

MINUTES
BEECH MOUNTAIN TOWN COUNCIL
Regular Meeting – May 11, 2010

I. CALL TO ORDER

Mayor Rick Owen called the regular meeting of the Beech Mountain Town Council to order at 2:03 p.m., Tuesday, May 11, 2010 in the Town Hall Council Chambers. Other Council Members present were Paul Piquet, Rick Miller, Alan Holcombe and Cindy Keller. Town Attorney David Paletta was also present. Staff members present were Town Manager Randy Feierabend; Town Clerk Jennifer Broderick, Public Works Director Riley Hatch, Building Inspector Stan Hanna, Recreation Director Eric Jelinski and Police Chief Jay Hefner. Also in attendance were Avery County Sheriff Kevin Frye and Banner Elk Police Chief Bill Burleson. There were a number of interested parties in the audience.

II. Invocation – Charlie Burleson opened the meeting with a prayer.

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

IV. Adoption of Agenda – Mayor Owen indicated that there was an amended agenda before Council. The additions were; Section VII. Public Hearing - Group Home Amendment and Section VIII. a. National Travel and Tourism Week Presentation and Proclamation. Mayor Owen asked if Council had any further additions, hearing nothing, Mayor Owen stated that the agenda would stand as presented.

V. Approval of the Minutes – March 31, 2010 Special Meeting; April 13, 2010 – Mayor Owen asked Council if there were any changes or additions. Vice Mayor Piquet pointed out that the March 31, 2010 minutes reflected that he had seconded a motion that he had not seconded. The clerk was advised to correct this error. Councilwoman Keller interjected that she had a couple of changes. First that the word “State” should be capitalized when used to refer to the State of North Carolina. Second, that the names of the recently sworn in staff should be included with their perspective positions. The third item Councilwoman Keller requested to be modified was to use the phrase, “extension of the sewer line” when discussing the sewer line project on Greenbriar Road. Mayor Owen asked Council to approve the minutes as amended. Councilman Holcombe motioned to accept the minutes as amended with Vice Mayor Piquet seconding the motion. The motion passed unanimously.

VI. Public Comment – Bill Holder, of 200 Tamarak Road, spoke to Council concerning the deer population on the mountain. Mr. Holder complained that the population was so dense that residents were unable to keep any type of floral vegetation on their properties. Mayor Owen advised Mr. Holder to contact the Town Manager, Randy Feierabend, after the Council meeting to discuss this issue in further detail. Don Parker, of 718 Pine Ridge Road, reiterated Mr. Holder’s concern of the large deer population by bringing up the issue of lime disease and pointing out that this disease is often associated with areas that have dense deer populations. Mr. Parker stated that he would follow his concern up at the following Council meeting. With no other public comments Mayor Owen closed the public comment period.

VII. Public Hearing – Group Home Amendment – Councilman Miller motioned to open the Group Home Amendment Hearing with Councilman Holcombe seconding the motion. Town Planner, James Scott, took the floor and provided a brief history of the chain of events. Mr. Scott stated that this issue first became a concern when some people moved onto the mountain sparking residents of the mountain to request Council to take action against these types of situations. Mr. Scott stated that there are sound public policies that restrict what can be done in this type of situation when dealing with handicapped individuals. At the same time Mr. Scott pointed out that there were also laws to benefit the public's safety. Therefore, Mr. Scott proposed to Council that the Town amend the definition of Group Homes by defining two separate types of Group Home Facilities. One for bona fide handicapped individuals, and the second for individuals that are dangerous to others. This could be accomplished by updating the permitted use table to state that type two group homes would not be allowed and that type one group homes would be permissible within Town limits. Mr. Scott also recommended that the Town reiterate their position in a separate provision which would restate the Town's position with regard to type two group homes. Mr. Scott stated that with these provisions in place this will both further the public policy of allowing individuals with handicaps to have fair access to housing and at the same time it will protect Beech Mountain's interest in protecting the security and safety of its citizens. Councilman Holcombe motioned to pass the amendment. Vice Mayor Piquet seconded the motion and it passed unanimously.

