

MINUTES
BEECH MOUNTAIN TOWN COUNCIL
Regular Meeting – June 8, 2010

I. CALL TO ORDER

Mayor Rick Owen called the regular meeting of the Beech Mountain Town Council to order at 6:01 p.m., Tuesday, June 8, 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, Police Chief Jay Hefner and Town Planner James Scott. John Troxler from the Chamber of Commerce was present as well as a number of interested parties

II. Invocation – Chief Jay Hefner 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 – Council adopted the agenda as presented.

V. Approval of the Minutes – May 11, 2010 Regular Meeting; May 25, 2010 Planning Retreat Meeting – Vice Mayor Piquet stated that the May minutes under Section VIII. New Business Item G. should state Planning Board as opposed to Board of Adjustment. Councilwoman Keller stated that the May minutes under Section VIII. New Business Item L. should state “materials” instead of “approval”. Councilwoman Keller stated that the May 11 Section IX. Old Business Item A. should reflect “they” instead of “you” and “contractor” instead of “contract”. Further down in the same paragraph Councilwoman Keller requested that more appropriate grammar be used by removing the word “nothing” and replacing it with “no reason”. Mayor Owen asked if there were any further modifications, with there being none Councilman Holcombe motioned to approve the May 11, 2010 Regular Meeting Minutes as changed. Councilman Piquet seconded the motion and it passed unanimously. Vice Mayor Piquet motioned to approve the May 25, 2010 Planning Retreat Meeting Minutes. Councilman Miller seconded the motion and it passed unanimously.

VI. Public Comment – Marvin Rausch, of 117 West Blueberry, spoke stating that this was the second request he was making for the Town to remove the large amounts of gravel on his road, as he had already lost a tire due to puncture. Mr. Rausch questioned where the Town was with regards to the Greenbriar Paving Project, wanting to know the cost of this project, stating that Greenbriar gets huge potholes when it rains. Mr. Rausch also complained about the odor in the water. Mr. Rausch wanted to know how the Town was going to improve the striping of its roads. Mr. Rausch also wished to know what the Town was doing to address the eyesore on the Parkway with the pink elephant and blue building. Mr. Rausch stated that the Town’s street signs were in need of paint. Lastly, Mr. Rausch felt the prices at the Recreation Center needed to be raised stating that its services were being given away too cheap. Mayor Owen stated that Manager Feierabend would be able to meet with Mr. Rausch to discuss these items in detail. Councilman Miller informed Mr. Rausch that the Town is currently working on all of these items. David Conrad, of 100 Emerald Forest Lane, commended the hard work that Council was doing; Public Works Director, Riley

Hatch, on his departments maintenance of the roads this past winter; and finally Councilwoman Keller for asking tough questions during the last Budget Meeting. Mr. Conrad asked Council not to raise taxes to meet this years' budget. Instead he wanted the Town to bring Avery County's taxes down to make them in line with last years' revenues, feeling that the Town needed to live within its means. Mayor Owen stated that this Council has not uttered any idea of raising taxes. Mayor Owen stated that the Town is unable to split the millage rate with two Counties. Peggy Coscia, of the Chamber of Commerce, thanked everyone that worked on the Porche Rally over the past weekend specifically naming the Recreation Center, Police Department, Fire Department, Councilwoman Keller and John Troxler. Mrs. Coscia also noted that she was present to support Sue Freeman, of the Avery Chamber. There was no further public comment.

VII. Public Hearing for Budget – Proposed Fiscal Year 2010–2011- Councilman Miller motioned to open the Public Hearing for Budget. Vice Mayor Piquet seconded and the motion passed unanimously. There was no public comment. Mayor Owen stated that there were two more Budget Workshops scheduled for June and at 6:00 p.m. in the Town Chamber. Councilman Holcombe motioned to close the Public Hearing for Budget. Councilman Miller seconded and the motion passed unanimously.

