

MINUTES
BEECH MOUNTAIN TOWN COUNCIL
Regular Meeting – January 8, 2013

I. CALL TO ORDER

Mayor Owen called the regular meeting of the Beech Mountain Town Council to order at 3:00 p.m., Tuesday January 8, 2013 in the Town Hall Council Chambers. Other Council Members present were Alan Holcombe, Paul Piquet, Rick Miller and Cindy Keller. Town Attorney Stacy C. Eggers, IV. was present. Staff members present were Town Manager Randy Feierabend; Town Clerk Jennifer Broderick, Town Planner James Scott, Fire Chief Robert Pudney, Public Utilities Director Robert Heaton and Public Works Director Riley Hatch.

II. Invocation – John Troxler presented the invocation.

III. Pledge of Allegiance – All present joined in the Pledge of Allegiance to the flag.

IV. Adoption of Agenda – Mayor Owen stated that item d. ‘*Tourism Development Authority Appointment*’ and item e. ‘*Appointment of Tourism Development Authority Chairperson and Vice Chairperson*’ would be removed from the agenda under Section IX. Old Business. Mayor Owen stated that the agenda would stand as amended.

V. Approval of the Minutes

a. November 13, 2012 Closed Session – Councilman Holcombe motioned to approve the November 13, 2012 Closed Session Minutes. Vice Mayor Piquet seconded the motion and the vote passed unanimously.

b. December 11, 2012 Regular Meeting – Vice Mayor Piquet motioned to approve the December 11, 2012 Regular Meeting Minutes. Councilman Miller seconded the motion and the vote passed unanimously.

c. December 11, 2012 Closed Session – Councilman Holcombe motioned to approve the December 11, 2012 Closed Session Minutes. Councilman Miller seconded the motion and the vote passed unanimously.

VI. Public Hearing

a. Public Hearing for Short Term Rentals – Vice Mayor Piquet motioned to open the public hearing. Councilman Holcombe seconded and the motion passed unanimously. Town Planner James Scott stated that rentals are not mentioned in our current ordinance. This ordinance is designed to state that rentals are permitted in a single family residency. Mayor Owen stated that the intention of this ordinance was to add short term rentals to our Zoning Ordinance. Hearing no more public comment Vice Mayor Piquet motioned to close the public hearing. Councilman Holcombe seconded the motion and the vote passed unanimously.

b. Public Hearing for Amending Sign Regulations – Councilman Miller motioned to open the public hearing. Vice Mayor Piquet seconded and the motion passed unanimously. Town Planner James Scott stated that there are no provisions in the Towns ordinance for signs for yard sales, birthday parties, open house signs, etc. The Planning Board determined that what was best for the Town was not to prevent these types of signs but to permit them and provide guidelines. Mayor Owen stated that the proposed ordinance has been available to the public since the public hearing was scheduled. Hearing no more public comment Councilman Holcombe motioned to close the public hearing. Vice Mayor Piquet seconded and the motion carried unanimously.

VII. Public Comment

Fred Pfohl of 501 Beech Mountain Parkway commended the sanitation crew for electing to work over the holiday period; noting that debris along the sides of roads was nil.

VIII. New Business

a. Regulations Governing In-Lake Activities and Uses of Buckeye Lake – Mayor Owen stated that this plan has been something that staff has been working on for some time now. Mayor Owen stated that Council has a revised Buckeye Lake Protection Plan before them that is a modified version of the plan they received in their agenda packets. Town Planner James Scott provided Council with an explanation of the changes to the plan. Mr. Scott stated that in order for Buckeye Lake to be used for recreational activities the Town has to have a plan in place that is approved by the Town Council and by the North Carolina Department of Environment and Natural Resources. Mr. Scott stated that Council had been provided the feedback that had been received by staff from North Carolina Department of Environment and Natural Resources pertaining to the plan. Mr. Scott stated that the plan and the ordinance mirror each other. Mr. Scott stated that Jay Frick, of North Carolina Public Water Supply, and Attorney Eggers have provided further guidance which is in the version that Council has before them. Mr. Scott reviewed these changes individually. Vice Mayor Piquet stated that section IV. Activities and Laws L. of the plan addressed leashing pets. Vice Mayor Piquet stated that the leash law should be consistent with that which is already in the Towns Ordinance. Councilwoman Keller questioned the fence requirement under section II. B. which stated that the primary access to the lake shall be gated and locked at all times. Manager Feierabend responded that if Buckeye Lake remains classified as a Class I then the Town will have to secure the entire lake because becoming a recreational lake means that the access points to the lake would need to be secured at night. Public Utilities Director Robert Heaton stated that the Environmental Protection Agency is reviewing their security policy for wastewater plants, water plants and other areas. Mr. Scott explained that what Mr. Heaton was discussing, pertaining to the Environmental Protection Agency, was separate from what was being discussed right now. Mr. Scott stated that one of the issues with the original plan was how the Town was going to control access points and that the solution was to lock up the access points at night as shown on the map before Council. Councilwoman Keller asked about the Genesis site and Genesis being potentially locked out. Manager Feierabend stated that the goal of locking this area off is to lock off the pier from dusk to dawn. Councilwoman Keller stated that until the lawsuit with Genesis was settled she wanted to ensure that they were not locked out. Manager Feierabend stated that this gate could be moved down further. Mayor Owen sought Attorney Eggers advice about the leash law policy. Attorney Eggers