VIII. New Business –

- a. National Travel and Tourism Week Presentation & Proclamation** - Chamber of Commerce representative John Troxler presented to Council the National Travel and Tourism Week Proclamation. Mr. Troxler advised Council of the benefits of the travel industry; stating that it ranked as the largest employer in the United States and among the top 10 industries in 48 states. Furthermore the travel industry also stimulates jobs. Mr. Troxler encouraged the Town to promote tourism by having Council claim May thru May as National Travel and Tourism Week. Councilman Holcombe motioned to pass the proclamation. Vice Mayor Piquet second the motion and it passed unanimously. Councilwoman Keller wanted to know what the Chamber and Town were going to do besides designating these dates as National Travel and Tourism Week.
- b. Special Recognition – Norman Smith, Board of Adjustment** – Mayor Owen asked Norm Smith to come forward. Mr. Smith came forward and received a plaque in honor of his dedicated service to the Town of Beech Mountain's Board of Adjustment for twenty-one years. Mr. Smith individually thanked all members of Council and received a warm round of applause.
- c. Municipal Drug Task Force – Chief Bill Burleson, Sheriff Kevin Frye & Chief Jay Hefner** – Sherriff Kevin Frye provided Council with a history of the Municipal Drug Task Force stating that it originated in 2004 through the unification of small Towns in the area banning together in order to hire a drug officer that would work jointly with everyone involved. Grant money was initially available in 2004 for this program. The grant was originally only supposed to be a one year grant. Up until this year the Municipal Drug Task Force had received 75% of their funding from the State. The State will not be continuing funding for this program. Sherriff Frye proceeded to present facts

related to the effectiveness of the Municipal Drug Task Force. Sherriff Frye stated that last year alone there were over 200 drug cases opened. Sheriff Frye noted that nothing provides for the safety and security of a community better than to get rid of the drugs. Sherriff Frye proposed that the Town of Beech Mountain show their support of the program by contributing \$20,000. Chief Bill Burleson spoke to Council stating that this program allowed law enforcement to be proactive in its efforts towards drugs and that stopping this program would allow things to take a turn for the worse quickly. Chief Burleson explained that in order to be effective against drugs it was necessary to have two officers and that if the program did not get funded then there would only be one officer. Mayor Owen stated that this issue could be discussed amongst Council Members at their upcoming budget meeting. Vice Mayor Piquet stated that the Town has been giving \$4,000 to this program since it began. Councilwoman Keller inquired about the communities of Sugar and Grandfather. Sherriff Frye stated Grandfather does not have a police force so this program doesn't apply to them and that Sugar had opted out from the beginning of the program. Councilwoman Keller questioned the data sheet that had been presented to Council, specifically the amount of cash recovered compared to the amount of arrests. Councilwoman Keller asked if this recovered money went back into the programs fund. Sherriff Frye stated that part of it did. Chief Jay Heffner stated that this is not only about drugs but that the users of drugs were a lot of times the same individuals that commit break ins, sell dope and use dope up here on the mountain. Councilman Miller asked what the rest of the municipalities were doing. Frye indicated that Banner Elk and Avery County had already informally committed to the \$20,000. Mayor Owen thanked Sherriff Frye for the presentation.

- d. Buyer's Cooperative for Propane – Lee Wittman* – Lee Wittman, of 102 Rainbows End, advised Council of his idea to create a Buyer's Cooperative for the purchasing of propane on Beech Mountain. Mr. Wittman stated that residents of Beech Mountain were currently paying from as low as \$1.40 to as high as \$3.99 a gallon. To see if there was any interest within the community to start a buyers cooperative for propane Mr. Wittman sent out a mass e-mail two months ago. Mr. Wittman stated that he has had about 100 positive responses and thus a committee had been formed. Members of the committee are; John Costin, Paul O'Connel, Caulder Smoot, Randy Feierabend and Mr. Wittman. Mr. Wittman explained to Council that there is precedence for this type of cooperative stating that a number of communities have already successfully implemented the use of the cooperative to purchase fuels in bulk. Mr. Smoot, had for example, already done this with one of his condominium complexes. Mr. Wittman indicated that he was currently trying to collect as much information as possible with his last mass e-mail. The information that he is currently collecting was geared towards gallons used per year, tank size, etc. In order to bid out for propane this information would need to be gathered. Mr. Wittman proposed that this was to be put out to bid by June. Mayor Owen asked if there were any companies who were already willing to bid. Mr. Wittman stated none as of yet and that for this part of the process to begin it would be better to have the hard facts regarding gallons before contacting companies. Mr. Wittman also indicated that service would be a key factor of the formula as well. Mr. Wittman advised that there would also be included in the price a minimum charge of \$15.00 for incidentals. Mayor Owen inquired if the Town was considering going this route, stating that the idea sounded very good. Manager Feierabend stated that he is

