

**MINUTES OF THE TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN**  
**REGULAR SESSION MEETING**  
**July 12, 2010**

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**THE BLACK MOUNTAIN BOARD OF ALDERMEN** met in regular monthly session on Monday, July 12, 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:

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

The following staff members were present:

Marcy Onieal, Town Manager  
Ron Sneed, Town Attorney  
Kevin Pressley, Police Chief  
Steve Jones, Fire Chief  
Elizabeth Teague, Planning and Development Services Director  
Jim Orr, Recreation and Parks Director  
Rick Shreve, Finance and Information Services Director  
Mark White, Interim Public Services Manager  
Darlene Whisenant, Town Clerk  
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 Pastor Mike Siemen of Bee Tree Christian Church in Swannanoa. The mayor thanked everyone in attendance and expressed appreciation to all those attending for the first time and the viewing audience. He said that a re-broadcast of each regular 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 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. COMMUNICATIONS FROM THE MAYOR AND ALDERMEN

### A. Mayor Bartlett

Mayor Bartlett presented the following Certificates of Appreciation for outgoing committee members:

1. Greenways Commission – Diana McCall
2. Historic Preservation Commission – Philip Lamb
3. Housing Commission – Jessie Sherrill
4. Housing Commission Ellen Farrior
5. Housing Commission – Dot Jones
6. Housing Commission – Dawn Wilson
7. Recreation Commission – Harry Nanney
8. Recreation Commission – Judy Eubanks
9. Recreation Commission – Terry McElrath
10. Zoning Board of Adjustment – Teresa Tatham
11. Zoning Board of Adjustment – Beau Bobbitt
12. Zoning Board of Adjustment – Doug Brock

*Alderman Sobol nominated Levon Lindsey to fill a three-year term on the Housing Commission. The nomination was unanimously approved.*

*Alderman Brown nominated Dawn Wilson to fill the one-year unexpired term as a regular member and Michael Solomonides to fill the two-year unexpired term as an alternate member on the Zoning Board of Adjustment. The nominations were unanimously approved.*

Mayor Bartlett administered the Oath of Office for the following newly appointed members of the Town Boards and Commissions:

1. ABC Board – Mary Padgett Sneed
2. Greenways Commission – John Murphy
3. Greenways Commission – Dottie Shuman
4. Historic Preservation Commission – Chad Slagle
5. Historic Preservation Commission – Jack Buchanan
6. Planning Board – Ryan Stone
7. Planning Board – John Rountree
8. Planning Board – Buzz Yeatman
9. Recreation Commission – Molly Keeney
10. Urban Forestry Commission – Van Burnette
11. Urban Forestry Commission – Eric Wardwell

12. Urban Forestry Commission – Jerry Wicker

The following members of the Zoning Board of Adjustment were sworn in by the Deputy Town Clerk, Rosa Hilbert, on July 8, 2010:

1. Zoning Board of Adjustment – Ray Lamm
2. Zoning Board of Adjustment – Chris Browning
3. Zoning Board of Adjustment – Elaine Loutzenheiser
4. Zoning Board of Adjustment (alternate) – Terry McCall

The following members were not sworn in at this time:

1. Housing Commission – Philip Bisesi
2. Housing Commission – Ruth Norton
3. Housing Commission – Carolyn Copeland
4. Recreation Commission – Brian Burpeau
5. Recreation Commission – Trish MacIsaac
6. Recreation Commission – Jeff Hunter

*Alderman Sobol made a motion to thank the Chairwoman, Donna Hughes, and the other members of the ABC Board for dealing with the difficult personnel issues of the past year. The motion passed unanimously.*

B. Vice Mayor – Joan Brown

Alderman Brown invited the public to participate in the Stand Against Racism program. The next meeting will be held August 16<sup>th</sup> at Lake Tomahawk. The meeting will be a covered dish supper.

Alderman Brown said that all citizens are welcome to express their comments and concerns at the monthly board meetings, and the Aldermen have the same right. She has heard comments from around the county about how disruptive the citizen participation was at the last meeting. She asked members of the public to eliminate personal issues with the Aldermen when they speak at public comment and keep their comments directed to the business at hand.