VIII. New Business –

- a. Tax Releases** – Mayor Owen stated there were eight more tax releases. Vice Mayor Piquet motioned to approve the releases. Councilman Miller seconded the motion and it passed unanimously.
- b. Avery County Chamber Funding Proposal – Centennial Celebration – Susan Freeman** - Susan Freeman, with the Avery County Chamber of Commerce, informed Council that she was there to support the Avery County Centennial Commission. The Coalition is requesting \$1,000 to help get the word out to various communities regarding their three day event. There will be a county wide parade in which each community is being asked to provide a float. Councilwoman Keller was asked to provide a float to represent Oz. Mayor Owen asked what other support there was within other communities. Mrs. Freeman stated that the total baseline the commission is trying to gather is \$20,000. In addition the commission is hoping to get matching grants as well. Mrs. Freeman acknowledged that the commission was requesting monies from all three entities within the Town; the TDA, Chamber and Board. Mrs. Freeman pointed out that the Beech Mountain Chamber of Commerce has already stated they would donate \$1,000. Mrs. Freeman thanked Council for their time stating that if anyone was interested in attending the next coalition meeting it was to be held at the Newland Library. John Troxler from the Beech Mountain Chamber of Commerce stated that this is a very hard working group and that both public officials and school systems were involved. Councilman Miller asked when this event would be taking place. Mrs. Freeman stated that it was a year long program that would include many events.
- c. Amending § 51.045 Services; Connections – James Scott** – Mr. Scott stated this is part of the upcoming project to replace water meters. This amendment makes it clear that every homeowner would be mandated to have a homeowners shut off valve installed immediately alongside their water meter. Vice Mayor Piquet questioned this going into

effect immediately or whether a date needed to be attached to this amendment. Town Attorney, David Paletta, stated no public hearing was necessary. Councilman Miller stated that it this change to the amendment should go into effect once the project for installing the radio read meters starts. Councilman Holcombe asked if 30 days would be sufficient notification to the homeowners. Mr. Paletta stated yes. Council asked Mr. Paletta to work on the wording for the Ordinance. Andy Porter of 2669 S. Beech Mountain Parkway, asked how the homeowners would be notified of this project. Mayor Owen stated that within 30-60 days before doing the work the homeowner would be notified with a letter. Councilman Miller stated that the Town was encouraging the homeowner to take care of their service line from the meter to their place of residence.

- d. Amending § 92.36 Wild Animal Control to Include Prohibiting Feeding of Deer; in Conjunction Amending § 92.99 Penalty – James Scott** – Mayor Owen stated that Council had received a lot of letters regarding this subject. Mr. Scott stated that in order to help control the Town’s deer population that this amendment makes it illegal to feed the deer within Town limits. The penalty would be \$100 versus the penalty for feeding the bears which is \$1,000. Mayor Owen stated that Council has been approached numerous occasions to lower the number of deer on Beech Mountain. Mayor Owen stated he was not prepared to make a decision during this meeting and that he needed additional time to read all of the letters. Manager Feierabend stated that the biologist completed the study on the deer stated that the herd was not too big, but did state that domesticating the deer by feeding them was bad. Renee Castiglione, of 104 Wild Turkey Lane, stated that she has received 15 complaints about not being able to feed the deer. Mrs. Castiglione questioned the Town’s ability to police something like that through intent. Mrs. Castiglione proposed the argument that an individual could say they were feeding another type of animal and that flowers and plants are food for the deer also, so was the Town going to ban them as well. Mrs. Castiglione summarized that there was a real enforcement issue with this amendment pointing out that this issue only comes up during the summertime. People come to this mountain to enjoy the wild life and to not have these types of restrictions. Mrs. Castiglione thanked Council for their time. Mayor Owen stated that this issue had been delayed intentionally to get the input from the residents that are up here during the summer. Mayor Owen indicated that this issue would be deferred to July’s meeting. Vice Mayor Piquet moved that Council take no action during this session. Councilman Holcombe seconded the motion and it passed unanimously.
- e. Resolution Accepting and Endorsing the Watauga County Revised Solid Waste Management Plan Update of 2009 for The Town of Beech Mountain – Riley Hatch and Randy Feierabend** – Manager Feierabend stated that the plan was the same. Public Works Director, Riley Hatch, stated that the only variance was that a section for mobile homes was added which pertained to disassembling the mobile homes. Councilman Holcombe moved to accept the resolution. Vice Mayor Piquet seconded the motion and it passed unanimously.
- f. Record Retention and Disposition Schedule – Jennifer Broderick** – Town Clerk, Jennifer Broderick, advised Council that the Town needed to adopt the schedule in order to stay compliant with state laws. Vice Mayor Piquet motioned to accept the Record

Retention and Disposition Schedule. Councilman Miller seconded the motion and it passed unanimously.