stated that that Council could vote to approve this plan and grant staff the ability to make sure that the Town had one policy in place for leashes or that Council could table the matter until Mr. Scott could get back with the leash wording. Councilwoman Keller questioned the rule that people could not fish from their own boat in the lake but could from Town owned boats. Manager Feierabend stated that this was a State law. The issue of paddleboats came up. Manager Feierabend stated that paddleboats were permissible as long as no feet went into the water and went on to state that the row boats that the Town had were believed to be over 8' long thus conforming to their rule. Manager Feierabend stated that overnight camping was prohibited for right now in this plan because the State does not want the Town to permit this type of activity until there are sanitary services available. Manager Feierabend also informed everyone that dogs were not to go into the lake. Mr. Scott returned to the meeting with the State rules governing water quality protection for use as reservoirs confirming that they did not contain a leash law. Mayor Owen instructed staff to remove the reference to leash. Councilman Miller motioned to approve the plan as amended. Councilman Holcombe seconded the motion and the motion passed unanimously. Regulations Governing In-Lake Activities and Uses of Buckeye Lake is attached as Exhibit A and incorporated by reference as if fully set out within these minutes.

b. Buckeye Lake Protection Ordinance – Mayor Owen stated that the ordinance before Council mimics the plan that was just adopted. Councilman Holcombe motioned to approve the ordinance as the plan was amended. Vice Mayor Piquet seconded the motion and the vote passed unanimously. Ordinance No. 2013-01 is attached as Exhibit B and incorporated by reference as if fully set out within these minutes.

IX. Old Business

a. Vote on Short Term Rentals – Mayor Owen opened the floor for Council discussion. Councilwoman Keller asked about hotels and whether there was a law governing the maximum number of people permitted in one room. Fire Chief Robert Pudney stated that the North Carolina Fire Code does not govern this. Town Planner James Scott stated that every building has an occupancy rating which is calculated based on square footage. Councilman Holcombe motioned to approve. Vice Mayor Piquet seconded the motion and the vote passed unanimously. Mayor Owen informed the public that this conversation may still continue and that this was just a first step which would add some clarity in moving forward. Ordinance No. 2013-02 is attached as Exhibit C and incorporated by reference as if fully set out within these minutes.

b. Vote on Amending Sign Regulations – Mayor Owen asked if Council had any questions or concerns. Councilwoman Keller asked about the terminology in C.1. 'turns' and whether this should say 'intersections.' Councilwoman Keller also asked about the ordinance only being applicable for weekends. Mr. Scott stated that it was not the intent of the Planning Board to give carte blanche and that this was a good point and why this was open for discussion and interpretation. Councilman Miller asked if the open house signs were for homeowners and realtors. Mr. Scott stated yes. Mayor Owen stated that not allowing this during the week is going to create issues. Vice Mayor Piquet stated that a timeframe should be designated for the event instead of dictating which days the event could take place. Mayor Owen stated that he felt an open house was different then an event. Mayor Owen felt that realtors should put these signs up for open houses the same day and remove them the same

day. Councilwoman Keller was in agreement. Mr. Scott stated that the Planning Board was trying to avoid having a lot of different types of small sign regulations. Councilman Holcombe stated there is a difference in these signs because some of these signs are business signs. Councilman Miller questioned how yard sale signs would be handled. Mr. Scott stated that yard sales would fall under this new definition of commercial because they would be making money. Mayor Owen advised staff that Council was fine with having temporary signs and that there was a consensus amongst Council that these signs should be permissible during the week as well. Mayor Owen suggested that staff consider differentiating between commercial and private signs. Mr. Scott stated that there was also the question of placing the sign on the Town right of way. Council sent the proposed sign ordinance back to the Planning Board for consideration along with guidelines that the Planning Board consider allowing the sign to be up 24 hours before the event, 48 hours during the event and immediately thereafter removed. Council also wished for the section pertaining to the adjoining property owner to be stricken.

c. Board of Adjustment 3rd Alternate Appointment – Councilman Miller motioned to appoint Carl Marquardt as 3rd Alternate to the Board of Adjustment. Vice Mayor Piquet seconded the motion. Councilman Holcombe recused himself from the vote and the vote passed unanimously amongst the rest of Council.

