

MINUTES
BEECH MOUNTAIN TOWN COUNCIL
Regular Meeting – August 10, 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 August 10, 2010 in the Town Hall Council Chambers. Other Council Members present were Paul Piquet, Rick Miller, Alan Holcombe and Cindy Keller. Staff members present were Town Manager Randy Feierabend; Town Clerk Jennifer Broderick, Finance Officer Nancy Johnson, Public Utilities Director Robert Heaton and Town Planner James Scott. There were a number of interested parties in the audience.

II. Invocation – Charlie Burtleson presented the invocation.

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

IV. Adoption of Agenda – Mayor Owen indicated that the agenda would stand as presented.

V. Approval of the Minutes – July 13, 2010 Regular Meeting – Councilwoman Keller wanted § VII. Public Hearing – Amending Tree Ordinance – Private and Public to state, ‘Mr. Scott stated that the property owner would be able to do so as long as they obtained the proper permit from the Town.’ Vice Mayor Piquet stated that under § V. Approval of the Minutes – June 8, 2010 Regular Meeting his statement regarding the \$1,000 fine should reflect that this fine was for feeding the bears. Within the same sentence Vice Mayor Piquet indicated that he would like a period after ‘in addition to the fine’ and the rest of the sentence dropped. In addition Vice Mayor Piquet pointed out that he was misquoted under § VIII. New Business a. Paving Portion of Chestnut Way – James Klingerman; Vice Mayor Piquet stated that he had said that the sewer lines were well over 40 years old and not 30 to 40 years old as the minutes were written. Councilman Miller motioned to approve the minutes as amended. Councilman Holcombe seconded the motion and the vote passed unanimously.

VI. Public Comment – Fred Barth, owner of Beech Alpen and Top of the Beech stated that he has purchased a small strip of property to connect the Beech Alpine to the Top of the Beech and would like to donate an easement to the Town to be used as part of a future Town hiking path.

Shelly Keenan, of 142 Village Cluster Road, stated her concern regarding three other homes that are on her street. She viewed these homes as un-kept areas and believed that they were defacing the value of her property. Mayor Owen advised Mrs. Keenan to speak to the Town’s Code Enforcement Officer Stan Hanna.

VII. Public Hearing –

- a. Building Height** – Councilman Holcombe motioned to open the Public Hearing on Building Height. Vice Mayor Piquet seconded the motion and the motion passed unanimously. Town Planner James Scott stated that the purpose of this amendment was to add some clarity to a provision in the code book which was ambiguous. Mayor Owen

asked if there was any public input. With there being none Vice Mayor Piquet motioned to close the Public Hearing on Building Height. Councilman Holcombe seconded the motion and the motion passed unanimously.

- b. ***Sign Permit*** – Councilman Miller motioned to open the Public Hearing for Sign Permit. Vice Mayor Piquet seconded the motion and the motion passed unanimously. Town Planner James Scott stated that the amendment dealt directly with § 154.276 Real Estate Signs which only allowed a permit for a sign to be valid for six months. This amendment would allow a sign permit to be valid for a year. Mr. Scott proposed that Council consider the two possible amendments which they had before them. Mayor Owen asked if there was any public input. With there being none Vice Mayor Piquet motioned to close the Public Hearing on Sign Permit. Councilman Miller seconded the motion and the motion passed unanimously.

VIII. New Business –

- a. ***Dog Park – Suzanne Svejcar*** – Mrs. Svejcar, of 605 Pine Ridge Road, requested that the Town designate an area to be used as a dog park for the Town’s residents. Mrs. Svejcar stated that the basic need would be a mowed, fenced area with a water source. Mrs. Svejcar provided Council with a list of 75 interested homeowners and also discussed the possible locations for the dog park of; the hill behind the Brick Oven, around the Lake Coffey area or at Buckeye Recreation Center replacing the small garden area. Mayor Owen stated that the basic need sounds simple enough however there were possible issues such as; who was going to police, who was going to mow and where the money was going to come from for this project. Vice Mayor Piquet stated that there was no money for this type of project or other such projects during this fiscal year with the budget already being set. Mrs. Svejcar stated that she hoped Council would strongly consider this in the spring. Mayor Owen directed this issue to the Planning Board for further review. Mrs. Svejcar was advised that the Planning Board meets the first Tuesday of the month at 9:00 am.
- b. ***Genesis Presentation – Relocation Plan – James True*** – James True, acting President of Genesis Wildlife, stated that it was Genesis’s intention to complete the following by September 1, 2011 in order for the Town to be compliant with the North Carolina Department of Environment and Natural Resources:

1. All outdoor habitats will be removed from their current location.
2. All animals currently housed outside will be moved and/or adopted to qualified handlers.
3. Genesis requests that the North Carolina Department of Environment and Natural Resources allow Genesis to have one outdoor habitat located between the current dome building and the driveway to be used as a temporary rehabilitation habitat.

Mr. True stated that the proposal would still need to be submitted by the Town to the North Carolina Department of Environment and Natural Resources for their approval. Mr. True went on to state that it was the intention of Genesis to continue to provide care for injured wildlife and that the hospital would remain open as it has for so many years.

Mr. True summed up his presentation by expressing a great gratitude to council, individual staff members, and the community at large. Mayor Owen asked why there was a need for an extension and advised Mr. True that Council would need to come to terms with Genesis through a written agreement. Mayor Owen indicated that Council was not against Genesis but that Council was charged with the responsibility of maintaining safe drinking water for the community and had been put on notice by the North Carolina Department of Environment and Natural Resources. Councilman Miller wanted to know if Genesis could move out quicker than September 1, 2011 since this situation dealt directly with the Town's water supply and quality. Councilman Miller also felt that this arrangement needed to be in writing. Vice Mayor Piquet agreed that this arrangement did need to be definitive and in writing. Vice Mayor Piquet wanted the agreement to state that fifty percent of the animals would be removed from the premises in the first 6 months and that the remaining animals were to be removed by September 1, 2011. Mr. True stated that Genesis could provide reports on their status. Vice Mayor Piquet motioned that the Town submit the proposed plan to the North Carolina Department of Environment and Natural Resources with the change that half of the animals and habitats be removed within the first 6 months and the rest of the animals and habitats removed before September 1, 2011. Councilman Miller seconded motion and the motion passed with a vote of 3 to 2. Council Members Piquet, Miller and Owen voted yea and Council Members Holcombe and Keller voted nay. Mr. True stated that he would have to check with the Genesis Board members regarding the new plan to see if it was workable.

- c. Ridgeview Wood 3 Lot 346 – Randy Feierabend** – Councilman Holcombe motioned to accept Ridgeview Wood 3 Lot 346. Councilman Miller seconded the motion and the vote passed unanimously.
- d. Declaration of Intent to Reimburse – Randy Feierabend & Nancy Johnson** – Councilman Holcombe motioned to approve the Declaration of Intent to Reimburse. Councilman Miller seconded the motion and the vote passed unanimously.
- e. Budget Transfer Request – Randy Feierabend & Nancy Johnson** – Mayor Owen recommended to Council that the money not come out of the water and sewer reserve but that the money come from the general fund unrestricted. Councilman Miller motioned to transfer the money out of the general fund for the Radio Read Meter Project. Councilman Holcombe seconded the motion and the vote passed unanimously.
- f. Financing Options – Randy Feierabend & Nancy Johnson** – Mayor Owen explained that Council needed to direct staff on which financing option the Town would proceed with for the Radio Read Meter Project as well as adopt the proposed resolution. Mayor Owen stated that the three financing options available were; Split Loans, a Variable Rate Loan or a State Revolving Fund Loan. Mayor Owen asked staff if money was available from the State to acquire the loan. Finance Officer Nancy Johnson informed Council there was and that a response on the Town's application could be had within 30 days. Mrs. Johnson further informed Council that the deadline for the application was September 30th. Vice Mayor Piquet motioned for staff to apply for a State Revolving

Fund Loan and to accept the Resolution By Governing Body of Applicant. Councilman Holcombe seconded the motion and the vote passed unanimously.