C. Board of Alderman

Alderman Sobol expressed belief that while voices may have been raised, the last meeting was kept under control and members of the public were allowed to comment about the controversial issue of the tax increase.

Mayor Bartlett read a proclamation honoring Asheville Savings Bank for 50 years of service in Black Mountain.

### III. COMMUNICATIONS FROM STAFF

#### A. Town Attorney – Ron Sneed

None at this time.

#### B. Town Manager – Marcy Onieal

Town Manager Marcy Onieal thanked Dr. Cargile and the staff at the Family Care Home for sponsoring this year's fireworks display. The town had not budgeted money to pay for the fireworks display, and it would not have been possible without the generous donation from Family Care Home.

She announced that an orientation will be held for new members of the various town boards and commissions on August 11<sup>th</sup> at 5:00 p.m. in the board room at Town Hall.

She also announced the Zoning Board of Adjustment's new regular meeting schedule on the 3<sup>rd</sup> Thursday of each month, as adopted previously by the Board of Aldermen.

The Board passed a business privilege license fee for electronic gaming last month. The NC General Assembly has outlawed those machines as of September 1<sup>st</sup>. Two businesses have already closed or removed their machines.

The Department of Transportation will continue to provide funding for the bus service between Black Mountain and Asheville through December 31<sup>st</sup> of this year.

The ADA compliance audit has been completed. A report will be given to the Board as soon as the building inspector completes it.

Elizabeth Teague will be serving as Acting Town Manager while Ms. Onieal is on vacation from July 16-30<sup>th</sup>.

#### C. Manager's Quarterly/Year-End Report – Leadership Staff

Fire Chief, Steve Jones, delivered the quarterly report for the Fire Department.

Police Chief, Kevin Pressley, delivered the quarterly report for the Police Department.

Rick Shreve, Finance Director, delivered the quarterly financial report.

Jennifer Tipton delivered the quarterly report for Planning & Development Services Department.

Mark White, Interim Public Works Director, delivered the quarterly report for the Public Works Department.

Jim Orr, Recreation Director, delivered the quarterly report for the Recreation & Parks Department. The department has formed Black Mountain Parks & Greenways Foundation, a non-profit corporation that will allow individuals to make tax-deductible donations for town recreation projects. The first project will be construction of a new playground at Lake Tomahawk. The project will consist of a nine-month planning process and a five-day community build. The project will have to raise enough money to pay for itself and will receive no funding from the town. Area children will design the playground. Between 900 and 1,000 volunteers will be needed.

#### IV. CITIZEN COMMENTS

**Ellen Farris**, 42 Wagon Trail, thanked the Recreation Department for the work that was done to refurbish the swimming pool.

**Phyllis Genetti**, 107 Briarbrook Road, asked how individuals can make donations to the construction of the Town Square project. Ms. Onieal announced that tax-deductible donations are already being accepted by the Town and the Town Square Steering Committee will be developing a more formal plan for seeking donations very soon.

**Alan Greene**, 335 Lookout Terrace, admonished Aldermen Showers, Brandon and Brown for raising taxes without considering the budget proposals presented by Alderman Sobol. He has obtained over 300 names on a petition to have the Aldermen recant their vote to increase the property tax. He does not believe that town citizens should be asked to give up anything in order to pay property taxes. He understands that parks and greenways are an asset to the Town. He asked that the Aldermen begin working to adopt budget amendments that will reduce the property tax by 4.5 cents per \$100. He asked Aldermen Showers, Brandon and Brown to step down from their offices, as there is no formal removal procedure available to the citizens.

**Cheryl Milton**, 202 Mountain Street, said that the Alternate with the most seniority on the Board of Adjustment is required to fill any unexpired term and does not understand why this policy was not followed with the recent appointments. She does not believe that the Town needs to invest in a reverse 9-1-1 system. The County believes that they do not need this system. The Town of Weaverville is faced with a lawsuit resulting from their use of a similar system. There is a recurring annual cost associated with the system. The reverse 9-1-1 system would also not call residents with unlisted phone numbers or citizens who only use cellular phones.

