

MINUTES
BEECH MOUNTAIN TOWN COUNCIL
Special Meeting, December 7, 1992

CALL TO ORDER

Mayor Miller called a Special Meeting of the Beech Mountain Town Council to order at 6:00 PM in the Council Chamber at Beech Mountain. Other Council Members present were Tim Holland, Greg Brown, Kakii Handley and Reub Mooradian. Also present were Town Manager Al Greene and Co-Chairmen of the Tour DuPont Local Organizing Committee Sheila Fletcher and Fred Pfohl. Present in the audience were Ron Nichols, Cissie Radebaugh, Bill Sposato, Jim Rickard, Ellen Anderson, Rick Owen, Erika and Bill McClung and Charlie Burleson.

Public Hearing, Tour DuPont Sponsorship. Mayor Miller called the public hearing to order and indicated it was being held to receive public input on the Town's anticipated sponsorship of a leg of the Tour DuPont Bicycle Race on May 14, 1993. He stated that at the present time the Town council had not entered into any contracts or agreements, but had passed a resolution of intent to sponsor the event. The Town had committed certain monies from the Occupancy Tax Fund Balance, but it was hoped that all expenses in sponsoring the event would be paid for out of business and private sponsorships.

Al Greene indicated that both the Economic Development Committee and the Board of Directors of the Chamber of Commerce had passed resolutions supporting the Tour DuPont and suggesting that the Town act as the sponsoring agency.

Cissie Radebaugh asked how much money needed to be raised, and Mayor Miller replied that a tentative budget indicated expenditures of approximately \$22,000. Fred Pfohl said that a similar amount was used in Wintergreen, Virginia for their sponsorship last year. Ms. Radebaugh asked if these funds were to be expended jointly by Beech Mountain and Banner Elk, and Mr. Pfohl stated that Beech Mountain would be the official sponsor, while Banner Elk will cooperate and provide certain items for the start of the next leg of the race on May 15th.

Fred Pfohl stated that the commitments from the Pinnacle Inn and the food providers are all in hand. The only delay from the Pinnacle Inn had been to finalize the exact number of rooms, which rooms, and so forth. Rick Miller asked about the agreement with Banner Elk, and Mr. Pfohl said he was to be meeting with them that same evening. The agreement, which is still in draft form, is fairly simple and would pledge Banner Elk to have a safe and secure start venue, a coordinator, indicating that any food and drink concessions (at the start) would be theirs, that Banner Elk would be given ten passes to the VIP tent at the finish line and be included in any locally generated promotion/advertising.

Cissie Radebaugh asked who would be involved in the funding, and Fred Pfohl answered that it was the intent of the Committee that the Town not spend a dime on the event. The State Travel and Tourism people are going out to companies for sponsorships such as Baxter Laboratories, Glenraven Mills, Standard Trucking Company, Lance Packing and so forth. A number of these companies have pledged their support. Sheila Fletcher had talked with WCYB-TV (Channel 5) out of Bristol, Tennessee, and they wanted to take over the fund raising entirely.

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Ms. Radebaugh indicated her willingness to help raise funding if needed. Fred Pfohl announced that the Local Organizing Committee had set the second and fourth Tuesdays of each month, at 8:30 AM, as a regular meeting time, and indicated that everyone was welcome to attend as they wished.

Ellen Anderson asked what would happen if a lot of property owners decided to come up and occupy their homes, i.e., would there be enough rooms? She was assured that the bulk of the rooms were in the Pinnacle Inn and Holiday Inn Banner Elk, so individual homeowners occupying their homes would not pose a problem.

Cissie Radebaugh asked about television coverage, and was told that ESPN would have daily coverage of each leg of the race, and CBS had committed to having an overview of the race on their Sunday sports show. This would be in addition to, of course, local affiliates such as the Johnson City, Charlotte, etc., stations and coverage in 88 countries around the world.

Ellen Anderson expressed her concern about the closure of NC 184 for the finish, and was assured that every effort would be made to notify everyone that there would be closure of perhaps two hours, but that emergency vehicles would be allowed through. Sheila Fletcher pointed out that there are "tail end riders" who, after a certain period of time, have to abide by all highway devices such as stop, yield, etc. signs.

Erika McClung asked what would happen if the weather was such that they decided to finish the race in Banner Elk and not come up the mountain. She was assured that Medalist Sports, Inc. (the promoter) had indicated there has never been bad enough weather to cancel -- they have finished in rain and even snow.

Judy Donaghy, Director of the Chamber of Commerce of Banner Elk, told of the enormous amount of support for Beech Mountain's having the finish. She had been contacted by bicycle clubs throughout the area offering to help as marshals, and so forth.

