

**MINUTES OF THE TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REGULAR SESSION MEETING
March 14, 2011**

THE BLACK MOUNTAIN BOARD OF ALDERMEN held its regular monthly meeting on Monday, March 14, 2011 at 6:00 p.m. in the board room of Town Hall, 160 Midland Avenue, Black Mountain, NC.

I. CALL TO ORDER, PLEDGE OF ALLEGIANCE, PRAYER

Mayor Bartlett called the meeting to order at 6:00 p.m. with the following members present:

Mayor Carl R. Bartlett
Vice Mayor Joan Brown
Alderman Ruth D. Brandon
Alderman Tim Rayburn
Alderman Carlos Showers
Alderman C. Michael Sobol

The following staff members were present:

Marcia D. Onieal, Town Manager
Ronald E. Sneed, Attorney
Darlene Whisenant, Town Clerk
Anna Stearns, Administrative Assistant
Elizabeth Teague, Planning & Development Services Director
Kevin Pressley, Police Chief
Steve Jones, Fire Chief
Casey Conner, Recreation Services Director
Mark Combs, Public Services Director
John Shaw, Golf Course Superintendent
David Ballard, Golf Operations Manager
Jennifer Tipton, Permits Clerk
Dan Cordell, Building Inspector

Representing the media:

Jennifer Fitzgerald, Black Mountain News
Mark Vanderhoff, Black Mountain News
Gary & Sally Biggers, Black Mountain Video Productions

Mayor Bartlett introduced the Montreat Boy Scout Troop #50 who presented the colors and led the Pledge of Allegiance. Mayor Bartlett then introduced Pastor Bob Blalock of Ridgecrest Baptist Church who led a prayer. Mayor Bartlett thanked everyone in attendance and

expressed appreciation to all those who were attending for the first time and also the viewing audience. He said that re-broadcast of each regular meeting is shown throughout the month on Charter Cable's Buncombe County Channel 2 at 8:00 p.m. on Fridays, at 2:00 p.m. on Saturdays, and at 8:00 p.m. on Sundays. Meetings initially air the same week in which they occur and are shown weekly until the next regularly scheduled meeting. Citizens may also go to the Town website and click on "Town Board Video Stream" at any time and view the most recent regular meeting of the Board of Aldermen.

II. ANNOUNCEMENTS OF THE MAYOR

Mayor Bartlett expressed condolences of the community to the Ingle family on the loss of Bob Ingle, founder of Ingles Markets, Inc. who will be remembered as an icon.

Mayor Bartlett recognized Brad Levine for his achievements in coaching East Rutherfordton High School's basketball team which won the NC East 2A Basketball Championship.

Mayor Bartlett read from an email he received today from Ron Nalley, Town Administrator for the Town of Montreat. Mayor Letta Jean Taylor was involved in a very serious car accident and is expected to take as much as a year to fully recover. The family has asked for no visitors.

Governor Bev Perdue has joined President Obama in ordering all US and North Carolina flags to be flown at half staff on Tuesday, March 15th in tribute to Army Corporal Frank W. Buckles who was the last surviving US veteran of WWI.

Mayor Bartlett introduced Edward Brower, Scoutmaster of Boy Scout Troop 50 from Montreat. Mr. Brower said that his troop is attending tonight's meeting to earn the Citizenship in the Community badge.

III. CITIZEN COMMENTS

Alan Greene, 335 Lookout Terrace, thanked Aldermen Brandon and Rayburn for contacting him in regard to the town square property. He expressed his continued opposition to the development of the property as a park. He believes the town has a sufficient number of parks. He does not believe the recent telephone survey is reflective of the majority of the town's opinion. He asked that the Board consider conducting open forums to solicit information from the public. He encouraged the public to contact their Aldermen to let them know their opinion about the development of the town square.

Phil Bisesi, 15 Hi-Vu Drive, said that he is not in favor of selling the property in the center of town.

IV. CONSENT AGENDA

Alderman Sobol requested that Item B be removed from the Consent Agenda and placed under Unfinished Business as item C.

Alderman Brown moved to adopt the Consent Agenda as revised. The motion was unanimously adopted.

V. UNFINISHED BUSINESS

A. Golf Course Update

Town Manager Marcy Onieal said that this item was placed on the agenda at the request of the Women's Golf Association, noting that President Suzanne Nelson will speak on their behalf, and that Black Mountain Men's Golf Association had also been invited to speak, with Secretary Dave Alexander filling in for President Ed McGinnis, who is unavailable.. There has been a great deal of confusion in the public about the action taken by the Board at its last meeting when it voted to close the club house building and terminate the lease, after providing 60-days notice to the Men's Association to vacate the building. Ms. Onieal has met with representatives of each of the Golf Associations to clarify the Town's action and address concerns.