#### V. CONSENT AGENDA

##### A. Adoption of Minutes

*Motion: To adopt the minutes of June 14, 2010 (Agenda Workshop & Regular Meeting – cancelled due to lack of quorum), June 16, 2010 (Special Called Meeting to replace originally scheduled Agenda Session from 6/14/10), and June 16, 2010 (Special Called Meeting to replace originally scheduled Regular Session from 6/14/10)*

B. Budget Amendment #BA-FY2011-01

*Motion:* To approve budget amendment #2011-01, recognizing receipt of donations and allocation of expenditures in the amounts of 1) \$9,717 distribution from the Buncombe County Anti-Crime Task Force to the Police Department for purchase of thermal imaging equipment and ballistic shield; and 2) \$50 donation to the Recreation Department for tennis court improvements.

C. Declaration of Surplus Equipment – Self Contained Breathing Apparatus, Fire Department.

*Motion:* To declare 35 Scott SCBA's and related equipment surplus and dispose via public auction or by sale on GovDeals.

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

## VI. OLD BUSINESS

A. Cost Sharing Agreements with NCDENR and Army Corps of Engineers for Dam Safety Studies and Emergency Action Plans.

Elizabeth Teague, Planning Director, said that Army Corps of Engineers, as part of the regional Swannanoa watershed flood mitigation program, will conduct safety assessments at the town's 2 dams for a cost of \$116,000. The US Army Corps of Engineers will provide funds in the amount of \$58,000, the Division of Water Quality will provide \$29,000 and the town will provide \$29,000. The study will result in a completed dam safety report for both dams to determine the safety and reliability of each dam over the next 50 years. This will also allow the Town to update its Emergency Action Plan and correct existing notices of violation. The dams are inspected annually for safety, but these do not evaluate the structural integrity of the dams. Mayor Bartlett believes that the lake needs dredging more than it needs inspections and that the money would be better spent in that regard. Alderman Sobol asked when the dam was last inspected since it was refurbished 25 years ago. Ms. Teague said that there is money available in the water fund to pay for this project in conjunction with federal and state grant money.

***Alderman Sobol moved to table this agenda item until the requested information is available at the August meeting. The motion passed by a vote of 4-1 with Alderman Brown opposed.***

B. Award of Contract for Construction of Sewer Extensions to Annexed Areas (Avena/McCoy Cove/Blue Ridge Roads) – David Straub, David E. Smith & Co. Engineering.

This project fulfills obligations of the town resulting from the annexation agreements executed in the early 1960's and in 1988. T&K Utilities was the lowest bidder at \$704,491.50. The town has been offered financing through Construction Grants and Loans Section of the NC Division of Water Quality for a 20-year loan at a 2.2% rate of interest.

***Alderman Brown made a motion to adopt Resolution #R-10-09 accepting a loan offer in the amount of \$1,396,255 from the Construction Grants and Loans Section, NC Division of Water Quality to extend sewer services, and designating the Town Manager as authorized agent.***

Alderman Rayburn said that he has opposed this project and the extension of sewer service to Blue Ridge Assembly Drive.

***The motion passed by a vote of 4-1 with Alderman Rayburn voting in opposition.***

***Alderman Sobol made a motion to remove the Blue Ridge Assembly Drive portion of the sewer extension projects and proceed with base project bids for the remaining portions of the project. The motion was defeated by a vote of 2-3 with Aldermen Showers, Brown and Brandon voting against.***

***Alderman Brown made a motion to award the contract for construction of sewer extensions to the lowest responsive responsible bidder, T&K Utilities, Asheville, North Carolina in the amount of \$704,491.50. The motion passed by a vote of 3-2 with Aldermen Rayburn and Showers voting against.***

- C. Tomahawk Branch Stormwater Improvement Project – J.P. Johns, McGill And Associates.

Ms. Teague gave an overview of the various ways that this project improved stormwater management and has helped to limit the amount of sediment being dumped into Lake Tomahawk. Construction is complete for the project. There is a new control structure in the sedimentation basin. A bio-retention cell has been constructed near the croquet court. Drainage control areas were implemented along the golf course to facilitate stormwater drainage.

- D. Golf Course Marketing Promotion – David Ballard, Golf Operations Manager

Due to the absence of the Golf Operations Manager, Recreation Director Jim Orr spoke about the use of a marketing program for golf course memberships. The golf course was closed for 91 days over the last year due to poor weather conditions. The commission from the program is based on the number of new memberships generated by the program and not from renewed existing memberships. The program has brought in 646 promotional members as of June 30<sup>th</sup>. Last year there were 218 total annual memberships. The program has generated \$115,938 in revenue, after payment of commissions to the marketing program. The promotion has also produced additional cart fees and other revenue of \$31,370.