going to work alongside Mr. Wittman to see how the Town would benefit, allowing that he was open to the idea if it would improve the price that the Town currently pays for propane. Mr. Wittman confirmed that in addition to the lower price the individual would still be working directly with the supplier. Mr. Wittman's e-mail address is @skybest.

- e. Tree Board Comments – Renee Castiglione, Tree Board Chairman* – Mayor Owen indicated that Tree Board Chairman, Renee Castiglione was not present so Council proceeded on to the next item on the agenda.
- f. Request to Address Council – Jay McCartney* – Jay McCartney, owner of Vasarely's 502 Beech Mountain Parkway, was not present at the meeting. Manager Feierabend surmised to Council that Mr. McCartney wished to take his businesses garbage to the Recycling Center himself. By doing so Mr. McCarty wishes to waive dumpster pick up and therefore only have to pay residential garbage fees for his business. Mayor Owen said there would be serious issues with trash disposal if this trend was allowed to begin and recommended further discussion before making any change to the Ordinance. Manager Feierabend indicated that Mr. McCartney currently has a lock on his dumpster so that Town Employees are unable to pick up his garbage. Manager Feierabend informed Council that his staff was currently reviewing the rates that were being charged for all dumpsters. Public Works Director, Riley Hatch, stated that after the fall the dumpster may have not been checked. To resolve any future issues the Sanitation Department has been ordered to keep a log of all visits to Mr. McCartney's dumpster. They have been instructed to call in from their truck when they are at Mr. McCartney's dumpster to report whether or not they were able to pick up his garbage. Mayor Owen instructed staff to look into the Town's Ordinance to insure it was steadfast. Councilman Miller cautioned giving relief in this situation, believing that it would have a waterfall effect. Councilman Holcombe questioned whether there was any type of enforcement for dumpsters that have large holes at the bottom of them stating that rats breed in such places. Manager Feierabend stated that the problem has been further compounded by another property owner stating that Mr. McCartney's dumpster was actually on his property. Town Attorney, David Paletta, interjected that the Town needed to be careful about precedent. Mr. Paletta believed that there was a current provision in the Ordinance that the dumpsters needed be maintained at a certain standard because they are hazardous. Mr. Paletta further advised Council not to become involved in property owner's private disputes particularly with regards to where the dumpster was positioned. Mayor Owen advised Manager Feierabend to let Council know what action, if any, the Town decided to take. Mayor Owen stated that Council would take no action in this matter.
- g. Group Home Amendment* – Vice Mayor Piquet questioned Town Attorney Mr. Paletta if the information as presented by staff was legally acceptable. Mr. Paletta stated that Mr. Scott did a good job and that it was close to impossible to anticipate and cover every scenario but that this was an improvement on what the Town already had in place. Mr. Paletta cautioned that staff will always need to be mindful and careful because there are some legitimate rights for impaired individuals which must always be observed. Mayor Owen appreciated the Planning Board and Mr. Paletta's work in this matter. Vice

Mayor Piquet moved to accept the amendment. Councilman Holcombe moved to second and the vote passed unanimously.