Ms. Onieal clarified that the Building Inspector has sole authority over when to close a building for unsafe conditions, and that the Board of Aldermen does not have the authority to relax or waive code requirements, including those applying to building, health, or ADA code requirements, nor may the Board ignore building code violations. The Men's Association was granted 60 days to vacate by express permission of the inspector, who deemed the entire upper floor of the building as "unsafe for occupancy", but the men's lounge sound enough to allow for the extended notice, pursuant to the request the Men's Association submitted to the Town Manager. Ms. Onieal noted that the only public discussions had focused on the estimated \$14,000 required to bring the floor structure into compliance and ameliorate that safety issue, but that, it is important to recognize that once renovation is started all code violations and ADA violations must be brought up to code. The overall cost of renovating the structure solely for code and major maintenance deficiencies is conservatively estimated at \$75,000 - \$100,000. The basement area used by the Women's Golf Association is on a concrete slab on grade and does not have the same safety hazards as the upstairs area, but is not ADA compliant. The Women's Golf Association had already been granted permission to remain in the space through June 2nd when they hold their spring tournament. Ms. Onieal reminded the board that her previous recommendation included \$100,000 to renovate the building, \$100,000 to renovate the course and \$50,000 to cover operating deficit and unbudgeted operating needs, but that a higher than expected operating deficit and the fact that the Town would be receiving specific recommendations regarding course improvements in April had led her to revise her recommendation and hold off committing funds for building renovation until after evaluating the overall needs of the entire course and the availability of funds to make all necessary improvements, during the spring budget process.

Recreation Commission members, the Golf Advisory Group, and staff all agree that the golf course itself must be improved and is the highest priority for allocating funds. Ms. Onieal and golf course staff met with Pat O'Brien, Chief Greens Consultant for the Southeast Division of the USGA and he is preparing a hole-by-hole analysis of the course and will provide recommendations, both short term and long term, to improve the course. In addition, the lease for all of the golf course maintenance equipment is ending in July, necessitating a new lease which will likely cause an increase in the operating budget, which has yet to be budgeted for. Each of these items will come with a significant cost, which would detract from the funds available for the renovations of the clubhouse.

The operating budget is expected to run a deficit close to \$100,000 at the end of this fiscal year, with a zero or negative balance of unreserved cash in retained earnings. Operations at the golf course have not paid for themselves in more than 6 years, and unreserved cash balance at June 30, 2010 was only about \$8,000. The Board approved a \$250,000 loan to the Golf Fund at its December, 2010 meeting. Ms. Onieal recommended staff be allowed to develop a complete plan for golf course facilities update and maintenance, including the equipment, greens, pro shop, and clubhouse, before deciding how to expend the available loan proceeds.

Alderman Sobol reviewed what he believes are the most basic renovation costs that will have to be made for the building to meet minimum code and be inhabitable. He is concerned that the golf course will miss out on lucrative summer tournaments if the building is closed for the summer.

Alderman Brown suggested that the board allow Ms. Onieal to gather the additional information about the cost of all necessary repairs and report back to the board at its next meeting.

Suzanne Nelson addressed the Board on behalf of the Women's Golf Association. She first read a letter from one of the association's members, Ruth Kent. The Black Mountain Women's Golf Association is one of the oldest and most active of Women's Golf Associations in the southeast. Some players commute as many as 30 miles to play at our course. The Association belongs to the Blue Ridge Ladies' Golf Association and the Carolina Ladies' Golf Association. The association hosts one tournament each year for each group, resulting in considerable revenue for the course. The association furnished and maintains its lounge at its own expense. The association also purchases, plants and maintains all of the flower beds on the course. She urged the board, on behalf of the association, to do all it can to preserve the historic asset that is the Black Mountain Golf Course.

Dave Alexander, addressed the Board on behalf of the Men's Golf Association. The association currently has 130 members and was chartered originally by the Board of Alderman. The association originally built the lounge facility with its own funds and gave the facility to the town. The town has no capital investment into the building. He believes that renovating the building is preferable to demolition. Tournaments sponsored by the golf associations generate as much as \$60,000-\$90,000 per year. He fears that if charity organizations take even one annual event to another location, they will be unlikely to return. No significant changes have been made to the course improvements in the last 9 months. He urged the board to immediately begin

renovating the building and making improvements to the course itself. The course is in the worse condition he has seen it in at least 50 years. He said that the Men's Golf Association is not only a tenant of the building, but is a stakeholder and should be kept apprised of all decisions and made a part of the discussion. Mr. Alexander provided copies of his comments to the Board.

