

MINUTES
BEECH MOUNTAIN TOWN COUNCIL
Regular Meeting – March 12, 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 March 12, 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, Finance Officer Nancy Johnson, Town Planner James Scott, Fire Chief Robert Pudney, Public Utilities Director Robert Heaton and Public Works Director Riley Hatch.

II. Invocation – Dewey ‘Cyclone’ Brett 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 the agenda would stand as presented.

V. Approval of the Minutes

a. February 12, 2013 Regular Meeting – Councilman Holcombe motioned to approve the February 12, 2013 Regular Meeting Minutes as amended. Vice Mayor Piquet seconded the motion and the vote passed unanimously.

b. February 12, 2013 Closed Session – Vice Mayor Piquet motioned to approve the February 12, 2013 Closed Session Minutes. Councilman Holcombe seconded the motion and the vote passed unanimously.

VI. Public Hearing

a. Public Hearing to Amend Sign Regulations in Beech Mountain for Temporary, Small Scale Event Signs – Councilman Miller motioned to open the public hearing. Councilman Holcombe seconded the motion and the motion passed unanimously. Town Planner James Scott stated that this proposed amendment pertains to yard sale signs, open house signs and the like. These types of signs are currently not permissible and this ordinance would permit these types of signs to be put up. Mr. Scott stated that the revisions that Council had asked to see were a part of this proposed ordinance and were as follows: changed wording from ‘turns’ to ‘intersections,’ removed provision that allowed adjacent owner to remove sign in right of way, permitted signs to be erected anytime during the week 24 hours prior to the event and must be removed within 48 hours from the start of the event. Calder Smoot of 608 Beech Mountain Parkway asked for clarification on the hours these signs could be erected. Mr. Scott stated that signs could be erected 24 hours prior to the event and that the sign needed to be removed 48 hours after the start of the event. Mr. Smoot inquired how this would affect banners that were put up for summer social events. Mr. Scott stated that there was a different ordinance for that type of signage. Hearing no more public comment

Councilman Miller motioned to close the public hearing. Vice Mayor Piquet seconded the motion and the motion carried unanimously.

b. Public Hearing to Amend Regulations Regarding the Number of Kitchens in Single Family Dwellings – Vice Mayor Piquet motioned to open the public hearing. Councilman Miller seconded the motion and the motion passed unanimously. Town Planner James Scott stated that there are some old ordinances in the Towns Code Book that prohibited single family residency's from having more than one kitchen. This provision had been included to prevent single family homes from being used as multi-family structures. The Planning Board has determined that this is not a reasonable basis for making a distinction between single family and multi-family dwellings. Mr. Scott stated that in addition to the originally proposed amended regulation the Planning Board would like to propose an additional modification. Mr. Scott stated that instead of retaining the restriction of kitchens being permissible in guest suites or accessory structures the modified request prohibits multiple utility services for single family homes and related structures. Mr. Scott requested that Council schedule a new public hearing to consider these new modifications. Hearing no more public comment Vice Mayor Piquet motioned to close the public hearing. Councilman Holcombe seconded the motion and the motion carried unanimously.

c. Public Hearing to Amend Sign Regulations in Beech Mountain for Open, Closed and Vacancy Signs – Councilman Miller motioned to open the public hearing. Vice Mayor Piquet seconded the motion and the motion passed unanimously. Town Planner James Scott stated that currently neon signs are prohibited along with signs having interior lighting. Mr. Scott stated that the community has shown support for permitting one type of sign with lighting or neon, having no flashing or blinking parts, to be located inside a building. Fred Pfohl of 240 Sawmill Branch Road stated that many years ago there had been a vision for this Town to be a little different from the rest of the world. Mr. Pfohl requested that the Town consider what can be done other than neon signs to get the same message across that businesses desired. Clark Kennedy of 103 Locust Ridge Road stated that there are some businesses that are newer that do have smaller neon signs that say they are open in their window. Mr. Kennedy stated that these types of signs help to let people know that these businesses are there. Mr. Kennedy stated that if people do not know that they are there then this could ultimately hurt the Town's economy. Mr. Scott stated that because some of our businesses are open irregular times of the year neon signs could be an asset. Hearing no more public comment Vice Mayor Piquet motioned to close the public hearing. Councilman Miller seconded the motion and the motion carried unanimously.

