta. 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*** – Mayor Owen noted that Fred Pfohl could not be present to accept his service award, which will be presented at a future meeting. Mr. Lawless asked that he be appointed Acting Town Clerk until Reba Greene returns to work. Dr. Waligroski moved for the appointment, second by Mr. Adams with all in agreement. Mr. Chamberlin moved to adopt the agenda as amended. Mr. Piquet seconded the motion and it passed unanimously.

2. ***Public Hearing – Proposed Financing Contract w/ B,B&T for Rec. Center*** – Mayor Owen recognized Seth Lawless, who presented a summary of the bids received from Wachovia Bank and B,B,&I. Four banks were asked to respond to a request for proposal (r f p) to finance the proposed Recreation Center. The r f p asked for both a 20 year term and a 15 year term on principal not to exceed \$2 500,000. The type of financing proposed was an installment contract authorized by G S 160A-20. Mr. Lawless noted that the recommended quote, the 20-year term from B,B&T, was an adjustable rate, which would be changed once, ten years after closing. The adjusted rate would be tied to the LIBOR Index, with a rate not to exceed 8.79%. Lawless stated that the B,B,&T 20 year proposal included an initial rate of 3.79% and fees equaling one half of one percent of the amount borrowed.

Mr. Clint Isles asked if any of the other proposals contained an adjustable rate and Mr. Lawless replied that they did not. Mayor Owen asked the audience if there were any other questions or comments. Hearing none, Gil Adams moved to close the public hearing. Paul Piquet seconded the motion and it passed unanimously.

3. ***Consent Agenda – Minutes of Regular Mtg. from Dec. 9th and Special Mtg. Dec. 19th***
Pete Chamberlin moved to accept the consent agenda. Dr. Waligroski seconded the motion and it passed unanimously.

4. ***Special Presentations***

A. Paul Piquet Service Award - Mayor Owen presented Paul Piquet with a Service Award for seven years on the Beech Mountain Board of Adjustment.

B. Police Chief Hefner- Municipal Drug Task Force – Chief Hefner presented an outline of a program developed by area law enforcement officials to create a task force among Avery

County municipal police departments. The program would involve hiring an officer to work through the Banner Elk Police Department on drug investigations in the towns and surrounding areas. A grant and contributions from the participating agencies would fund the first year of the program. Chief Hefner requested a letter of commitment from the Town, necessary to proceed with the grant application.

Mayor Owen asked how many towns would be involved. Chief Hefner stated that efforts were being made to involve Banner Elk, Elk Park, Beech Mountain, Seven Devils, Newland and Sugar Mountain. Mayor Owen followed with a question of how much money the Police Reserve Fund currently held from forfeitures. Seth Lawless replied that only a few hundred dollars was currently in the account, but that several thousand was expected from recently adjudicated cases.

Dr. Waligroski asked Chief Hefner what the new officer would do that the current agencies were not currently performing. Hefner emphasized that the task force officer would concentrate solely on drug eradication in the area, working in multiple jurisdictions through the use of mutual aid agreements. In response to another question from Dr. Waligroski regarding work schedules, Hefner replied that the position would be salaried and that the officer would likely work a varied schedule exceeding 40 hours per week.

Pete Chamberlin moved to authorize the requested letter of commitment, with the Town of Beech Mountain contributing a maximum match of \$4,809. Mr. Piquet seconded the motion and Mayor Owen called for discussion. Mr. Adams asked about the proposed Avery County – D.A.R.T. – Task Force that was a discussion item at the December Council meeting. Chief Hefner stated that he did not know if Avery County was going to create another task force or not, but that the Avery Sheriff's Department and County Manager were aware of the proposed municipal project, and were willing to write a letter of support for the grant application.

Dr. Waligroski asked about a vehicle for the proposed officer. Chief Hefner stated that the grant budget included funds for a used Highway Patrol vehicle. Gil Adams asked about the selection process. Chief Hefner stated that he hoped that the job could be advertised in the spring and interviews conducted shortly thereafter. Following several additional questions regarding operations, Mayor Owen called for a vote, and all supported the motion.