Mayor Bartlett addressed the board as a member of the public. He reviewed the options presented to the Board by staff. He spoke about the 25 tournaments hosted by the course each year and said that the Women's and Men's lounges are necessary spaces to allow registration, dining and socializing. He spoke about the number of groups and members who regularly use the facility. Shelter must be provided during storms and the pro shop does not provide adequate shelter. He encouraged the Board to more carefully review the recommendations brought to them by staff. He believes that repairs to the building will cost \$13,000 - \$18,000.

Lester Bullock, Chairmen of the Golf Program for the local Shriner Club said that his group will consider other locations for their tournament if the club house is not available. This would be the sixth year the group has used the course. He urged the board to reconsider its action so that they can still use Black Mountain's facilities for this year's tournament.

E.V. Gouge, 131 Fairway Drive, said that he began caddying at the Black Mountain golf course in 1947. He spoke about the history of the course and its positive impacts on the community.

Blanche Tennent, 5 Parkwood Drive, Arden, has golfed in Black Mountain since 1982. She comes here to golf rather than going to her nearest golf course because of the ability to socialize with the Women's Golf Association. She will reconsider her membership and use of the course if the club house is demolished.

Mike Baldwin, C4 Lynx Drive, said that he has watched the course deteriorate over his two years living in Black Mountain. The course was ranked at 3 stars by Golf Digest Magazine many years ago. He believes the course today would not be likely to receive one star. No fertilizer or grass seed has been placed on the course and the growing season has already begun. He would like to have the board begin initiating a plan rather than spending more time working on a plan.

Jerry Morris, Terry Estate Drive, has been a member of the Golf Association for 15 years. He called on the Board to end the madness that has loomed over the golf course for the last several years. Mismanagement and a lack of maintenance have effectively ruined the course. He is now embarrassed to invite friends to play on the course. He would like for the Board to stop spending its energy placing blame, and begin spending that effort on maintenance of the course.

Al Richardson, 103 Richard Lane, said that the course is a treasure for the Town and time is of the essence in regard to the decisions to be made by the Board. The building was constructed in the 1970's and does need a lot of work. But it is adequately suited to the needs of the Men's and Women's Golf Associations. Times have been tough before and the golf course has had to see significant investments from General Fund before, so it can be done again.

Beate Kauffman, 114 Fairway Drive, pleaded with the Board to get the building open, keep it open through the summer, get the course in shape and then do its studies and workshops.

Alderman Showers read from the section of the town ordinances requiring the building inspector to condemn a building after finding it unsafe for occupation. The Board asked Dan Cordell to clarify his findings about the safety of the structure. Mr. Cordell said that the ground floor room is safe for occupation, but the rest of the building is unsafe and should not be occupied. This one room on the lower level may be occupied under a temporary certificate of occupancy. Renovations of a commercial building must include an allocation of at least 25% of the total project cost toward ADA compliance.

Alderman Sobol asked that the fire chief, building inspector and town manager meet at the facility and determine an exact cost for the most minimum improvements to the building to allow it to be safe for occupancy. He suggested that the Board meet in two weeks to review this information and get started on the renovations.

Alderman Brown asked that the community begin an active effort to raise money to complete the necessary renovations. She asked the public to allow a few more weeks for the Board and Staff to gather information and make a decision.

Alderman Sobol made a motion to instruct staff to gather estimates and to reconvene the Board to meet within two weeks to review cost updates. Ms. Onieal said that if the Board is going to take action to keep the building open, it should do so before the Men's Association is required to vacate on April 16, 2011. Alderman Showers asked how the Board can tell the Building Inspector not to condemn the building immediately. Mr. Cordell said that the state statutes do allow for a period of time to be allowed for renovations to the building before requiring it be vacated so long as there is no imminent danger. ***The motion was unanimously approved.***

Mayor Bartlett called for a five-minute break at 7:25 p.m. Mayor Bartlett called the meeting back to order at 7:30 p.m.

B. Acceptance of Timber Park Water System – Ron Sneed, Town Attorney

The board voted last month to complete the takeover of the Timber Park Water System. The Town has been maintaining the system for many years. The Board has been provided with a deed from the homeowners' association and an agreement providing for maintenance. The agreement requires the homeowners' association to be responsible for any major system improvements or failures for the next year. After that time, the Town will be solely responsible for maintenance of the system.