VII. Public Comment

Debbie Canady of 112 Lakeledge Circle asked for clarification on the most recent Tourism Development Authority Appointment. Mayor Owen apologized for any confusion on the most recent appointment and pointed out that this was the second time that Council had considered this appointment and had arrived at the same selection.

Fred Pfohl of 240 Sawmill Branch Road stated that garbage cans on Tamarack have been hit by the bears and asked that Council try to encourage individuals on the mountain to take their garbage to the recycling center during this time of the year.

Theres Barry of 100 Squirrel Lane stated that rental agencies need to place signs up to encourage renters and cleaners to take their garbage to the dump.

VIII. New Business

a. Resolution of Appreciation for Calder Smoot for Having Served as Chairperson for the Tourism Development Authority – Mayor Owen stated because of the many years Calder Smoot had served on the Tourism Development Authority Board Council wanted to recognize Mr. Smoot's service to the community. Vice Mayor Piquet read aloud the resolution of appreciation. The resolution pointed out that Mr. Smoot had been a member of the Tourism Development Authority since its first meeting on January 17, 2002; served as the Chairperson to the Beech Mountain Tourism Development Authority six of the last nine years and continued to serve on the Tourism Development Authority Board. There was an ovation from all present. Vice Mayor Piquet motioned to adopt the resolution. Councilman Holcombe seconded the motion and the vote passed unanimously. Mayor Owen thanked Mr. Smoot for continuing to serve on this board. Resolution No. 2013-01 is attached as Exhibit A and incorporated by reference as if fully set out within these minutes.

b. Tourism Development Authority Request to Take Over Responsibility of Administering Channel 2 – Tourism Development Authority Chairperson Brian Barnes stated that it was the Tourism Development Authority's belief that there is an opportunity that the Town is missing out on with Channel 2. Mr. Barnes stated that Channel 2 is only available to the Town's Charter cable customers. The Tourism Development Authority thinks that this station is an excellent outlet for information for the community. Mr. Barnes stated that Channel 2 could be used as a running commercial, with given parameters, for the mountain. Mr. Barnes stated that there is aerial video, winter video and other video snippets that the Tourism Development Authority has created throughout the years that they would like to see placed on Channel 2. Mayor Owen stated that in the past the Town has been asked to have Channel 2 turned over and that there are some logistics that needed to be addressed. Mayor Owen stated that in order for this channel to remain free certain things need to remain in place. Manager Feierabend stated one of the criteria that needed to be met was that there remain no commercial advertising. Manager Feierabend stated that it was his belief that through staff supervision the Tourism Development Authority would be able to take over the responsibility of administering Channel 2. Manager Feierabend stated that staff would look into the criteria further. Mayor Owen stated that his question was how much the Tourism Development Authority would be able to change the content. Mayor Owen wanted to ensure that the Tourism Development Authority would be able to use Channel 2 the way they envisioned. Vice Mayor Piquet stated that it would still need to be used for special Town messages such as the garbage schedule. Councilwoman Keller wanted to know how often it would be updated and who has the knowledge on how to work with this technology. Mr. Barnes stated that currently the Town is working with James True and that Town Planner James Scott also had knowledge of the system. Manager Feierabend stated that he would propose a period of overlapping time with Mr. True no longer being used by the beginning of the new fiscal year. Mr. Barnes stated that Channel 2 would hopefully be a great tool to disseminate information. Mayor Owen stated that Council was in support and gave staff and the Tourism Development Authority the green light to look into the logistics and make the idea happen. Mayor Owen stated that if a maintenance contract needed to be established then staff should bring this back to Council.