Alderman Brown complimented Mr. Orr on his work with the marketing firm and increased resulting play.

Alderman Showers asked Mr. Orr about his qualifications to administer the town's golf course. Mr. Orr has over 18 years of experience in golf course administration. Mr. Showers asked about the research done by Mr. Orr before entering into the marketing agreement. Mr. Orr responded that he followed up with other jurisdictions that had hired the same marketing firm.

Alderman Showers asked Ms. Onieal about her knowledge about the agreement with the marketing firm. She was familiar with the proposals and had the contract reviewed by the town attorney. Mr. Sneed asked that some language in the contract be revised before it was executed. Ms. Onieal has received regular updates about the progress of the promotion since it began.

Alderman Sobol noted that the proceeds from memberships have to be divided over two years because the memberships sold are two-year memberships.

Mr. Orr said that over the last three years, the golf course has failed to reach 28,000 rounds of golf. Golf courses in this area should be able to handle 35,000 to 40,000 rounds of golf per year and it should be the goal of the golf course personnel to reach this level of play every year.

Mayor Bartlett said that the golf course generated about \$665,000 in revenue last year and contributed \$53,000 to the town's general fund. He does not understand why the Board was not given the opportunity to review the contract that was signed by the recreation director when it would have such a large impact on the town's finances.

Alderman Sobol said that he believes that the greens are in worse shape now than they have ever been and he believes that the course has seen reductions in membership for that reason and he hopes that the department will work harder to improve the appearance of the course.

#### E. Tennis Court Resurfacing – Jim Orr, Recreation & Parks Director

The tennis courts were resurfaced last November. The day after completion of the resurfacing the town received over a foot of snow. This prevented some areas of the surface from curing appropriately. The contractor came out and repaired the problem areas. Alderman Sobol and Mayor Bartlett met with representatives of the Black Mountain Tennis Association and the contractor to address some other problem issues. The contractor had not seen the particular problem before and agreed to research the problem. Mr. Orr consulted with an engineer at the USTA who said that Armorcoat is one of three products that they have used and it would not have been their first choice. Mr. Orr questioned why Black Mountain's USTA representative would approve a grant application using a material that their own engineering staff would not have recommended. The problem is likely being caused by groundwater. The dead spots can be removed and replaced with a product recommended by USTA.

#### F. Ingle's Site Plan & Driveway Permit – Rick & Teresa Watson

Mr. Watson said that he understands that Mrs. Teague has only been following town procedures in her approval of Ingle's site plan. He apologized for any hastily made comments about her or her actions. Mrs. Teague has agreed to ask representatives of Ingles and the DOT to

meet with him and he appreciates this effort. He would like the Town to require Ingle's to change their plans to reflect either obtaining an easement across Mr. Watson's property for both the drive and a water line, or revise those plans to show the entrance and water line in an alternate location. Mr. Watson suggested that the Town's procedures be amended to require notice to property owners who are impacted by plans received by the Town for approval so that in the future, property owners would have the ability to address this type of problem in the earliest stages of plan approval.

Mayor Bartlett called for a 5-minute recess at 8:30 p.m. Mayor Bartlett called the meeting back to order at 8:35 p.m.

## **VII. PUBLIC HEARINGS**

- A. **PUBLIC HEARING** to consider a recommended text amendment to the Land Use Code regarding wood and yard waste facilities.

The Planning Board voted to recommend a text amendment to separate the definitions for wood and other yard waste from other types of recyclable materials.

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

**Catherine Robinson**, 109 Briarbrook Road, is concerned about this addition being made since there has not yet been a need for this designation in town. She suggested that any business dealing in this type of waste be required to provide an environmental impact statement before being permitted.

**Mundy Carter**, 103 Briarbrook Road, is concerned that this text amendment may allow additional yard waste disposal facilities to be located near residences.