- g. Genesis Short Term and Long Term Plan – James True** - James True, acting President of Genesis Wildlife, stated that the Town entered into agreement with Genesis Wildlife on September 14, 1999. The lease agreement was for 30 years with the option to renew. Roughly 10 of those years have passed. Mr. True stated that Leslie Hayhurst has done a lot with the place and that it currently houses over 200 animals right now. Mr. True stated that thirty education programs have been done in the last year. Mr. True stated that the North Carolina Department of Environment and Natural Resources has informed Genesis that their facility cannot be located so close to the Town's water because animal feces can be a cause of bad bacteria. In fact on June 3, 2010 James True spoke with the North Carolina Department of Environment and Natural Resources and came to the conclusion that there was no way that Genesis could stay there much longer. Mr. True stated that this is where the Council placed Genesis. Mr. True proposed that Genesis would work with the Town and then the Town would work with the North Carolina Department of Environment and Natural Resources. The North Carolina Department of Environment and Natural Resources wants to see an exit strategy in 90 days. Mr. True explained that it does not mean Genesis has to leave in 90 days. It simply means that there must be a good exit strategy in place. The North Carolina Department of Environment and Natural Resources is giving Genesis one year to implement the exit strategy. Mr. True proposed to Council that they note that Genesis is not asking for any money and that they refer this matter to the Recreation Committee to assist in coming up with a plan to maintain a wildlife sanctuary. Mr. True proposed that he would return to Council with two different options and that if there were any further issues that those issues be directed to him. Mayor Owen asked if the Recreation Committee had asked to work with Genesis on this strategy. Mr. True stated that a couple of members of the Recreation Committee are willing to provide their time to this cause. Mayor Owen stated that time has already been spent with Manager Feierabend and various Council Members discussing some ideas. Vice Mayor Piquet has looked at property with Mr. True and stated that the Town would like to avoid a controversial issue and try to find a place for Genesis without destroying Genesis. Mr. True stated he was looking for another opportunity to lease land with the Town and wants to make a bridge between Council and Genesis. Councilwoman Keller stated that it would not hurt to have the Recreation Center involved and that they were both amenities to the Town. Vice Mayor Piquet suggested getting on the Recreation Committees Agenda for their upcoming meeting. Councilman Miller asked how the Recreation Committee was going to work with Mr. True. Mr. True stated he would present a plan to the Recreation Committee who would then forward it on to Council. Gil Adams, of 110 Shagbark, stated that the Town Planner should be involved if the Recreation Committee was involved and that he viewed Genesis as part of our Parks and Recreation in the area. Council agreed that Mr. True could approach the Recreation Committee.

IX. Old Business –

- a. BM Hills 24; BM Buckeye Hills West 138 and 176 – Randy Feierabend** – Vice Mayor Piquet stated that there were no restrictions involved on any of the properties. Vice

Mayor Piquet stated that it has always been the Town's policy to accept these parcels and preserve them as green space. Vice Mayor Piquet motioned to accept all three lots. Councilman Holcombe seconded and the vote passed unanimously. Town Attorney, David Paletta, stated that he would prepare the deeds and send them out to their perspective owners. Mr. Paletta informed Council that prior Councils had decided not to complete a title search and that in lieu of this Mr. Paletta created a non-warranty deed in order for the Town not to have any liability exposure.