SWOT Analysis – Tourism Development Authority Chairperson Brian Barnes stated that the Tourism Development Authority was currently in the process of performing a Strengths, Weaknesses, Opportunities and Threats Analysis and would like to have Council input. Mr. Barnes stated that the Tourism Development Authority will be utilizing the responses to help create goals for the upcoming fiscal year. Mr. Barnes stated that responses could be sent to Tourism Development Authority Coordinator Amy Morrison or sent directly to him.

c. Resolution to Amend the Towns Personnel Policy – Mayor Owen stated that this proposed amendment is in reference to recreation membership for Town staff. Manager Feierabend stated that this amendment provides clarification of the intent of the original policy. Vice Mayor Piquet motioned to approve the resolution. Councilman Holcombe seconded the motion and the vote passed unanimously. Resolution No. 2013-02 is attached as Exhibit B and incorporated by reference as if fully set out within these minutes.

d. Property Tax Release – Councilman Holcombe motioned to approve the tax release. Vice Mayor Piquet seconded the motion and the vote passed unanimously.

e. Cell Tower Application Fee – Town Planner James Scott stated that it takes substantial staff time to process these types of application request and that the current \$150 fee is completely inadequate. Attorney Eggers advised that as the fee does relate to zoning a public hearing was being recommended. Vice Mayor Piquet motioned to schedule the public hearing for Councils next regularly scheduled meeting. Councilman Holcombe seconded the motion and the vote passed unanimously.

f. Request to Schedule Public Hearing to Amend Utility Reconnect Fee – Public Utilities Director Robert Heaton stated this idea to make this change started about a year ago and that currently the reconnect fee is \$500. Mr. Heaton stated that with the way the current ordinance is written staff is losing money. Mr. Heaton stated that staff has looked over other utility program policies throughout the state to come up with the proposed amendment. Mr. Heaton stated that a lot of resort communities on the coast handle business this way. Mr. Heaton stated that the idea was to drop the \$500 reconnect fee and in lieu of this fee to charge a \$100 fee plus the appropriate base charge times the number of months disconnected. This penalty would not exceed one year. Councilwoman Keller asked if this included both water and sewer rates. Mr. Heaton stated yes. Vice Mayor Piquet motioned to schedule the public hearing for the next regular scheduled Council meeting. Councilman Miller seconded the motion and the vote passed unanimously.

g. Request to Schedule Public Hearing for Watauga County Comprehensive Transportation Plan – Town Planner James Scott stated that for the past 2 years now he has participated on a committee with other municipalities and counties to develop a comprehensive transportation plan. Mr. Scott pointed out that roughly 99.5% of this plan has nothing to do with Beech Mountain but still needs to be adopted by the Town. Mr. Scott stated that should Council choose to hold a public hearing other individuals would come to present the plan to Council at that meeting. Mr. Scott stated that this plan will assist with Beech Mountain developing a potential emergency egress road. Mr. Scott stated that the additional egress is from Presnell School Road to Cherry Gap Road. Mr. Scott stated that

there is a privately owned graded road that may permit this option to work. Mr. Scott stated that bicycling is addressed in the plan as well with consideration being given for the potential widening Highway 184 to include a bike lane. Mr. Scott stated that a benefit of this plan is that it places Beech Mountain on the radar for potential funding from the North Carolina Department of Transportation. Mr. Scott stated that the plan asks for a 4' shoulder for bicycles on Highway 184. Councilman Miller stated that the last time Phil Trew gave a presentation to the High Country Council of Government he was very enthusiastic about this plan. Councilwoman Keller motioned to schedule a public hearing on Councils next regularly scheduled meeting. Councilman Miller seconded the motion and the motion and the vote passed unanimously. Mayor Owen stated that this will replace the old thoroughfare plans and that in the future the North Carolina Department of Transportation was not going to consider funding for anything that was not included in a comprehensive plan.

h. Proposed Amendment to Town's Junked Car Ordinance – Mayor Owen stated that Council may want to consider holding a public hearing on this proposed amendment even though it was not part of the Town's zoning ordinance. Town Planner James Scott stated that currently a junked vehicle must also be an abandoned vehicle before the Town can take action. In order to be considered abandoned the vehicle must be on public property or on someone else's property. This proposed amendment would permit staff to move such vehicles. Attorney Eggers stated that the amendment is written in such a manner that someone wishing to do automotive repair on the mountain would be prohibited from this sort of activity. Councilman Miller stated that if a repair shop was in the Towns commercial zoning district then it would be permissible. Attorney Eggers confirmed that this statement was correct. Councilman Miller motioned to schedule a public hearing for Councils next regularly scheduled meeting. Councilman Holcombe seconded the motion and the vote passed unanimously.