- h. Watauga County Comprehensive Transportation Plan** –Town Planner James Scott informed Council that the High Country Government is getting ready to redo the comprehensive transportation plan for Watauga County shortly. The High Country Government is asking the Town to have one elected official and one staff member participate. Mr. Scott stated that this was a good opportunity to make sure that the Town's needs are met and that he would be the staff member that would be participating. Councilman Miller wanted to know if this plan involved mass transit. Mr. Scott stated that the plans currently revolved around capital improvements and that bicycling will be major focus of this panel. Mayor Owen stated this was a prime opportunity to be involved and that if no one else cared to participate he would be more than happy to oblige. Mr. Scott stated that July or August would be the approximate starting date for the meetings to take place.
- i. Property Tax Releases** – Mayor Owen stated that after tax bills go out adjustments are required once the bills are posted in the system. The Tax Administrator is unable to legally perform these adjustments without Council's vote. Councilman Holcombe moved to release the taxes. Vice Mayor Piquet seconded and it passed unanimously.
- j. Relocation of Polling to Buckeye Recreation Center** – Mayor Owen stated that currently the polling took place at the Fire Station 1. Vice Mayor Piquet stated that there was interest in the community that the Town's polling take place at Buckeye Recreation Center. Vice Mayor Piquet stated that this decision was ultimately up to the Board of Elections and that he was looking for permission from Council to approach them with this change. Pete Chamberlin, resident of 113 Christie Way, questioned the storage issue with these devices. Vice Mayor Piquet thanked Mr. Chamberlain for bringing up this point stating that the polling devices would need to be stored at the site where the polling was to take place. Vice Mayor Piquet motioned to approve. Mayor Owen called the vote and all members of Council were in favor. James True, resident of 127 Beechwood Lane, wondered how the Town could better get the word out to vote. Councilman Miller stated that staff needed to advertise this information on channel two. Manager Feierabend also responded by suggesting that the Town could do a reverse 911. Mayor Owen stated that a very high percentage of the Town's residents do vote.
- k. Radio Read Meter Bids – Marion Rothrock Presenting** – Marion Rothrock presented the bid comparison that he had created. Mr. Rothrock reiterated that the contractor would not be supplying any of the parts and that the Town would be purchasing these on their own. Mr. Rothrock proceeded to explain the figures to Council that were in their agenda packets. The line item numbers for the bid comparison are as follows:
1. Sensus Touch Meters to Convert to Radio Read (Currently the Town has 273 meters that are touch read meters)
 2. Convert Two Radio Read Meters
 3. Actual Meters (1,732 meters)

4. Meter Setters (Mr. Rothrock noted that this line item was only for meters that have to be moved and that 100 meters had been estimated)
5. 18" ABS Pipe
6. Meter Reading System (Software to read the meters and transfer the data to the Town's billing system)
7. Handheld Reading Unit
8. Mobile Reading System (Computer system that goes into a vehicle to read the meters)
9. ¾" Shut Off Valve
10. Schedule 4 PVC Pipe
11. Caps for that 4" Pipe
12. Meter Box Lids

Mr. Rothrock advised that the reason for the alternate bid was because all but 650 of the meters that the Town currently has installed are Sensus meters. This alternate bid was to price what changing out these meters would be versus completely replacing them. Mr. Rothrock's recommendation based on the \$34,937 difference (\$33.52 difference per meter) was that Council replace the whole meter instead of adapting the ones that could be adapted. This decision was based on the 20 year warranty the Town would get. Mr. Rothrock informed Council that he recommended HD Supply in Asheville and Iron Mountain in Mountain City, Tennessee. Mayor Owen asked who the other contractors were that bid. Mr. Rothrock assured Council that there were three contractors that bid on each of the choices. Mr. Rothrock further stated that the law requires a minimum of three contractors before the bidding process can be closed. Mr. Rothrock identified Max Preswood Water and Sewer as the third company that bid on the full replacement of the meters and Neptune Meters as the third company whose bid included meter conversion. However Neptune Meters bid was incomplete so they were automatically disqualified. Vice Mayor Piquet wanted to make sure that homeowner cut offs were included in the bidding process. Mr. Rothrock stated that Public Works Director, Riley Hatch and Utility Director Mr. Heaton had estimated there would be 400 that needed cut offs. Councilman Miller asked if the T handle was going to be included in this package deal. Councilwoman Keller stipulated that this had to be user friendly. Mr. Rothrock stated again that this was not included. Councilman Miller strongly felt that homeowner cut offs should be included. Vice Mayor Piquet and Councilwoman Keller shared Councilman Miller's sentiment. Manager Feierabend asked if Council was prepared to pass a portion of this bid. Council directed staff to revise this to include the T handle and have this information ready to be presented by the May meeting. Vice Mayor Piquet asked how long the bids were good for. Mr. Rothrock stated that the bids were typically good for 30 days. Mayor Owen stated that the additional cost for the cut offs were going to be passed on to the homeowner. Manager Feierabend stated that this project to replace the meters was critical in locating the Town's leaks. Vice Mayor Piquet stated that he simply wanted to make sure everything was done right and that this was something that he did want. Manager Feierabend stated that staff would have the cost of the T handles and cost of meters placed on the mains for the May meeting. Councilman Miller asked when the companies were prepared to start. Mr. Rothrock stated that once you authorize the notice of award along with a contract to the successful contractor the contractor then goes to the bonding company. Mr. Rothrock assured Council that the notice to proceed can be sent at the same time and that the Town