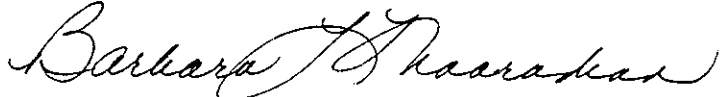
Greg Brown mentioned that the cyclists who had visited Beech Mountain a couple of weeks ago had indicated they were getting some international excitement about the climb up Beech Mountain, and that it was making the Tour more exciting than originally thought.

Reub Mooradian urged that the Council, Chamber of Commerce, Beech Mountain Club and all rental agencies make every effort to inform people of the closure of NC 184 during the finish so as to avoid as much annoyance as possible. Fred Pfohl pointed out that as the event nears, the actual hours when the Parkway will be closed to vehicular traffic will be able to be pinned down even better, but it would probably be some time starting at about 5:30 in the afternoon.

ADJOURN

There being no further questions or comments from the public, Reub Mooradian moved that the public hearing be closed. Kaki Handley seconded the motion and it passed unanimously. The meeting was adjourned at 6:25 PM.

Respectfully submitted,



Barbara L. Mooradian
Town Clerk

BLM/hs

Minutes approved by Town Council on December 8, _____, 1992.


Mayor

ATTEST:


Town Clerk

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BEECH MOUNTAIN TOWN COUNCIL
December 8, 1992

CALL TO ORDER

Mayor Rick Miller called the regular meeting of the Beech Mountain Town Council to order at 6:00 p.m. Other Council Members present were Greg Brown, Kakii Handley, Tim Holland, and Reub Mooradian. Also present were Town Manager Al Greene, Town Attorney David Paletta, Town Engineer Ed Powell, and Public Works Director Joe Perry. Present in the audience were Ron Nichols, Betty Alderson, Ellen Anderson, Ed Calvin, Ed Waligroski, Gary Miller, John and Leslie Hoffman, Bill Sposato and Sheila Fletcher.

One item was added to the agenda under "Other Business": Sheila Fletcher, Co-Chairman of the Tour DuPont Local Organizing Committee, to give a report on the plans for the event. Mr. Greene asked that discussions with the Town Attorney [subsections (4) and (5)] be added to the Executive Session already planned to discuss a personnel matter.

1. Consent Agenda.

Kakii Handley moved amendments to the minutes of the Special Meeting of November 17, 1992, to wit: add the words "of the Town" preceding "not a part of the Chamber," in the last sentence of the second paragraph of page 4; and amending the wording of Greg Brown's motion in the second paragraph of page 6 to include the three stipulations of (1) asking the Chamber of Commerce and the EDC for their opinion(s) of sponsorship of the Tour DuPont, (2) set up a public hearing; and (3) receive copies of the letters of intent from service/lodging providers.

Those changes being approved, Reub Mooradian moved approval of the Consent Agenda. Greg Brown seconded the motion and the following items were unanimously approved:

- a. Minutes of the Regular Meeting of November 10, 1992.
- b. Minutes of the Special Meeting of November 17, 1992.
- c. Minutes of the Special Meeting of November 23, 1992.
- d. Minutes of the Public Hearing of December 7, 1992.

2. Committee Reports.

There were no committee reports.

3. Old Business

- a. Foundation Surveys. Al Greene pointed out that the Council had requested the staff bring recommendations on how to eliminate

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problems similar to those encountered by the setback violation on GH-191. Two ideas mentioned by Council had been (1) a requirement for foundation surveys and (2) making building overhangs or eaves exempt from setback requirements. The staff had a third suggestion, which would involve two amendments to the Zoning Ordinance to clarify responsibilities for meeting setback requirements: (1) the requirement for Zoning Compliance Permits regardless of the dollar value of improvements and (2) the establishment of a certificate to be executed by the owner and to be placed on all site plans stating his acknowledgement that he is aware that it is his responsibility to make sure no setback violations and, further, that he understands if such violations occur he may have to tear the building down.

Reub Mooradian suggested that the words "may be" be substituted for "is" in the sentence in 502.01 "I also understand that the remedy for violation of any setback is the removal or demolition of any and all portions of the structure that violate the setback."

David Paletta had suggested changes in wording for Section 3-13, to wit: "(A) The property owner must provide the Town with a survey signed and sealed by a surveyor licensed by the State of North Carolina that shows the location of the building foundation prior to the framing of the building on the foundation." He also suggested that the proper location for the exclusion of eaves and exterior stairways and walkways would be in Article IX as an additional footnote, to wit: "The setback requirements shall not apply to eaves extending less than 36 inches from the building wall, stairways and exterior walkways that are not greater than four feet in width," since the setback requirements are set out in that Article.