5. Old Business – Proposed Sale of AA-431 and CR-211 – Paul Piquet moved to sell AA-431 based on the terms previously discussed and advertise the sale for upset bid. Ed Waligroski seconded the motion and it passed without dissent. Mr. Piquet then moved to accept the previously discussed offer for CR-211, and advertise the sale for upset bid. Gil Adams seconded the motion and it also passed without dissent.

6. New Business

A. Resolution 04-01-01 Approving Financing Terms – Seth Lawless listed the steps that would need to be taken for the Recreation Center project to proceed. The construction bids are being opened on December 15th, and Council will be asked to reconvene soon thereafter to consider them. If an acceptable bid is received, the Town will then make application to the NC Local Government Commission to have the project financing approved.

Mayor Owen asked the Town Attorney, given that Tourism Development Authority (TDA) administered occupancy tax proceeds will be used to pay a significant portion of the proposed

debt service on the project, would the Town be able to enter into an agreement with the TDA to guarantee the loan repayment. Several comments were made from the audience regarding the TDA authorizing resolution, which mandated that 1/3rd of the occupancy tax collections be used to finance the Recreation Center. Seth Lawless stated that the resolution, and the local bill that allowed for the creation of the TDA, mandated the 1/3rd for tourist-related capital expenditures, but not that specific project. Town Attorney Paletta agreed to research the matter and draft a proposed agreement quickly. Gil Adams moved for the approval of the resolution. The motion was seconded by Pete Chamberlin and passed by a vote of 5-0.

B. Appointment of TDA Vice Chair – Pete Chamberlin moved to appoint Charlie Burleson TDA Vice Chairman. Dr. Waligroski seconded the motion and it passed unanimously.

C. Proposed Budget Amendment – Seth Lawless explained that the \$1,800 requested for Building Inspections Department software would allow the Inspector to better document inspections for all new structures, records now kept manually. Pete Chamberlin moved to accept the amendment, seconded by Paul Piquet with all in agreement.

D. Tax Release – Mr. Chamberlin made a motion to approve the release, which was seconded by Mr. Piquet and carried unanimously.

7. Staff/Consultant Reports

A. Town Engineer's Report - Mr. Powell updated Council on the status of both the Pond Creek and Grassy Gap Wastewater Treatment Plant Improvement projects. Mr. Chamberlin noted that the Pond Creek project was behind the S O C schedule. Seth Lawless noted that the State Revolving Loan Fund, which will finance the project, has scheduled funding for the first quarter 2005, but that it could be moved up as soon as 3rd quarter 2004. This is an acceptable reason for missing S O C deadline, and the Winston-Salem Regional D E N R Office is aware of the situation.

B. Public Works Director's Report – Riley Hatch reviewed departmental activities over the past month, emphasizing trash collection efforts over the Christmas holidays and the repair of several water leaks.

C. Town Attorney's Report – No report.

D. Police Report – Chief Hefner reviewed the monthly Police Department activity report, which is on file in the Office of Town Clerk.

E. Town Manager's Report - On file in the Office of Town Clerk.

F. Quarterly Financial Report - On file in the Office of Town Clerk.

G. TDA Quarterly Report - On file in the Office of Town Clerk.

H. Tax Collection Report - On file in the Office of Town Clerk.

I. Building Inspections Report - On file in the Office of Town Clerk.

8. **Executive Session** – Pete Chamberlin moved to have Council enter into executive session at 7:10 p.m. Paul Piquet seconded the motion, which passed unanimously. Upon a motion by Pete Chamberlin, seconded by Dr. Waligroski and agreed to by all, Council came out of executive session at 7:46. Mayor Owen reported that as a result of the session, he and the Town Manager would write a letter to investigate the availability of property, with the intent to determine its use as possible green space.