i. Budget Amendment Request for Contract Services – Mayor Owen stated that the Towns services for building inspections are contracted out and that staff has to estimate these costs. Councilman Holcombe motioned to approve the budget amendment. Vice Mayor Piquet seconded the motion and the vote passed unanimously.

j. Budget Amendment Request for Fireman's Park Playground Equipment – Manager Feierabend stated this request was to move \$30,000 that the Town received last spring for this project from fund reserve. Manager Feierabend stated that since the money was not spent last year it automatically went into fund reserve. Councilman Miller motioned to approve the budget amendment. Councilman Holcombe seconded the motion and the vote passed unanimously.

k. Review Job Title of Fire Captain to Fire Chief – Manager Feierabend stated that Fire Chief Robert Pudney is the Fire Chief for the Town but under the Towns job description Mr. Pudney is recognized as the Fire Captain. Manager Feierabend stated that it is time for the Town to recognize that the duties that Mr. Pudney performs are those of Fire Chief. Councilman Holcombe motioned to accept the new job description. Councilman Miller seconded the motion. Councilman Miller asked if Council accepts this new job description if the Beech Mountain Fire Department Board of Directors is then going to still potentially elect someone else as Fire Chief. Mr. Pudney stated that should Council adopt this new job description then he would discuss this with the Beech Mountain Fire Department Board of

Directors. Mr. Pudney stated that the duties the Town has asked of Mr. Pudney, in his position for the Town, encompass that of a Fire Chief and not a Fire Captain. Mr. Pudney stated that the Fire Captain job description is inadequate. Mayor Owen stated that the Town spent a lot of time working with the Beech Mountain Volunteer Fire Department to make sure that this was a smooth transition when this job of Fire Captain was created. Mayor Owen asked if this potential adoption by Council of the Fire Chief job description had already been discussed with the Beech Mountain Volunteer Fire Department. Mayor Owen stated that he wanted to ensure that the Town was not overstepping their boundaries. Mr. Pudney stated that it was his job to resolve whatever issues there are and to act like a liaison. Mayor Owen stated that Council has motioned to accept the job description of Fire Chief. Mayor Owen stated that should the motion pass then this job description will be sent off for grading and classification. Mayor Owen stated that once this has taken place it will then come back to Council for consideration. Mayor Owen stated that once Council receives this information Council will then determine whether or not to appoint Mr. Pudney to this position and that until this information comes back to Council Mr. Pudney shall remain a Fire Captain with the Town. Councilwoman Keller asked how long this would take to get back. Staff stated that this information should be available within 60 days so that Council would be able to make this decision during their budget process. Mayor Owen directed staff to send this off to the MAPS Group. Mayor Owen called the vote. Council voted unanimously to accept the new job description of Fire Chief.

l. Recreation Committee Appointment – Mayor Owen stated that with the appointment of Tim Fox to the Parks and Recreation Director position with the Town the Recreation Committee now has a vacancy. Mayor Owen stated that the name that has come forward for appointment is Rory Ellington. Vice Mayor Piquet motioned to appoint Rory Ellington to the Recreation Committee. Councilman Holcombe seconded the motion and the vote passed unanimously.

m. Town Council Schedule Budget Planning Retreat – Mayor Owen asked staff if there were any large issues to discuss this year. Manager Feierabend stated that staff did not have any new capital projects to discuss. After much discussion Council agreed to schedule the Budget Planning Retreat for Tuesday, April 2, 2013 at 4:00 p.m. at Town Hall in the Council Chamber room.