can fairly expect that the company that wins the bid will begin work 30 to 45 days from the notice of the award. The contract that has been drawn up states that the contractor will go into liquidated damages starting November 2011 at \$300.00 per calendar day. All companies bidding will be working with a minimum of two crews.

- l. Lake Coffey Bids – Marion Rothrock Presenting* – Mr. Rothrock stated that these were lump sum bids that included labor and materials. Mr. Rothrock recommended that the Town select M & M Construction of Banner Elk for the Lake Coffey Project. Councilman Miller motioned that Council approve. Councilman Holcombe seconded the motion and it passed unanimously. Manager Feierabend reminded Council that the Town was going to approach the bid winner to put in approximately 300' of sewer line for the sewer line extension project on Greenbriar Road.
- m. Homeowner Cut-Off* – Vice Mayor Piquet stated the Ordinance need to be adjusted to include the date which all homeowners will be mandated to have a homeowner cut off installed. Vice Mayor Piquet pointed out that similar language could be used as was already in the Ordinance for new construction. Mayor Owen wanted to know if legally the Town could make the homeowner have the valve included in the meter replacement process; questioning how the Town could encourage the homeowner to install the cut off. Mr. Paletta stated that there was no Public Hearing or Planning Board Requirement in order to make such a change. Mayor Owen wanted to be able to strongly encourage the homeowner to take care of having their homeowner cut off installed while the workers were already there changing out the meter. If done this way it would defray cost to the homeowner. Councilwoman Keller stated that the dollar amount the homeowner would save should convince the homeowner to do it then and that this notification providing the information would be best presented in letter format. Manager Feierabend stated that the cut off date should be earlier and used July 1, 2010 as an example. Mr. Paletta stated that the Town could not make the homeowner use the workers that the Town had awarded the contract to. Mr. Rothrock recommended that the Town get a price from a plumber. Councilman Miller stated that this needed to start now. Councilman Holcombe stated that notification of the work needed to take place at least 30 days prior, believing that the homeowner was due proper notification. Councilwoman Keller inquired if they were going to be working in zones. Mr. Rothrock stated that he preferred to let the contractor decide how they wanted to accomplish their task, but that typically they do work street by street.

IX. Old Business –

- a. 102 Upper Snowbird Building Permit Fees – Robert Cantrell* – Manager Feierabend stated that Council had decided that the water portion of Mr. Cantrell's original request was owed. Manager Feierabend let Town Inspector Stan Hanna take the floor to continue addressing Council with regards to the situation. Mr. Hanna began by first stating that Mr. Cantrell is now stating that he did not have his general contractor's license at the time this home was being built. The fact that Keith Cook, the Town's previous Inspector, took these funds shows that he did. Mr. Cook would not have taken this new permit fee without proper proof. Councilwoman Keller asked Mr. Hanna if Mr. Cantrell paid the new \$2,500 fee at the time. Mr. Hanna confirmed that Mr. Cantrell