9. **Other Business** – Mr. and Mrs. Lemke and Mr. and Mrs. Borren of Seminole Trail requested time to address Council over the lack of Town services available to residents on Seminole Trail. Mr. Lemke asked Council what he and his neighbors were getting for their tax dollars. Mayor Owen explained that the Seminole Trail properties were subdivided as part of a development for lots 10 acres and larger. By so doing, the subdivision is exempt from Town regulations. This is the reason that no Town utilities are located on Seminole Trail, why the road is private, and why garbage collection is not provided there. Council expressed sympathy for the residents of Seminole Trail but stated that there was little that could be done to alleviate their situation.

Upon a motion by Paul Piquet, second by Gil Adams, the meeting was recessed at 8:10 p.m. until Tuesday, January 20th at 5:00 p.m.

RECONVENE

Mayor Owen reconvened the January 13th meeting of the Beech Mountain Town Council at 5:02 on Tuesday, January 20th at the Beech Mountain Town Hall. All Council members were present, as well as staff Riley Hatch, Seth Lawless and Russ Reiman; Nick Gripp from the firm of Overcash and Demmitt, and a number of other interested parties.

Mayor Owen announced that two items were being considered at this reconvened session. The first was to recognize Fred Pfohl for his service as the first Chairman of the Beech Mountain T.D.A. Mayor Owen presented a plaque to Mr. Pfohl, who was warmly received by the audience.

Mayor Owen introduced the second item under consideration of the proposed Recreation Center bids, by asking Town Manager Seth Lawless to review them with the Council and public. Mr. Lawless read the low bid and the description of each alternate.

Mayor Owen stated that in addition to reviewing the bids, Council would be discussing the financing and operation of the Center, and that the public would be given an opportunity to speak at some point during the evening. The Mayor gave a brief review of action taken by Council on January 13th on the financing package, and brought everyone up to date on the role occupancy tax funds would have on repaying a part of the debt service on the Center.

Paul Piquet recommended the elimination of two alternates, A-3 and A-4, which would trim approximately \$73,000 from the project cost. A-3 called for mechanical window shades and A-4 was the addition of acoustical panels.

Pete Chamberlin stated that he had concerns about the location of the building, how much use it would receive, and the preliminary operating budget presented by Mr. Lawless. Mr. Chamberlin

asserted that the preliminary operating budget did not include insurance costs, equipment replacement costs or a sufficient cleaning allocation. Mr. Lawless acknowledged the lack of insurance costs, but stated that he felt comfortable with the other projections.

Paul Piquet asked the Council to consider the savings on the annual debt service created by appropriating \$200,000 unrestricted fund balance, thereby reducing the amount financed.

Pete Chamberlin expressed reservations about the lack of parking for large events, and asked those in attendance who were in favor of the project to strongly consider all of the details involved in operating the proposed Center.

Mayor Owen complimented Mr. Chamberlin for expressing his concerns, and asked all of those in attendance to help explain the potential impact on the Town's General Fund to members of the public who could not attend the meeting.

Dr. Waligroski expressed concern about the Town's inability to enter into a binding agreement with the T D A to ensure future dedication of the occupancy tax funds to the Center. Paul Piquet expressed disappointment at not being able to enter into a contract with the T D A, as well, but felt as though the Council's power of appointment served as a check against any change in attitude toward the project by the T D A.

Gil Adams stated that he was not opposed to the project, but was against the elevated time frame. Mr. Adams stated that the Town had many projects "on their plate" and that funding the Center would be easier several years from now.

Mayor Owen asked for comments from the audience. Brian Barnes, speaking as a T D A member, said he supported the Center, and that fears of the T D A potentially changing their view of the project were unlikely because the proposed building is the centerpiece of the Town's Master Recreation Plan. Mr. Barnes also noted that the T D A is responsible for promoting conventions and meetings, and that facilities for such groups are currently not available. Finally, Mr. Barnes stated that Beech Mountain Club facilities are usually not available to visitors, and that the Town needed recreational amenities to help promote the area.