**John Rountree**, 29 Cotton Creek Circle, Planning Board member, said that there have been discussions about another business's interest in establishing a stump dump. Recycling services are permitted under the existing ordinance. The Planning Board believed that this type of recycling is significantly different from conventional recycling businesses and the Planning Board believed it should be regulated separately.

**Lisa Milton**, 406 W. State Street, is the owner of an 8-acre parcel on South Blue Ridge Road which abuts the property owned by Mr. Hall. She has learned that NCDENR permits yard waste disposal facilities separately from stump grinding. She suggests that the town seek guidance from DENR about how they differentiate between the various types of wood and yard waste disposal and how they regulate those. She does not want to prevent other property owners from using their properties to earn a living, but does believe that all property owners in a neighborhood have to respect each other's rights.

Mrs. Teague said that a permit from DENR is required for any yard waste or stump grinding business before it can be permitted by the Town. Ms. Onieal read from the proposed

text amendment, which would allow these to only be permitted in the heavy industrial district and as a conditional use in the light industrial district.

Mr. Rountree spoke about the various reasons that the Planning Board believed that this use was most appropriately regulated to only industrial districts.

Alderman Rayburn asked Ms. Teague to clarify that this amendment is not being made in order to allow Mr. Hall to operate a stump dump or yard waste facility on his property. Ms. Teague said that Mr. Hall has removed his request for operating a yard waste facility and has agreed that it is not a desirable use of his property. His request did result in a conversation about this issue at the Planning Board level, which led to this proposed text amendment.

*Alderman Sobol moved to close the public hearing. The motion was unanimously approved.*

*Alderman Sobol made a motion to adopt the Planning Board's recommended text amendment but adding to that a requirement that yard waste facilities be required to obtain an environmental impact analysis. The motion passed unanimously.*

*Alderman Sobol moved to adopt the attached Statement of Consistency. The motion passed unanimously.*

- B. **PUBLIC HEARING** to consider application to amend the zoning map from Town Residential (TR-4) to Highway Business (HB-8) for 9 properties located along Blue Ridge Road (**requests of applicants, Jeff Hall/Don Collins**)

Mr. Hall and Mr. Collins have requested a zoning amendment for the property known as Bud Hall's automotive and the pasture and riding ring operated by Don Collins. The Planning Board considered a request in March from Mr. Hall and Mr. Collins to have their properties rezoned for industrial uses. That board voted 5-0 not to recommend the change to an industrial use district. Mr. Hall and Mr. Collins then requested a change to commercial rather than industrial zoning. The Planning Board again voted not to recommend the requested change. In its discussion the Planning Board considered heavily the residential character of the neighborhood.

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

**Laura Williams**, 101 Briarbrook Road, said that Blue Ridge road is a relatively small area and she does not believe that it will accommodate commercial uses.

**Mimi Pownell**, 59 Old Lakey Gap Road, is a neighborhood resident and does not want to see commercial uses in this area.

**Nancy Fletcher**, 4 Last Resort Road, asked what the property owners are requesting to do with their property. She is attending the meeting after seeing a sign posted on the property and feels as if a great deal has happened already without the public being informed.

Ms. Teague said that the Town had previously received a rezoning request from property owners on Blue Ridge Road seeking to change their zoning designation from residential use to industrial use. Mr. Hall and Mr. Collins have asked that their properties on the north side of Blue Ridge Road be rezoned from residential to commercial zoning. Mr. Hall would like to preserve his right to operate his business on his property. He is currently designated as a pre-existing non-conforming use because it existed prior to his being annexed into the town. This designation prevents him from expanding his building or operation so long as his property is zoned for residential use. The requested zoning designation would allow an automotive repair business by right, but would not allow the salvage operation by right. This portion of the business would have to remain without any expansion. The request involves 9 parcels of land, 4 of which are operated as Hall's Towing; one parcel is Mr. Hall's residence, 2 large pastures, the stables and riding ring, and a residence owned by Mr. Collins.

**Phyllis Genetti**, 107 Briarbrook Road, asked if the property owners have given the town any plans for development of the property or indicated why they are applying for HB-8 zoning designation. Mrs. Teague replied that the property owners are not required to present the town with any type of development plan in order to request the re-zoning. Mr. Hall would like to be able to continue his auto repair business which is allowed under the HB-8 designation. Mr. Collins' property is used to give horse riding lessons and boarding of horses. These uses also fit better under the HB-8 zoning designation.

