

**MINUTES OF THE TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN**  
**REGULAR SESSION MEETING**  
**March 8, 2010**

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**THE BLACK MOUNTAIN BOARD OF ALDERMEN** met in regular monthly session on Monday, March 8, 2010 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

Absent was Alderman C. Michael Sobol.

The following staff members were present:

Marcy Onieal, Town Manager  
Ron Sneed, Town Attorney  
Kevin Pressley, Police Chief  
Steve Jones, Fire Chief  
Jim Orr, Recreation and Parks Director  
Elizabeth Teague, Planning Director  
Rick Shreve, Finance Director  
Anna V. Stearns, Clerical Assistant

Representing the media:

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

Mayor Bartlett led the Pledge of Allegiance, followed by prayer led by Rev. Dan Snyder of the First Baptist Church of Swannanoa.

Mayor Bartlett thanked everyone in attendance and expressed appreciation to all those attending for the first time and to the viewing audience. He said that a re-broadcast of each regular Board meeting is shown throughout the month on Charter Cable's Buncombe County Government 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 they occur and are shown weekly until the next

regularly scheduled meeting. Citizens can 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. COMMUNICATIONS FROM THE MAYOR AND ALDERMEN

Mayor Bartlett recognized Rev. Snyder, who announced that the annual Passion Play at First Baptist Church of Swannanoa will be presented March 19-20, and March 26-27. Free tickets are available at the church by calling 686-5123, or online at [www.fbcswannanoa.org](http://www.fbcswannanoa.org). Childcare will be provided.

Mayor Bartlett read a proclamation to Ryan Lewis recognizing his accomplishments as a student athlete at Owen High School as both a wrestler and football player. He won the NC State Championship in his weight class.

Alderman Rayburn spoke about a letter sent by Alderman Sobol to the coordinator of the SAFER Grant Program asking that the town not be awarded the grant, which the board had by vote authorized the fire department to apply for. Alderman Rayburn asked the Board to reaffirm its vote in support of the grant. Alderman Brown recommended that the Board write a letter censuring Alderman Sobol for sending this letter, especially for signing it in his capacity as an alderman. Alderman Brandon said it concerns her that Alderman Sobol attempted to circumvent a decision of the board and to negatively influence the grant award process. Alderman Showers reiterated that this grant will allow the Town to staff the fire substation with two firefighters full-time. Alderman Showers also spoke in favor of sending a letter censuring Alderman Sobol.

*Alderman Rayburn made a motion requesting the Town Manager to write a letter to the SAFER program coordinator confirming the earlier decision of the board in support of the grant application and the terms of the SAFER program. The motion passed 4-0.*

## III. CITIZEN COMMENTS

**Gary Bartlett**, 95 Camp Branch Road, said that Alderman Sobol’s letter has infuriated him. He ran the Fire Department for many years. The department is dependant on federal and state funding. Failure to obtain this grant could endanger the town’s Class 4 insurance rating, resulting in higher insurance premiums for the citizens. He suggested that this be put to a vote of the citizens for approval. He said that Mr. Sobol’s letter is also detrimental to the morale of staff that spent many hours preparing the grant application.

**Jerry Atkins**, 56 Vance Avenue, spoke about how much Mr. Sobol’s letter upset him. He is a volunteer fire fighter. He spoke about the importance of the town supporting paid staff, as well as volunteer staff.

**Alberta Cannon**, 14 Silver Lining Drive, asked that the shanty on Flat Creek Road that used to be a bar/roadhouse be removed by the town. The building has collapsed. It is an eyesore as well as an environmental hazard because of asbestos contamination.

#### **IV. STAFF COMMUNICATIONS**

##### **A. Town Attorney**

Alderman Brown asked Mr. Sneed for an update on the Monte Vista Hotel situation. Mr. Sneed reported that CRC Health Care group was awarded a conditional use permit. The permit was appealed to district court. A hearing will be held on March 15<sup>th</sup> at which CRC Health will ask the court to allow it to intervene in the appeal. The opposition has asked the zoning administrator to revoke the conditional use permit. The letter declining to revoke the permit has been mailed to the attorney for the opposition. Alderman Brown noted that the opposition to this application has cost the Town an additional unbudgeted \$11,376 in attorney's fees through January.

##### **B. Town Manager**

Ms. Onieal thanked the aldermen for their time and for their thoughtful consideration and input on challenging issues during a series of planning meetings with staff during the month of February. She recognized and commended the Public Works Department staff for its recent efforts to proactively identify specific areas of the community needing maintenance and service improvements and to identify ways in which the department staff can operate more efficiently and effectively. She also made the following announcements:

Buncombe County taxes must be paid by March 10<sup>th</sup> in order to avoid publication in the Citizen-Times.