- g. Dr. T. T. Knight Jr. – Water Bill – 102 Pinnacle Ridge Road** – Mrs. Knight addressed Council about her second quarter water bill asking specifically for a reduction to the bill. Public Utilities Director Robert Heaton stated that there had been poor readings and communication with regards to the billing. Manager Feierabend concurred that staff believes a further reduction is necessary. Vice Mayor Piquet motioned that the homeowner should only have to pay \$656.15. Mayor Owen seconded the motion. Councilwoman Keller asked about precedent. Mayor Owen stated that Council could not be held to a precedent. Mayor Owen called the question. Council was unanimously in favor that the water bill be reduced to \$656.15.
- h. Road Stabilization – Randy Feierabend** – Manager Feierabend explained to Council the process and the cost for EnviRemed Road to come up and demonstrate their product on a 300’ section of road. Manager Feierabend wanted to use a gravel road that was both heavily used during the summer as well as the winter. Manager Feierabend stated that estimates with this product were half the cost of paving. Councilman Miller stated that this could possibly lead to the Town not having to use gravel roads anymore. Manager Feierabend stated that the Town still needs to find out if the State approves this material. Councilman Miller motioned to approve funding the proposed test with the Town paying up to \$2,000 for the testing to take place. Councilman Holcombe seconded the motion and the vote passed unanimously.
- i. Lakeledge and St. Andrews Intersection – Paving – Randy Feierabend** – Mayor Owen indicated that there were two paving requests on the agenda; this one and § IX. Old Business c. Chestnut Way. Mayor Owen instructed Council that because of their similarity in nature both requests would be discussed concurrently. Mayor Owen provided Council with a brief history, summarizing that previous Councils were allowing roads to be paved by petition of homeowners of the entire road. More recently Council has entertained shorter sections of the road being paved. Mayor Owen asked Council what their feelings were towards these short paved roads reminding Council to keep in mind the maintenance issues as well as issues with the Town’s infrastructure, specifically pertaining to water and sewer lines. Councilman Holcombe stated one stipulation should be that the requested area tie into a paved portion of road. Vice Mayor Piquet stated that he did not feel it was good policy to allow these types of requests stating that it created an extra burden on the taxpayer when old lines needed to be replaced and when the Town had to resurface the road. Vice Mayor Piquet felt it was Councils obligation to look 10 years down the road when making such decisions. Councilman Miller pointed out that staff had provided information stating these two areas were fine for paving. Denise Andrews, of 300 St. Andrews Road and Jim Klingerman, of 168 Chestnut Way spoke to Council urging Council to strongly consider their requests. Councilman Holcombe entertained a motion that Council approve the two paving projects. Councilman Miller seconded the motion under the condition that Council have further discussion. Councilman Miller asked if any petition was completed with neighbors on these roads. Mr. Klingerman indicated that he had but his neighbors did not have the money to pursue the paving of the whole road. Councilman