Mr. Adams commented on the existing park and trail-system, noting that they were currently available for use by the public and can be used to help promote the Town.

Mr. Piquet made mention of the fact that the Town sought an increase in the occupancy tax specifically to fund the proposed building.

Mayor Owen reminded the audience that the initial estimate of the building cost was \$1,000,000, and that one of the major reasons the architectural firm was hired was to develop accurate cost estimates. Mr. Owen stated that the new spending would comprise almost 10 percent of the General Fund budget.

Patti Buesser stated that she felt Beech Mountain was a tourist-based economy, and ten percent of the budget being spent on recreation was not at all out of proportion.

Calder Smoot asked the Council to consider the low cost of borrowing money, and noted that the T D A, and previously the Economic Development Commission, have always supported the

project

Randy Corn also mentioned the advantage of borrowing money in the current interest rate environment, noting a 40-year low in rates.

Candi Catoe made comments on the streetscape improvements made in the Town of Banner Elk, and that the area is experiencing rapid growth. Mrs. Catoe believes the Center will get used and will be an amenity for the Town.

Kathy Carini stated that the facility would open up new business opportunities for hosting large meetings.

Jim Brooks commented on how most property owners lack access to the Beech Mountain Club. Mr. Brooks feels as though the Town could set a higher property tax rate and fund other public improvement projects.

Bob Langston stated that finding a place for visiting groups to hold meetings has been an ongoing problem in the area.

Kakii Handley expressed concerns about the Town's water and sewer systems. Mrs. Handley asked if the utility improvements would now take a back seat to the Recreation Center. Mayor Owen replied that some of the planned utility improvements might be funded from the State Low Interest Loan – Water and Sewer Program as opposed to pay as you go; but that they would not take a back seat to recreation.

Pete Chamberlin stated that he is for the project, and that his questions were only aimed at making sure as many of the details had been thought out in advance as possible. Mr. Chamberlin added that the paving of the lower portion of Pinnacle Ridge Rd. has led to the development of new homes on or near the bottom of that road, and he believes the Center will have a similar effect. Paul Piquet added that the recent growth in the tax base would offer additional revenue to help operate and pay for the Center.

Fred Pfohl expressed thanks to many of the people in the room for their input on the project. He stated that the project wasn't being rushed, and noted the good use of the Buckeye park this past summer. Mr. Pfohl acknowledged that the Center may not be an overnight success, but would prosper with good management, oversight and community involvement.

Rick Miller stated that he was in agreement with the past comments supporting the project, and asked Council to consider that construction costs are rising 5% to 7% a year.

Members of the Town Council discussed the qualifications of the low bidder and various options for negotiating with the lowest responsible bidder to reduce the cost of the construction contract with Nick Grippe, representing Overcash and Demmitt Architects. Mr. Grippe stated that the lead architect couldn't attend the meeting due to a family emergency, and that he would inform the Town Manager when both a recommendation as to the bids and a list of potential cost saving items could be generated. These tasks would likely take several days.

Pete Chamberlin asked if the Charter Hills Neighborhood Park Project funds remained unspent. Seth Lawless replied that \$55,000 had been reserved for the project, but never appropriated by

Town Council. Mr. Chamberlin expressed his interest in working on operating budget estimates

Several of the bid alternatives were discussed, with Paul Piquet advocating the elimination of the motorized window shades and Dr. Ed Waligroski stating that the acoustical panels should remain part of the project. Mayor Owen asked the Town Manager about a time frame for considering the architect's recommendation and the Manager's new financing proposal. Mr. Lawless stated that all remaining items could be considered at the February Regular Meeting, and if approved, presented to the NC Local Government Commission at their March meeting.

By consent, the meeting adjourned at 6:44 p.m.

Minutes approved by Town Council on Feb 10, 2004.

ATTEST:



Mayor



Acting Town Clerk