An ethics webinar presented by the North Carolina League of Municipalities and the North Carolina School of Government will be presented at Town Hall on March 25<sup>th</sup> from 4:00 – 6:00 –pm. The webinar is mandatory for all governing officials, but will be available to staff and the public as well.

Rainbow Recycling and Asheville Greenworks will host a Styrofoam and plastic pot recycling day at Owen High School on March 20, from 9:00 am – 2:00 pm during the Chamber's annual business expo.

Lydia Ribley, wife of Detective Lee Ribley, passed away on Saturday. Visitation will be held Wednesday from 5:00-7:00 at Harwood Home for Funerals. The service will be held Thursday at 10:30 am at St. James Episcopal Church.

**V. CONSENT AGENDA**

- A. Adoption of Minutes  
*Motion: To adopt the minutes of February 8, 2010 (Agenda Workshop), February 8, 2010 (Regular Session), and February 8, 2010 (Closed Session)*
- B. Declaration of Surplus Property – Recreation Department Vehicle  
*Motion: To declare a 1995 Ford F-150 pick-up truck as surplus and authorize staff to dispose of it through sale.*
- C. Declaration of Applicant Agency for NC/FEMA Disaster Relief Assistance – Disaster #NC-1871 (Dec 17-25, 2009 emergency storm response)  
*Motion: To adopt Resolution #R-10-04 designating Marcy Onieal as primary agent and Rick Shreve as secondary agent to act on behalf of the Town for the purpose of obtaining certain state and federal financial assistance under Robert T. Stafford Disaster Relief and Emergency Act.*
- D. Budget Amendment reallocating \$2,500 to correct a clerical error in the adopted FY 09-10 budget.  
*Motion: To receive notification of staff-approved budget amendment as prepared.*
- E. Establishment of regular meeting schedule for the Zoning Board of Adjustment  
*Motion: To establish the third Thursday of each month at 6:00 p.m. in the Board Room of Town Hall, effective July 1, 2010.*
- F. Appointment of the Town Clerk  
*Motion: To adopt Resolution #R-10-05, endorsing the appointment of Darlene Whisenant as Town Clerk of the Town of Black Mountain.*

***The consent agenda was approved unanimously on a motion by Alderman Brown.***

**VI. PRESENTATIONS/REPORTS**

- A. Swannanoa Valley Museum/FDRTF/NEMAC  
Exhibit Preview – Swannanoa Watershed & 2004 Flood Report – Jim Fox.

Mr. Fox described the exhibit which has been installed at the Museum, which is the culmination of work by the area Flood Damage Reduction Task Force working in partnership with the National Environmental Modeling and Analysis Center, housed at UNCA. The exhibit focuses on previous and future flooding, development, climate change, the connection of local communities as members of the same watershed in the Swannanoa Valley and how to proactively to reduce the impact of flooding. A preview event for local elected officials and the public will be presented on April 8, 2010 at 6:00 p.m.

- B. Animal Control in Black Mountain
- Lt. Helen Hall, Buncombe County Sheriff
  - Chief Kevin Pressley, Black Mountain Police Department
  - Elizabeth Teague, Planning & Development Services Director
  - Mike Caraway – NC Wildlife Commission

Several animal control issues arose at the recent Board workshops, such as control of dogs, waterfowl illness, bear control, and the impact of the newly adopted Land Use Code on the keeping of agricultural animals in residential neighborhoods.

Lt. Helen Hall is head of the animal control division of the Buncombe County Sheriff's Department. The Sheriff's department took over animal control from the Asheville Humane Society in 2006. Animal Control is responsible for all animal safety and control in the county. Last year the department answered nearly 12,000 calls for service. Lt. Hall stressed that dogs running at large are penalized by a fine of \$50.00. Enforcement has asked that the second offense fine be raised to \$500.00.

Last year Black Mountain had 42 animal bites, 22 reports of animal cruelty, 9 reports of livestock in the roadway, 128 animal pickups, 384 animal problem reports, and 38 dog barking complaints for a total of 623 total calls for service.

All complaints for animal control should be placed by calling 250-6670. Lt. Hall encouraged the public to contact her via her cell phone or e-mail with any questions. She also reminded the public that animal control does not address issues with bears.

Mike Caraway of North Carolina Wildlife Commission provided the Board with two handouts, both of which are attached to these minutes. He stressed that if food sources are removed, the bear problem will be lessened. North Carolina does not provide for punishments for intentionally feeding bears. It is within the town's jurisdiction to implement a fine for intentional bear feeding. He has had reports of citizens within the city limits of Black Mountain feeding as many as 12 bears in their yard. One of the handouts provided is a sample bear ordinance which the Town could use to implement a fine for such activities.