did. Councilwoman Keller said that this action by default indicates that Mr. Cantrell owed this money. Mr. Hanna said that part of the underlying issue is that Mr. Cook left all of the transactions under the same permit number. Vice Mayor Piquet stated he did not understand the fairness to the homeowner in this excessive fee if they choose to change their contractor. Vice Mayor Piquet acknowledged that this was an issue that he would like Council to take up later. Manager Feierabend stated that under normal circumstances a release would have been sent to the Board but in this particular situation there was never a release from that general contractor to the Board. When this lack of proof was discovered Mr. Cantrell then stated that he still used the general contractor but brought in his own subs. Vice Mayor Piquet stated that he still didn't feel that anything was clarified. Manager Feierabend stated that what Mr. Cantrell is asking for is a refund. Councilman Holcombe stated that he felt that Cantrell was charged what he should have been charged. Councilman Holcombe recommended that Council take no action on this request. Mr. Paletta stated that Councilman Holcombe's comments were important as well as Councilwoman Keller's in that Mr. Cantrell did not pay \$2,500 to the Town for no reason. Mr. Paletta stated that since Mr. Cantrell did pay he now has the burden to provide proof, not the Town. Therefore Councilman Holcombe's recommendation that Council take no action is correct. Councilman Holcombe motioned to deny the request and Councilman Miller seconded. The motion passed unanimously.

X. *Town Manager and Staff Reports* – Manager Feierabend indicated that Daniel Waterman sent in written notification that he was willing to give two parcels he owned to the Town. Manager Feierabend identified the two lots as BM Buckeye Hills West 138 and 176. It was important to note that the two parcels were being offered to the Town with no restrictions.

Town Inspector, Stan Hanna, spoke to Council regarding the various roofing projects the Town currently has underway. Mr. Hanna stated that the new Picnic Shelter roof at Buckeye Lake will have a matching green roof as that of Buckeye Recreation Center. The only variance is that the material used for the roof will be the same as that on the Water Plant. Manager Feierabend advised Council this decision was made based on the fact that the insurance company was willing to replace the entire roof if the Town used one of two different materials. Councilwoman Keller was not pleased that the shelter was going to have metal roof put on it. Mr. Hanna stated that the Town's pump houses needed new roofs as well and that staff was currently working on gathering a final price for that job. Mr. Hanna explained that the reason this estimate was taking longer than first anticipated was because the outdoor restrooms at Buckeye Lake have now been included in this upcoming project as well. Mr. Hanna went on to inform Council the Town Hall roofing project was being completed.

Councilwoman Keller commended the water and sewer department; stating that she went on a tour of the water and sewer plants and that these buildings were immaculate. Councilwoman Keller however, was disappointed in an area she deemed an eye sore down near Buckeye Lake. The area Councilwoman referred to was a storage area where the Town housed some of its materials. Manager Feierabend assured Council that staff was already cleaning this area up. Public Works Director, Riley Hatch, already had enacted a plan to resolve this matter. One side will be dedicated to Utilities Director Robert Heaton's department and the other side will be used for Public Works storage of materials. Manager Feierabend further stated that by June this cleanup process would be

complete. As part of the project a new fence has already been contracted out. Councilwoman Keller inquired how long the lease was for use of this property. Manager Feierabend indicated that the property owner, Dr. Shane, only leased this out year to year. Councilwoman Keller stated that a stockade fence façade would be nice. Mr. Hatch stated that staff started cleanup this past Monday and that they have already carried off three loads of scrap metal.

Councilwoman Keller questioned the Phase I and Phase II water projects. Mayor Owen stated that there were some permit issues that needed to be resolved and that more information will be available at the May meeting. Mayor Owen informed Council that Marion Rothrock was looking at all of the Town's major projects to work out a master plan that would meet the Town's goals as well as any permit issues. Manager Feierabend echoed Mayor Owen's sentiments stating that the Town should wait to get the opinion of Marion Rothrock first before moving forward. Mayor Owen indicated that Council was going to take a short break at 4:47 p.m.

XI. Closed Session – Pursuant to NC GS 143-318.11(a) (3) Attorney Client Matters and NC GS 143-318.11(a) (6) Personnel Matters - The meeting restarted at 5:04 with Mayor Owen asking Council if Council was ready to proceed to closed session. Councilman Holcombe motioned to go to closed session. Councilman Miller seconded the motion and it passed unanimously. Council came out of closed session at 6:14 p.m.

XII. Other Business – There was no other business to discuss.

XIII. Adjourn – Vice Mayor Piquet motioned to adjourn the meeting at 6:14 p.m. Councilman Holcombe seconded the motion and it passed unanimously.

Minutes approved by Town Council on _____, 2010.

Mayor

ATTEST:

Town Clerk