Alderman Brown moved to approve the agreement between the Town of Black Mountain and Timber Park Property Owners Association for the assumption of responsibility for the Timber Park water system, authorizing the Town Manager to execute the agreement on behalf of the Town. The motion was unanimously approved.

C. Capital Project Ordinance Amendment

Ms. Onieal said that the project ordinance for the annexation sewer extensions was adopted in 2007 before final design and construction bids had been obtained, and nows needs amending to reflect actual cost of the project in order for the town to draw down on its loan from the state to pay the contractor for work completed. The Board originally approved a total project cost and financing in the amount of \$1.4 million. The total project cost is actually expected to come in around \$1.1 million. The anticipated 35% reimbursement from MSD for this project will more than cover the Town's cost of the recent additional extensions on Laurel Lane, not included in the original project costs. Alderman Sobol said that he has specific questions about the change orders requested by the contractor. Ms. Onieal said that all of the change orders were the result of unsuitable soils, which could not be compacted to MSD standard and had to be removed. Bad soils were a condition that could not be anticipated at the time the project was bid. Alderman Sobol asked why some gravel was charged at \$30.00 per ton, when the same gravel can be purchased from Grovestone for \$16.00 per ton. Another change order has gravel at \$47 per ton, and later at \$58 per ton. Ms. Onieal said that the unit costs represented a summary of the total costs associated with the discovery & handling of inadequate soils in multiple locations and included the cost of materials, labor, delivery, waste hauling and disposal. Alderman Sobol asked for copies of change orders 6 and 7.

Elaine Loutzenheiser said that the contractors hit a spring under Avena Road which required French drains and additional gravel.

Alderman Showers moved to approve as presented an Amendment to the Capital Project Ordinance for Annexation Sewer Line Construction (McCoy Cove, Avena, Blue Ridge Road areas), originally adopted May 14, 2007, to reflect the change from original estimated budget to current estimated actual cost. The motion was adopted 4-1, with Alderman Sobol voting against.

VI. COMMUNICATIONS FROM BOARDS & AGENCIES

A. Historic Preservation Commission Annual Report, Bill Munn, Chair

The Commission has completed designation of the South Montreat Road and Dougherty Heights neighborhoods as Historic Districts. The commission has concurred with staff approvals for 11 projects for signs, awnings and repairs. The commission has also worked with staff to reduce the clutter of newspaper boxes downtown.

VII. NEW BUSINESS

A. Appointments to fill vacancies on Town Boards and Commissions

1. Housing Commission – (1) vacancy for a one-year unexpired term extending through June, 2012

Alderman Rayburn nominated Jean Briscoe. Alderman Brown nominated Peter Vazquez. Peter Vazquez was appointed to the Housing Commission, having received 3 affirmative votes (Aldermen Brandon, Brown, Showers) to Ms. Briscoe's 2 affirmative votes (Aldermen Rayburn, Sobol).

2. Zoning Board of Adjustment – (2) Alternate vacancies

Alderman Brown nominated Laurie Young Swann. The nomination was unanimously approved.

VIII. COMMUNICATIONS FROM STAFF

- A. Town Attorney – Ron Sneed

Mr. Sneed had nothing to report at this time.

- B. Town Manager – Marcy Onieal

Ms. Onieal commended the staff of various departments who responded to the events that began at Recreation Park last week, involving assault, vehicle theft, vehicular accident, injury, and damage to property at multiple locations virtually simultaneously. The police had less than a one minute response time to the incident. There was excellent cooperation among the staff of the town's four responding departments, the Highway Patrol and Progress Energy in responding to multiple emergency calls and sites in the incident which brought down power lines across I-40 and diverted all traffic interstate traffic through town for nearly four hours. Many off-duty police officers responded without being called to do so to assist in directing traffic. Ms. Onieal offered a special commendation to Sylvia Behre and Connie Fore who were dispatchers on duty at the time of the accident.

- C. Stormwater Management Presentation

Elizabeth Teague presented an overview of current stormwater management activities in Town. Her presentation included an overview of the problems presented by stormwater and the need for proper controls and management. She also reviewed the provisions of the Phase II Federal Clean Water Act and requirements placed on the Town of Black Mountain by this federal mandate. She discussed the various projects that have been undertaken by the town to implement stormwater management and Phase II requirements.