n. Special Legislation – Mayor Owen stated that this proposed special legislation relates to asking the county to check to see that delinquent taxes have been paid prior to accepting a deed for recordation. Mayor Owen stated that there are two resolutions before Council. Attorney Eggers stated that this would require local legislation and that this concept first began in the area with a local bill in 1997 by the Town of Banner Elk; again in 2009 by the Village of Sugar Mountain and then in 2011 by Stokes County. Attorney Eggers stated that one of the proposed resolutions before Council permits the Town of Blowing Rock and the Town of Seven Devils to join in on this local legislative request. Attorney Eggers informed Council that a State House Representative or Senator must introduce the bill. Mayor Owen stated that Avery County has already implemented this practice. Attorney Eggers advised that Council would want to discuss this with the Register of Deeds and also recommended contacting the County Bar Board to see if there would be any opposition due to real estate closings. Manager Feierabend stated that Seven Devils Town Manager Ed Evans and Blowing Rock Town Manager Scott Hildebran are in support of this proposed legislation.

Attorney Eggers stated that most counties have already passed this but that unfortunately Watauga County is not one of these counties. Manager Feierabend stated that there is an experienced, knowledgeable Register of Deeds at Watauga County. Attorney Eggers advised Council that since this does affect both counties Council may wish to add Avery County North Carolina Representative Josh Dobson to the resolution. Councilman Miller motioned to adopt Resolution No. 2013-03 with the added language to include Avery County North Carolina Representative Josh Dobson. Councilman Holcombe seconded the motion and the vote passed unanimously. Resolution No. 2013-03 is attached as Exhibit C and incorporated by reference as if fully set out within these minutes.

IX. Old Business

a. Vote on Amending Sign Regulations in Beech Mountain for Temporary, Small Scale Event Signs – Vice Mayor Piquet motioned to approve the ordinance. Councilman Holcombe seconded the motion. Mayor Owen pointed out a clerical error and asked that staff remove the word ‘the’ from number 5 of the proposed ordinance. Mayor Owen called the vote and the vote passed unanimously. Ordinance No. 2013-03 is attached as Exhibit D and incorporated by reference as if fully set out within these minutes.

b. Vote on Amending Regulations Regarding the Number of Kitchens in Single Family Dwellings – Mayor Owen stated that during the public hearing staff had requested that Council consider scheduling a new public hearing to consider the most recently proposed amendments to the Towns current regulations. Councilman Miller motioned to schedule the public hearing for Councils next regularly scheduled meeting. Councilman Holcombe seconded the motion and the vote passed unanimously.

c. Vote on Amending Sign Regulations in Beech Mountain for Open, Closed and Vacancy Signs – Councilman Holcombe motioned to approve the ordinance. There was no second. Councilwoman Keller asked if these signs could all be Beech Mountain blue. Councilman Miller stated that neon signs have not been permitted for one reason or another throughout the years. Vice Mayor Piquet stated that the 2 square feet maximum allowance created a fairly big sign and that most of these types of signs are not that big. Vice Mayor Piquet stated that he would like to see the size of these signs reduced substantially. Councilman Holcombe stated that he does see these signs at night and does not think that they are unattractive. Councilman Miller stated that his real issue was the size being too big. Town Planner James Scott stated that permitting the signs to be 2 square feet would allow businesses to use signs that are prefabricated. Mr. Scott stated that if Council made this size requirement smaller then businesses may have to get a special sign made. Mayor Owen stated that the key for him within this proposed ordinance was that it only permitted one sign. Mayor Owen stated that at first glance he was opposed to this proposed ordinance but the sad fact is that some of the restaurants cannot even be seen from the road at night. Mayor Owen stated that permitting a business to have 1 non-flashing sign does not seem too obtrusive. Vice Mayor Piquet stated that if this proposed ordinance is passed then staff needs to have vigorous enforcement of this ordinance. Mayor Owen asked if any Council Member wished to second Councilman Holcombe’s motion to approve the ordinance. Councilman Miller seconded the motion and the vote passed 4 to 1 with Vice Mayor Piquet voting nay. Ordinance No. 2013-04 is attached as Exhibit E and incorporated by reference as if fully set out within these minutes.

X. Town Manager and Staff Reports

Status of Council Approved Settlement for Gnarnia Festival – Manager Feierabend reported that the Beech Mountain Resort had reimbursed the Town an additional \$4,500 for services the Town had provided during the Gnarnia Festival.