X. Town Manager and Staff Reports

Parks and Recreation Report – Manager Feierabend stated that Council had the Recreation Report for December before them.

Lift Station – Manager Feierabend extended the floor to Public Utilities Director Robert Heaton. Mr. Heaton stated that the pumps for the lift station project were supposed to be shipped by January 14, 2013. Manager Feierabend stated that the contractor may be penalized for not meeting the deadline and that this would be determined by Town Engineer Marion Rothrock.

Approve Settlement for Festival of Gnarnia Costs – Manager Feierabend stated that Mr. Van Ling, of Upstanding Entertainment LLC, has upped the offer from the \$5,000 that has already been given to the Fire Department for the Town's services during the Gnarnia Festival. Manager Feierabend stated that Mr. Van Ling wished to offer the Town an additional \$4,500 settlement. Councilwoman Keller motioned to approve the additional \$4,500 settlement offer. Councilman Holcombe seconded the motion and the vote passed unanimously.

Tree Cutting Request on Town Property – Manager Feierabend stated a homeowner has asked for permission to cut some trees that are on Town property to enhance their view. Manager Feierabend stated that the ordinance calls for staff to make these decisions but that since the trees were on Town property staff thought it would be prudent to get instruction from Council. Town Planner James Scott stated that the property that had submitted a request was located at 324 Pinnacle Ridge Road. Mr. Scott showed Council picture images of the tree removal that was being requested. Mr. Scott stated that staff does not feel like topping is going to be an appropriate look. Staff is recommending that Council either permit the removal of the 3 to 4 trees or allow the trees to be limbed. Councilman Miller asked if this has been approved before by Council. Staff answered yes. Manager Feierabend stated

that there are several dead hemlocks on the Towns property that need to be removed for fire preventative measures. Manager Feierabend stated that as part of the approval process the homeowners have agreed to pay for these hemlocks to be removed as well. Mayor Owen stated that an arborist should perform this work. Mayor Owen asked if this was the homeowners' property if staff would be permitting this cutting. Staff stated yes. Councilwoman Keller stated that she was against cutting a tree down. Councilwoman Keller asked if these people should not be directed to properly prune these trees for their view. Mayor Owen stated that an arborist could be appointed to provide a professional opinion. Mayor Owen asked if Council wanted to get the Tree Board involved, get a professional opinion from an arborist and or allow an arborist to go out there and do the work. After much discussion Council instructed staff to inform the homeowner to work with Arborist Tony Hunter to provide a professional opinion on what should be done with the trees. At that point in time the homeowner was welcome to hire any arborist of their choosing to complete the work as recommended by Mr. Hunter and to remove the 4 dead hemlocks. Staff was instructed to ensure that all of the timber that is felled is removed by the homeowner as well.

Mayor Owen stated that Council would take a short break at 4:13 p.m.

XI. Closed Session – Pursuant to NC GS 143-318.11(a)(3) Attorney Client Matters; NC GS 143.318.11(a)(5) Potential Acquisition of Real Property – Upon motion by Councilman Miller at 4:21 p.m., seconded by Mayor Owen the Council voted unanimously to go into closed session pursuant to NC GS 143-318.11(a)(3) for Attorney Client Matters; NC GS 143.318.11(a)(5) Potential Acquisition of Real Property. Vice Mayor Piquet motioned to exit closed session at 4:58 p.m., which was seconded by Councilman Holcombe. The motion passed unanimously.

XII. Other Business

Sign at the Bottom of the Mountain – Councilman Miller questioned whether or not it was a good idea to have a sign at the top of the mountain which advised of hazardous road conditions and the type of vehicle that was needed. Council directed Attorney Eggers to research this issue further.

XIII. Adjourn – Councilman Miller motioned to adjourn the meeting at 5:11 p.m., which was seconded by Vice Mayor Piquet. The motion passed unanimously. The meeting was adjourned at 5:11 p.m.

Minutes approved by Town Council on February 12, 2013.

Richard H. Owen, Mayor

ATTEST:

Jennifer Broderick, CMC
Town Clerk