Marc Combs spoke about the facilities maintained by the Town and the various problems faced by the staff in trying to maintain a system which is comprised of facilities owned by the Town, by the NC DOT and by private citizens. There are three key tiers to approaching municipal management of stormwater. The first is that the Town would manage only its rights of way and

properties. Projects are prioritized and paid for with pay-as-you-go budgeting. The second would be full program oversight by Town staff and with capital funding negotiated on a per-project basis. The last option is comprehensive in which the municipality takes responsibility for managing all of the stormwater within the town. This requires a comprehensive funding source, such as a stormwater tax. Greensboro, High Point, and other municipalities use this system of management, but do have significant stormwater taxes.

Once the Board determines which level of service it prefers to offer its citizenry, the staff will draft a policy or ordinance based on that directive. Staff also requested direction from the Board regarding the capital improvements that can be made to the system.

D. Census 2010 Update – Jennifer Tipton, Planning

Ms. Tipton reported that the census population data was 16.6 % lower than the Town's own projections. The challenge process begins June 1, 2011 and runs through June of 2013. Challenges are reviewed in the order in which they are received. The Town can choose to challenge its boundaries as reported by the Census bureau, challenge geocoding issues, or coverage challenges which would add or delete housing units and residents. The town would be responsible for gathering data and submitting it. It may be as much as one year before a decision is made. She anticipates that the Town will likely challenge the coverage and the boundary. The square footage reported in the census was less than the Town's actual size.

E. ADA Compliance update – Elizabeth Teague, Planning & Development Services

In 1993 the federal government issued a mandate that all government buildings must be ADA compliant. Any renovation of public facilities requires that the Town incorporate designs that are accessible to persons with handicaps. The town should have a designated ADA Officer, a complaint process, and assistance mechanisms to accommodate handicapped persons who want to speak at meetings. The Town recently conducted a comprehensive audit of town programs and facilities. The Lakeview center was highest priority for ADA compliance projects followed by the Carver Center.

IX. COMMUNICATIONS FROM MAYOR AND BOARD OF ALDERMEN

Alderman Rayburn said that the Chamber of Commerce asked the Town to provide a special rate for a golf tournament and the board refused. He is very displeased with this decision.

Mr. Rayburn made a motion that the Board rescind the \$4,000 allocated to send the Town Manager for training school at the University of North Carolina. Ms. Brown expressed her support for Ms. Onieal's attendance, especially considering that the fee can be spread over two fiscal years, and that previous managers had participated in similar programs. ***The motion failed by a vote of 2-3 with Aldermen Showers, Brandon and Brown voting against.***

Ms. Brandon expressed her displeasure with the Mayor's failure to maintain order in public meetings and asked that the Mayor increase his efforts at keeping order in the meeting.

Mr. Showers said that he has a great deal of faith in the leadership of the Town's various departments. He said that the manager and staff bring sound unbiased facts and information to the Board and have never purposefully misled the Board with any information provided, as seems to be implied by some members of the board. He said that he has personally been accused of being a puppet and being led in his votes by Ms. Brown and Ms. Brandon. He is afraid that there are too many little factions in the community and the Board is not working for the common good and betterment of the entire community as a whole. The Board should be listening more to the recommendations of staff who do not represent special interests within the community.

X. CITIZEN COMMENTS

Rachel Allen, Flat Creek Road, spoke about the stormwater and drainage problems near her home on Flat Creek Road. She said how frustrating her experiences have been when the Town tells her to contact the NC DOT and the NC DOT tells her to contact the town. The road floods during heavy rains and the road is covered with debris and trash which clogs the drains and leads to more flooding. Flood waters freeze in the winter creating a dangerous situation. Mayor Bartlett asked that Mark Combs work to help Ms. Allen mitigate this problem.

Phil Bisesi, 15 Hi-Vu Drive, said that while he is not a golfer he does use other town facilities, like the senior center. He believes that the Town should be good stewards of all of the town facilities and buildings, including the golf course club house.

Brian Alexander, Treasurer of the Men's Golf Association, said that he appreciates the efforts of the Town in reevaluating the necessary renovations. He said that the Association would like to have better communication with the town staff. He also said that they would like to have the opportunity to review bids for renovations as they come in.

XI. ADJOURNMENT

With no further business, Alderman Rayburn made a motion to adjourn at 9:05 p.m. The motion passed unanimously.

ATTEST

Carl R. Bartlett, Mayor

Marcia D. Onieal, Town Manager

Darlene Whisenant, Town Clerk

Prepared by:

Anna V. Stearns, Administrative Assistant