- b. Buyer's Cooperative for Propane – Randy Feierabend** – Manager Feierabend informed Council that Lee Wittman is heading this up. Manager Feierabend stated that the Cooperative has moved forward with asking service providers to get a quote based off of the use of the Club, the Town, and Ski Beech. The combined use is roughly 44,000 gallons. The goal is to provide propane to the residents of the mountain at the discount price. The next meeting is on the June 10, 2010 at 10 a.m. at Town Hall. Manager Feierabend explained that Klonteska has already done the same thing, by bidding out their propane. Councilman Miller asked how many people have signed up. Manager Feierabend stated between 100 and 150 residents. The Cooperative is looking at a 3 year contract. Town Attorney, David Paletta stated there was no legal problem with the Town moving forward.
- c. Amending Tree Ordinance – Private and Public** – Mr. Scott provided a power point presentation. Mr. Scott stated this would provide a clearer framework for protecting our forest. Mr. Scott stated that the major changes are as follows: consolidates public and private tree regulations to a single subchapter; provides more definitive standards for “topping” of trees; provides for “replacement trees” as a condition of a permit; provides for “replacement trees” as a penalty; allows the cutting of trees not meeting the normal criteria if pursuant to an approved landscaping plan. Mr. Scott stated that the provision regarding replacement trees as a penalty is both legal and enforceable. In addition Mr. Scott stated that replacement trees as a condition of a permit is allowable. Mr. Scott recommended Council consider \$15 for a tree permit if they were thinking about requiring a fee. However, Mr. Scott did inform Council that he felt that a fee would probably just aggravate individuals that were used to getting permits for free. Renee Castiglione, Chairperson of the Tree Board, stated that the Board is pleased with how far they have come with the Ordinance. It is definitely a step in preserving our forest. Mrs. Castiglione stated to Council that the fee was not important. Councilman Miller sated that now, to cut a tree, residents already have to come to Town Hall to get a permit. Mrs. Castiglione stated that the flagging and picture taking process is going to take away this he said/she said stuff when people cut down trees that they were not permitted to. Vice Mayor Piquet stated that he was not in favor of charging for the permit. Vice Mayor Piquet also stated that allowing people to present a landscaping plan to the Town's Building Inspector made the process very subjective and that it didn't seem very concrete. Town Attorney, Mr. Paletta, recommended that the Town leave some lead way there for specific plans. Mr. Scott stated that of course consistency was going to be important. Mr. Paletta stated that his thoughts were in the memo and did not have anything to add to that. Councilwoman Keller asked if this permit fee could be designated to the beautification plan. Manager Feierabend stated yes. Councilman Miller pointed out that trees are not allowed to be within an additional 5' of a structure

being constructed. Vice Mayor Piquet asked who was going to take the picture. Mr. Scott stated that it does not state who is going to take the picture, the homeowner or staff could. Mr. Paletta stated that if Council wanted to proceed then it does need to go before the Planning Board. Council advised that the Planning Board look over the amendment and provide its recommendation.

X. Town Manager and Staff Reports – Manager Feierabend stated that after staff redid all of the cost for 102 Upper Snowbird’s building permit fees that it showed that Mr. Cantrell overpaid the Town in the amount of \$172.95. Staff will be remitting this amount to Mr. Cantrell.

Manager Feierabend stated that Council needed to make a decision regarding the employees insurance policy and whether or not Beech Mountain was going to accept Tucker Administrators 60/40 Policy for the upcoming fiscal year. Staff had disseminated the information pertaining to the new policies to all employees and no negative feedback was heard. Currently the Town is working with JW Benefits. Tucker Administrators has assured the Town that they can have open enrollment completed by the end of June for all employees. Manager Feierabend reminded Council that a decision needed to be made no later than June 10, 2010. Councilman Miller motioned to approve the switch in group administrators to Tucker Administrators and accept the 60/40 Policy. Councilman Holcombe seconded the motion and the vote passed unanimously.

Mayor Owen stopped the meeting at 7:54 p.m. to take a break. Mayor Owen reconvened the meeting at 8:05 p.m.

Town Attorney, David Paletta, reopened discussion regarding the homeowner water cutoff valve stating that he had considered the wording. Mr. Paletta suggested that the amended ordinance as presented states that homeowners have to have a cut off valve. Mr. Paletta stated that staff could simply provide a letter to the homeowner informing them of the timeframe and new requirements and that nothing else would need to be done. Mr. Paletta advised that it was a good plan and that if the Town so chose they could implement a penalty of \$100 a day for those that are noncompliant with the new ordinance. Vice Mayor Piquet motioned to adopt the ordinance as presented. Councilman Holcombe seconded the motion and the vote passed unanimously. Vice Mayor Piquet stated that the Town was giving the homeowner the option to take care of their homeowner cut off valve at the time the Town was replacing their meter with a radio read meter.

Councilman Holcombe made a request to staff to provide a copy of the occupancy tax letter and the delinquent property tax notice.

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 – Councilman Holcombe motioned to go into closed session at 8:15 p.m. Councilman Miller seconded and the motion passed unanimously. Councilman Holcombe motioned to come out of closed session at 8:59 p.m. Councilman Miller seconded the motion passed unanimously.

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

XIII. Adjourn – Councilman Holcombe motioned to adjourn the meeting at 9:00 p.m. Councilman Miller seconded the motion and the vote passed unanimously

Minutes approved by Town Council on _____, 2010.

Mayor

ATTEST:

Town Clerk