Ellen Anderson pointed out that usually eaves have been included in the setback requirements, and, indeed, in some cases variances have been denied. Tim Holland said he was afraid that if the Zoning Ordinance allowed eaves and stairways to extend into the setback, in contravention to the provisions of the Declaration of Restrictions, it would create problems for property owners.

Kakii Handley said she felt the 20' front and 15' side and rear setbacks should be adhered to. Rick Miller said he felt a requirement for a survey of the foundation on the lot would add \$150 to \$200 to the cost of the house which would, of course, be passed on to the owner. Tim Holland said he felt if something wasn't broken, don't fix it. Greg Brown said there was a potential problem in construction on sloping lots, since without sophisticated equipment, it is very hard to insure the proper setback.

Ellen Anderson pointed out that small violations in the setback requirements can be approved by the Building Inspector without

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recourse to the Board of Adjustment. After further discussion of the pros and cons of allowing eaves and stairways to protrude into the setback, Tim Holland suggested that the matter be turned over to the Planning Board for their deliberation and return to the Council at a later date. The consensus of the Council was to send the matter to the Planning Board.

- b. Appointments to Boards and Committees. Reub Mooradian moved that Jeff Hardwick and Bill Watson be reappointed to three year terms on the Planning Board. Tim Holland seconded the motion and it passed unanimously.

Tim Holland moved that Norm Smith be reappointed to a three year term on the Board of Adjustment and that Andy Krecicki, Sherry Garris and Jay Tischenkel be appointed to one year terms as 1st, 2nd and 3rd Alternates to the Board of Adjustment. Reub Mooradian seconded the motion and it passed unanimously.

- c. Snow Removal; Sanding for Businesses. Al Greene noted that a number of requests have been made recently for the Town to scrape driveways and parking areas and/or to spread sand for commercial establishments. In the past the Town has done this sort of thing after all Town roads have been taken care of and on occasions when the commercial establishment obviously had a big problem. In these unusual situations, the Town has billed the owner for labor, materials and equipment time. Since these types of requests are becoming more and more common, Mr. Greene asked if the Council would establish a policy on the subject.

Tim Holland asked if the requests were to actually clear parking lots or merely to remove the snow blocking driveways along the roadways, and Mr. Greene said primarily the requests have been to open up drives and the street up to the slope parking lots. Joe Perry agreed that most requests were to open driveways, though one or two of the motels have requested plowing the entire parking area. Usually these are not requests for sanding unless an ice storm has taken place.

Rick Miller asked how many requests had been received in the last three to four days, and Mr. Perry said there had been four. Tim Holland said he would have no problem with opening driveways. Reub Mooradian said he would not want to charge for that small service. Mr. Holland said he would want the driveway clearing left until the end of the list of roads to clear. Joe Perry indicated the Town had enough roads to clear without going into the residential driveway business -- but they wanted a policy which indicated if it was okay to open driveways, go around motels, sand in the village and so forth.

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Bill Sposato pointed out that he had been one of the entities requesting assistance, and it had been to place sand on a private driveway going up into the Club Ski Lodge. The request had been made because the Club had been unable to get someone to do the job for them. There was general discussion on the merits of opening commercial driveways only (as opposed to residential) and Kakii Handley voiced her fear that this could be construed as discrimination. She said she felt that any commercial business on Beech Mountain should be aware that a certain amount of snow will fall and be prepared to keep their drives and parking areas open for business. She drew a distinction between "normal" snowfalls and massive amounts, stating that in emergency situations of course everyone on the mountain helped each other.

Reub Mooradian asked if the Town sanded the road up to the ski area as a matter of course, and Joe Perry replied that it did. Tim Holland asked if that road was part of the regular snow removal route and Mr. Perry replied that it was. Mr. Holland said he felt that the policy should be left as it is vis-a-vis the road up to the ski area. David Paletta was asked his opinion and said he felt it was very simple: The Town is not supposed to maintain private property. Tim Holland asked about public safety and Mr. Paletta replied that if the Town wanted to maintain the road up to the ski area the Town should take over the road if it is up to Town standards. He went on to say that although the Town was not supposed to maintain the road, from a practical standpoint he did not feel anyone would complain. Kakii Handley asked why BMRI does not do that road since it is their road and they do their parking lots.