Mr. Caraway also spoke about the botulism affecting the geese and ducks at Lake Tomahawk. These birds are not native to the area. For this reason, the state wildlife agency does not have jurisdiction over the animals. Once the disease occurs in a population, the only thing to be done is to let the disease run its course to thin the population. Mr. Caraway also donated a book titled "Living with Bears" to the Town to be made available to the public.

Elizabeth Teague, Planning Director spoke about the current land use code and how it affects animal control. The town's ordinance defers to the regulations of the county animal control ordinance for most regulations governing animals. The ordinance does allow for keeping of agricultural uses within the town with certain limitations and requirements. Hogs are prohibited in all districts. Chickens are allowed in residential and mixed-use districts if kept in an enclosed area in the side or rear yard. Roosters are only permitted in the industrial and conservation districts. Livestock is not allowed in the CB, NMU-8 and UR-8 districts.

## **VII. PUBLIC HEARING (OLD BUSINESS)**

- A. Petition for road closure of portion of Terry Estates Drive from Black Mountain Avenue to a point just east of Bridge Street.

EcoPanels, Inc. is considering a purchase of the property, provided that the building could be expanded into the area of the right of way of Terry Estates Drive.

***Alderman Brown moved to open the public hearing. The motion passed unanimously.***

**Leigh Ann Cunningham**, 258 Vance Avenue (check address), is concerned about the ability of fire trucks to access her home from the sub station on Blue Ridge Road. She encouraged the purchaser to consider other ways to expand the building in order to preserve this right of way as access both for vehicles and for walking and recreational purposes. The density along Terry Estates Drive has increased with a new development at the end of the road.

**Dave McClintock**, 143 Vance Avenue, said that this board previously considered closing the right of way on the petition of the owner of the Ford Dealership several years ago and declined to do so. He does not believe that any changes have occurred that would make this less of a public safety issue if the street is closed than it was several years ago when it was considered.

***Tim Rayburn moved to close the public hearing. The motion passed unanimously.***

The resolution is contingent on EcoPanels, Inc acquiring title to the property, relocating the 12 inch natural gas line within the right-of-way, and submitting a development plan to the Town Planning staff for approval.

***Alderman Brown moved to adopt resolution #R-10-06 to close that portion of the right-of-way as described in the petition, contingent upon the three conditions presented by staff. The motion passed unanimously.***

## **VIII. NEW BUSINESS**

- A. Review of Clevenger Master Plan & Discussion regarding the use/disposition of the residential structure (White House) on the property.

The house was evaluated by the Town building inspector. Quotes for demolition ranged from \$2,000 - \$6,000. The town investigated burning the structure for fire training purposes, but was unable to obtain a permit to do so because of the proximity to flammable materials and structures and the likely presence of asbestos.

Ms. Onieal stated that Alderman Sobol previously provided information that the property may have value as a historic site, but that the Historic Properties Commission had not had an opportunity to evaluate the information.

***Alderman Rayburn made a motion instructing staff to proceed with demolition of the structure. Alderman Brown suggested using Carolina Ditching & Demo for the demolition pursuant to the bid submitted by that company. The motion passed unanimously.***

- B. Request from Business to Business to install a 4' by 8' kiosk with a downtown directory and map on town property (at public bathrooms on Cherry Street).

Tom Gill, President of Business to Business, spoke about the benefits a business directory kiosk will provide in directing visitors to local stores. The kiosk will be constructed in a high traffic area and local businesses are excited about participating. Business To Business will pay for the construction of the sign. The organization would like to have the sign lighted, which would require running electric lines from the restrooms to the kiosk. The Historic Preservation Commission will need to approve the design. Business To Business partnered with the Chamber of Commerce to create a map, showing the locations of 85 local businesses, which will be distributed to the public at no charge.

*Alderman Brown made a motion to approve the general location and kiosk design in concept, and directing Business to Business to work with the town manager and the Historic Properties Commission to finalize details and logistics of installation in a contract between the Town and B2B. The motion passed unanimously.*

#### **IX. REPORTS OF BOARDS/COMMISSIONS**

None at this time.

#### **X. ADJOURNMENT**

*There being no further business, Alderman Rayburn made a motion to adjourn at 7:45 p.m. The motion passed unanimously.*

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Carl R. Bartlett, Mayor

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Marcia D. Onieal, Town Manager

ATTEST

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Darlene R. Whisenant, Town Clerk

Prepared by:

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Anna V. Stearns, Clerical Assistant