Miller felt that it would not be a burden on the Town to take over 100' to 500' of new paving. Councilman Miller stated that if Council was being petitioned to pave the whole road then he would feel differently. Vice Mayor Piquet did not think it was a good idea to allow the paving of these small areas because this would only generate more requests and that all of this footage would start to add up. Councilman Miller stated that he liked Councilman Holcombe's idea that should Council consider any smaller sections of paving requests by homeowners then these areas must attach to a paved portion of road. Mayor Owen stated that there were additional costs other than paving of the road and that Council needed to determine which of these costs would be passed off to the homeowner. Manager Feierabend stated that the road would need to be certified by an engineer. Councilman Holcombe stated that all of the costs associated with manhole raising would be paid for by the homeowner. Mayor Owen stated that engineering and hydraulics of the water runoff needed to be taken into consideration. Councilman Holcombe indicated that these two areas would be a good test and that the Town was also going forward with testing the EnviRemed Road product as well and that this could potentially solve a lot of the Towns issues with such requests in the future. Councilman Holcombe stated that the Council should not consider any more requests for private homeowner paving of Town roads until Council sees how these two paving projects go and how the testing for the new material provided by EnviRemed Road product turns out. Councilman Holcombe stated that this would help Council with making decisions in the spring. Mr. Klingerman stated he would be interested in seeing how the new product performed and was willing for Council to allow his project to move forward pending the testing of the new material. Mr. Klingerman stated he would also need to know what the total cost of the project would be for him. Mayor Owen stated that it was imperative that the Town not pay for the engineering. The Town could write the check out and then be reimbursed by the property owner. Manager Feierabend stated that the testing for the EnviRemed Road product would be done in August. Vice Mayor Piquet questioned why Council wanted to rush to approve these two requests instead of waiting for the new material to be tested. Mayor Owen called the question on the two proposed homeowner paving projects. Council approved the paving of the two areas with a vote of 4 – 1. Council Members Keller, Holcombe, Miller and Owen voted yes. Vice Mayor Piquet voted nay.

IX. Old Business -

- a. ***Jennifer Bryant – Water Bill – Cherokee Condominiums*** – Manager Feierabend stated that staff found no leak at this property. Upon reviewing the situation staff had deduced that there are multiple units on this meter and that staff needs to increase the minimum that is currently being billed out. Vice Mayor Piquet stated that the delinquency on this account does not involve Jennifer Bryant but is between the homeowner and the property management company. Mayor Owen stated that there is a history with this user at three different locations on the mountain with higher readings. Councilwoman Keller wanted to know if staff could set Mrs. Bryant up on a payment plan for the past due amount of \$1,487.02 from another utility account Mrs. Bryant had held. Councilman Holcombe stated the utility clerk could pay \$15 and take this matter to small claims court if Mrs. Bryant was not willing to set a payment plan up with the Town. In regards

- to the water bill at Cherokee Condominiums Council unanimously decided to take no action.
- b. **Propane Contract – Randy Feierabend** – Mayor Owen asked if Council was comfortable with staff selecting the best company to provide propane for the Town’s needs. Council concurred that staff could make this decision.
 - c. **Chestnut Way – Randy Feierabend** – This paving project was discussed in conjunction with § VIII. New Business i. Lakeledge and St. Andrews Intersection – Paving.
 - d. **Building Height – Vote** – Council indicated that there were still specifics missing from the proposed Building Height amendment. Manager Feierabend stated the proposed amendment needed to be sent back to the Planning Board. Council agreed to take no action and directed the Planning Board to further review the proposed amendment.
 - e. **Sign Permit – Vote** – Councilman Holcombe asked if signs that were already up would be retroactive. Manager Feierabend stated yes. Councilman Miller motioned to approve the Sign Permit Amendment Option 2 that stated, ‘(H) All real estate sign permits are valid from the time obtained until the next April 1st, but in no event shall such permit be valid for a time period of greater than one year. During the time period permitted, such sign may be transferred from property to property.’ Councilman Holcombe seconded the motion and the vote passed unanimously. Mayor Owen indicated that in order to police this new sign ordinance amendment there would have to be some kind of sticker on the sign or the post. Councilman Holcombe suggested that the sticker be affixed to the post. Councilman Holcombe stated that realtors would need to register with the Town Planner the location of their sign. Town Planner James Scott stated that he would be registering all of the signs. Manager Feierabend stated that the Town would issue a distinct sticker that would be affixed to the sign once the fee is paid.

X. Town Manager and Staff Reports – Manager Feierabend stated that he was in possession of Fred Barth’s proposed easement agreement with the Town and that an attorney would review the agreement.

Manager Feierabend stated that he had received notification from Public Works Director Riley Hatch that road striping had begun August 9th. Currently they have stripped Tamarack, Charter Hills, Hornbeam, Upper Grouse Ridge, Beech Mountain Parkway, North Pinnacle Ridge and also out to the Pinnacle Inn.