Reub Mooradian moved that the Town continue the practice of plowing and/or sanding commercial establishments when required and charge for same when in the professional opinion of the Director of Public Works a dangerous situation exists. He may consult with the Chief of Police if there is any doubt. Tim Holland seconded the motion. Al Greene if this would be only at the request of the property owner or not, and Mr. Mooradian said it would be a combination of the two. Greg Brown asked if he meant that if Mr. Perry determines a safety hazard exists he can alleviate the problem and then charge the owner without getting permission of the property owner in advance. Mr. Mooradian said that was correct.

Mrs. Handley said she felt that the Town should take these actions only if it is a matter of public safety, and that she did not approve of the Town pushing snow but only sanding. She asked Mr. Perry if he would take the motion to mean that he should do the ski area on a regular basis when asked or when a public safety problem would exist, and Mr. Perry said he would sand it every day. Mrs. Handley said she did not feel the motion would give him that

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discretion and asked how an entity could be charged for sanding when nobody from that entity had requested the work. Bill Sposato said he would prefer that Mr. Perry do such work only on request rather than having to make that determination on his own.

Mrs. Handley suggested that Don Fulkerson, Al Greene and Joe Perry come up with a policy which would serve the Town best. There was general concern that a month of possibly heavy snows would occur before the next Council meeting. Al Greene said the Council needed to simply decide if the Town was to assist in private areas or not. He said he felt residential driveways could be excluded. Also, since the work would have to be upon request and following snow removal on all Town streets, he felt many commercial establishments would elect to do their own.

After further discussion, Reub Mooradian rescinded his motion. Kakii Handley moved that the Town of Beech Mountain provide sanding in extreme circumstances for roads other than public upon request and charge for it. Tim Holland seconded the motion. Al Greene suggested this be put in the form of an amendment to the Streets and Driveways Ordinance. David Paletta said the wording was not correct for an ordinance change, but the policy can be put into effect tomorrow. Al Greene said he believed the staff understands that Ski Beech is responsible for plowing, but if they have a mechanical breakdown we can help them. Greg Brown wanted to make sure any sanding done be on drives only, not parking areas. The question was called and the motion passed unanimously.

d. Tour DuPont Matters.

- (1) Presentation of Proposed Budget and Recommendation on Interim Budget. Mr. Greene indicated that until the agreement with Medalist Sports is finalized and entered into an interim budget for the Tour DuPont event should be approved. Reub Mooradian moved that the Council adopt the interim budget of \$1,000 as presented. Kakii Handley seconded the motion. Mrs. Handley asked where the funds would come from, and Mr. Greene indicated the intention was that it be repaid from private donations. He suggested the interim budget be changed to so read, rather than Occupancy Tax Reserve as a source. Tim Holland pointed out that no donations have yet been received, and Mr. Greene stated that the Council adopts a budget at the beginning of the fiscal year and begins spending money before funds are received. After further discussion the question was called and the motion passed unanimously.

Rick Miller asked if the budget for the Tour DuPont would be fine-tuned before the next meeting, and Mr. Greene replied it

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would be either then or before the Town signs a contract with Medalist Sports. Mr. Greene asked, in view of the Council's earlier comments, if revenues from donations should be removed and everything shown as being from Occupancy Tax Reserve and Tim Holland said that is what he would prefer.

(2) Agreement with Banner Elk. Mr. Greene referred to a draft agreement with the Town of Banner Elk which spells out which parties will be responsible for which aspects of the Tour DuPont event. He explained that Fred Pfohl intended to meet with Banner Elk that same evening. Greg Brown moved the agreement be adopted as presented. Kakii Handley seconded the motion and it passed unanimously.

(3) Sheila Fletcher. Ms. Fletcher indicated the LOC had met regarding fund raising, which is moving right along. The first \$5,000 should be in hand within the next few days. She indicated WCYB-TV had wanted to take over all of the fund raising. Mrs. Handley asked about the pledges for lodging, food service, and so forth, and indicated she would like to see them.

e. Consider Lot Donation. Mr. Greene indicated the Town had received an offer to donate lot AA-296 to the Town. Tim Holland moved the Town accept the donation. Kakii Handley seconded the motion and it passed unanimously.

4. New Business.

a. Consider Amendment to Noise Ordinance. Al Greene pointed out that Mr. Paletta had suggested amendments to Chapter 21 (attached hereto) which would shorten the title of the ordinance, close a possible loophole in the ordinance and make the Code of Ordinances more consistent. Kakii Handley moved Council approve the amendments as presented. Reub Mooradian seconded the motion and it passed unanimously.

b. Consider Amendment to Animal Control Ordinance. Similarly, Mr. Paletta had prepared a suggested amendment which would provide its own enforcement action within the ordinance. Reub Mooradian moved that the suggested amendment be approved. Kakii Handley seconded the motion and it passed unanimously.

c. Resolution Authorizing Business with Fred's General Mercantile. Mr. Greene explained that since Mr. Pfohl is on a committee of the Council it might be wise for the Council to authorize doing business with his store to avoid any hint of conflict of interest. Tim Holland so moved. Reub Mooradian seconded the motion and it passed unanimously.