Sledding Hill – Manager Feierabend stated that due to snow last week the Town's insurance company had to reschedule the meeting to look at the area behind the Brick Oven. Manager Feierabend stated that he would report more information back to Council after the meeting took place.

Historical Society and Location – Manager Feierabend stated that he has worked with LifeStore Bank President Bob Washburn to see if the bank would consider renting out space to the Beech Mountain Historical Society. Manager Feierabend reported that he made an onsite visit yesterday with Vice Mayor Piquet, Councilman Miller and Beech Mountain Historical Society member Ann Iles. Manager Feierabend stated that the next step was to draft an agreement for LifeStore Bank to sign off on. Manager Feierabend stated that LifeStore Bank seems to be in favor of this proposed use as long as the Beech Mountain Historical Society understands that if the building is sold then they would have to renegotiate their terms of tenancy with the new owners. Manager Feierabend stated that it would be up to the Beech Mountain Historical Society to get insurance as well as to pay for all of the utilities.

Budget Amendment – Manager Feierabend informed Council that he had approved moving \$2,000 from Building Inspection Supplies to Building Inspections Contract Services to cover additional costs.

2013 Watauga County Economic Development Summit – Manager Feierabend stated that staff and Council had been invited to attend the 2013 Watauga County Economic Development Summit that was to be held in Blowing Rock at the Art and History Museum on April 17, 2013 beginning at 1:00 p.m.

Clarifier Update – Public Utilities Director Robert Heaton stated that there was a good plan in place to do the work and that he had met with the contractor this morning. Mr. Heaton reported that the contractor will take care of the 8' section that cracked by removing and fixing it. The company that was to do the work was Cedars Incorporated out of Greensboro North Carolina. Mr. Heaton stated that they were one of only a few that were capable of doing this work in the State.

2nd Letter to Frank Steele – Manager Feierabend stated the second notice to Frank Steel had been sent certified mail.

Mountain Ear Newsletter – Manager Feierabend stated he had met with Jerry Shinn about working on the Town Newsletter. Manager Feierabend reported to Council that currently Mr. Shinn works as an editor and had worked at the Charlotte Observer. Manager Feierabend indicated to Council that Mr. Shinn seemed very interested in assisting the Town and is recommending a monthly Newsletter which would consist of a single double sided

sheet to be inserted with the Town's utility bills. Manager Feierabend stated that Mr. Shinn was expected to submit his thoughts in detail next week. Manager Feierabend stated that Betty France and Fred France would still be assisting with the Newsletter.

Utility Mailing Address – Councilwoman Keller asked why the mailing address that was with her Town utility bill was an address in Charlotte North Carolina. Finance Officer Nancy Johnson stated that the Town has a lockbox through BB&T.

E-Bills – Mayor Owen suggested that staff look into e-bills. After further discussion Vice Mayor Piquet stated that this would be a problem with getting out the Town newsletter.

Mayor Owen stated that Council would take a short break at 4:43 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 5:00 p.m., seconded by Councilman Holcombe 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. Councilman Miller motioned to exit closed session at 5:35 p.m., which was seconded by Vice Mayor Piquet. The motion passed unanimously.

XII. Other Business

2nd Letter to Frank Steele – Vice Mayor Piquet stated that staff did not state what the letter to Frank Steele was about. Manager Feierabend stated that staff was trying to take the high road. Vice Mayor Piquet stated that the Town sent the letter to Mr. Steele based upon money that Mr. Steele owed due to delinquent taxes. Councilwoman Keller asked if anyone else was in this same situation. Manager Feierabend stated that no one else was in the same situation. Councilwoman Keller asked if others had paid the attorney fees associated with delinquent taxes. Attorney Eggers stated yes.

XIII. Adjourn – Vice Mayor Piquet motioned to adjourn the meeting at 5:38 p.m., which was seconded by Councilman Miller. The motion passed unanimously. The meeting was adjourned at 5:38 p.m.

Minutes approved by Town Council on April 9, 2013.

Richard H. Owen, Mayor

ATTEST:

Jennifer Broderick, CMC
Town Clerk