Manager Feierabend stated that the Town is still under stage 3 mandatory reductions. Councilwoman Keller questioned Public Utilities Director Robert Heaton about leak detectors. Mr. Heaton stated that the Town has purchased 10 leak detectors.

Mayor Owen called for a break in session at 9:05 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 – Councilman Holcombe motioned to go into closed session at 9:21 p.m. Councilman Miller seconded and the motion passed unanimously.

Councilman Holcombe motioned to come out of closed session at 10:00 p.m. Councilman Miller seconded the motion passed unanimously.

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

XIII. Recessed – At 10:01 p.m. Councilman Holcombe motioned to recess the meeting to Thursday, August 12, 2010 at 4:00 p.m. at Town Hall. Councilman Miller seconded the motion and the vote passed unanimously.

XIV. Reconvene – Present at Town Hall on August 12, 2010 at 4:00 p.m. at Town Hall were Mayor Rick Owen, Vice Mayor Paul Piquet and Council Members Rick Miller, Alan Holcombe and Cindy Keller. Staff members present were Town Manager Randy Feierabend and Town Clerk Jennifer Broderick. Councilman Holcombe motioned to reconvene the regular meeting from August 10, 2010. Councilman Miller seconded the motion and the motion passed unanimously.

XV. 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 4:01 p.m. Councilman Miller seconded and the motion passed unanimously. Councilman Holcombe motioned to come out of closed session at 4:39 p.m. Councilman Miller seconded and the motion passed unanimously.

XVI. Other Business – Councilman Holcombe moved to authorize attorney Lee Poole and the firm of Cranfill, Sumner & Hartzog to institute legal action against G.E.M. Constructors Inc. in connection with the legal claims the Town has against G.E.M. Constructors Inc. related to the construction of the Recreation Center by G.E.M. Vice Mayor Piquet seconded the motion and the vote passed unanimously.

Manager Feierabend stated that all three of the potential candidates for the position of Town Attorney had been contacted and that all of the parties were interested in the position. Council scheduled tentative interview times for the upcoming Tuesday, Wednesday and Thursday between 2:00 p.m. and 5:00 p.m. for all three candidates. Manager Feierabend was instructed to schedule the interviews.

Manager Feierabend discussed Genesis with Council asking for permission to approach the Genesis Board. Manger Feierabend stated that he would like to begin the eviction process under the premises that Genesis was in violation of their lease agreement with the Town. The eviction would give notice to Genesis that they would no longer be able to operate from their current site the way that they had been and would provide Genesis with one year to remove the animals and habitats currently at the site. Manager Feierabend stated that doing this would help to insure that the Town stayed compliant with the North Carolina Department of Environment and Natural Resources. Councilwoman Keller was concerned that it appeared that Council wished to get rid of Genesis stating that Genesis needed room to continue with their mission. Councilwoman Keller pointed out that Genesis was one of the things that made Beech Mountain special and that she was not interested in losing them, further stating that Genesis was an asset to the Town. Manager Feierabend assured Councilwoman Keller that this was not the case. Manager Feierabend simply wanted to work with Genesis to create a nature wildlife center that does not house exotic animals and also does not affect the Town's water supply. Mayor Owen indicated that he would like to be

informed of who comprised the Genesis Board and that Genesis was simply being given notice that their violations were no longer going to be overlooked. Mayor Owen stated that the Town is very interested in establishing a new lease with Genesis at an alternate location.

Councilwoman Keller questioned if the Town would consider recognizing an area for wild life viewing. Councilwoman Keller stated that she was specifically thinking of the deer and wondered if the Town could designate a spot where these animals could be fed instead of individuals feeding the deer from their homes.

XVII. Adjourn – Councilman Miller motioned to adjourn the meeting at 5:06 p.m. Councilman Holcombe seconded the motion and the vote passed unanimously.

Minutes approved by Town Council on September 14, 2010.

Mayor

ATTEST:

Town Clerk