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- d. Amendment to Water and Sewer Use Ordinance. Mr. Greene pointed out that the stipulation that the owner's private cut-off valve must be utilized to turn off water during the winter months had been inadvertently left out of the ordinance when it was amended following dissolution of the Sanitary District. The proposed amendment would reinsert that requirement. Tim Holland moved the proposed amendment be approved as submitted. Reub Mooradian seconded the motion and it passed unanimously.

5. Staff/Consultant Reports.

- a. Town Engineer's Report. Ed Powell reported that the Bear Branch project was completed and is operational. The engineer is in the process of finalizing a punch list, and it will be spring before it is grassed and seeded, etc.

On the Pond Creek ultraviolet unit, it is in transit and as soon as it arrives it will be installed.

Rick Miller asked about Emerald Mountain, and Mr. Powell said we are in the process of having the system in Blocks C & B brought up to the standards of the Town. There are some deviations and we are in the process of having them corrected.

- b. Public Works Director's Report. Mr. Perry had no report. Mrs. Handley commended Mr. Perry on keeping the roads clear during snowstorms.
- c. Town Attorney's Report. Mr. Paletta had no report.
- d. Chief of Police's Report. Mr. Greene stated that Chief Hefner was at his final seminar at the Justice Academy, that he will graduate on Thursday and that the staff is very proud of his accomplishment. He said he had nothing to add to the report which the Chief had included in the agenda packet.
- e. Town Manager's Report. Mr. Greene said that he had forwarded the approved questions to Booth and Associates regarding the TVA electric transmission line, but a response has not yet been received.

He said that, similarly, no response had been received from Mountain Electric Cooperative following Don Fulkerson's request for a site plan. As mentioned before, they have to do extensive borings at the site before they can complete a site plan.

Mr. Greene said he had received a request from the Chamber of Commerce about the possibility of the Town allowing Ski Beech to bring a snow gun to the parcel of property next to the Town Hall to make snow for sledding. The Town would have to supply the

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compressor, and Mr. Perry indicated the Town only has one compressor, which it would not be practical to use. An alternative would be to allow Ski Beech to install a 2" line to make snow, although we have not been approached to do so. He had contacted the Town's insurance carrier, which indicated they would have to make an interpretation of the Town's policy since there is an exclusion for ski operations. An option, of course, would be for Ski Beech to carry insurance for the sledding operation, and/or the Town could lease the property to Ski Beech for a token amount.

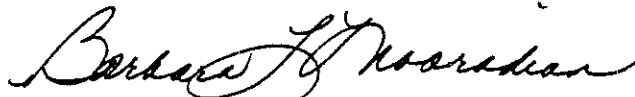
Kakii Handley asked about contact with the Wildlife people regarding the bears, and Mr. Greene replied that no response to the Mayor's request for removal had yet been received. Reub Mooradian asked if there had been any complaints about bears since the really cold weather moved in and Mr. Greene replied that there had not been. Mr. Mooradian suggested the bears were probably in hibernation.

7. Executive Session, N.C.G.S. 143-318.11(a)(4), (5) and (8). Tim Holland moved that the Council go into Executive Session to consult with their attorney and to do the annual evaluation of the job performance of the Town Manager. Greg Brown seconded the motion and it passed unanimously. The Council went into Executive Session at 8:00 PM. The Council came out of Executive Session at 8:37 PM.
8. Salary Increase, Town Manager. Kakii Handley moved that the Town Manager's salary be increased by 6%. Greg Brown seconded the motion and it passed unanimously.

ADJOURN

There being no further business to come before the Council the meeting was adjourned at 8:38 PM.

Respectfully submitted,



Barbara L. Mooradian
Town Clerk

BLM/hs

Enclosures

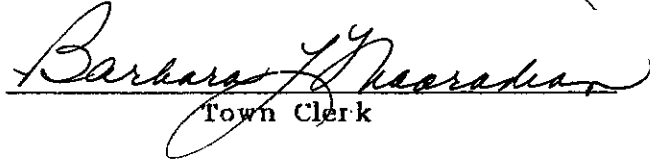
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Minutes approved by Town Council on JANUARY 12, , 1993 .



Mayor

ATTEST:



Town Clerk