**Buzz Yeatman**, 1120 Montreat Road, member of the Planning Board, clarified that the Board should be more concerned with the change from residential to commercial zoning without considering exactly what use might be planned for that property. He also noted that the density allowed in the proposed district is being increased from 4 units per acre to 8 units per acre. He encouraged the board to think about the character and use of the entire strip of land.

**Lisa Milton**, 406 West State Street, owns property behind the property owned by Mr. Hall. She has no complaints about the way the salvage yard is run and believes Mr. Hall to have been a good neighbor. Mr. Collins bought property that was previously owned by Mr. Wilson and was also designated as pre-existing non-conforming use for the boarding stables operated there. Neither property owner would be allowed to expand their business under the present zoning. She believes that this will be spot zoning as determined by the North Carolina courts because the change will afford less restrictive uses to the properties owned by Mr. Hall and Mr. Collins than to the adjacent properties. One of the parcels owned by Mr. Hall is a residential lot that was purchased in 1997, well after the zoning was in place. Mr. Hall's residence has existed for nearly 100 years. The town should not grant this change when there are no identifiable differences between these parcels and surrounding residential properties. She believes this goes against the intent of the ordinance. She would like to see this item tabled so that an additional meeting can be held with members of the public and the property owners seeking the change to see if some agreement might be reached that would benefit everyone.

**Rick Spaulding**, 406 West State Street, read the purpose and intent statement from the TR-4 zoning district of the Land Use Code, which the subject properties currently enjoy. He also read from the intent statement of the HB-8 district from the Land Use Code. The Highway

Business district was contemplated for use and placement along US Highway 70 as the town's major thoroughfare. He believes the town should focus on development of existing commercial sites along US Highway 70 and Highway 9. He believes that other property owners in the neighborhood will request similar re-zonings if this request is approved. Mr. Spaulding expressed his frustration that this application has been allowed to even reach this point since the use of this zone in this area seems to violate the purpose and intent statements in the ordinance. Mrs. Teague clarified that any citizen has the right to petition to rezone and it is not the position of staff to filter those applications that get moved forward.

**Gail Burns**, owns property at 35 Lakey Gap Road, directly across from the trailer park on Lakey Gap Road. When she and her husband purchased the property they did not imagine that there was any chance that the character of the neighborhood ran the risk of being changed. She strongly opposes the request and urged the board not to pass this request.

**Elaine Loutzenheiser**, 410 Avena Road, asked the board to ensure that the character of the neighborhood stay the same and that they not approve this re-zoning request.

**Jeff Hall**, Hall's Towing, apologized to his neighbors for the inconvenience caused by his operating a yard waste facility on his property following the winter storms. He was seeking various ways to use his property to generate income. Most of the property is located within the floodway and cannot be built on. He has considered using portions of the property for a residential storage facility or other uses that would not heavily impact the neighborhood.

**Cathy Roberson**, 109 Briarbrook Road, urged the board to maintain the residential character of the neighborhood.

Alderman Brown asked Ms. Teague if Mr. Hall would be allowed to seek a variance or conditional use permit for commercial uses from the Planning Board in the future if this request is denied. Ms. Teague said that because the property is zoned residential, there would not be an option for a commercial use by variance or conditional use permit.

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

*Alderman Rayburn made a motion to approve the applicant's request to re-zone the nine requested parcels from TR-4 to HB-8. The motion failed by a vote of 1-4 with Aldermen Showers, Sobol, Brown and Brandon opposed.*

## VIII. NEW BUSINESS

### A. Budget Amendment #BA-FY211-02 (request of Alderman Rayburn)

Alderman Rayburn said that he has asked that \$50,700 be transferred from the Town's Fund Balance to the General Fund, and that this money be allocated to the Chamber of Commerce, the Swannanoa Valley Museum and the Disease Management Program. Mr. Rayburn

said that he would remove himself from the Disease Management Program if it is a concern of the other Board members that he benefits directly from the program.

***Alderman Rayburn made a motion to approve Budget Amendment #2011-02 transferring \$41,000 from the Fund Balance to the General Fund, and allocating \$6,000 to the Chamber of Commerce, \$5,000 to the Swannanoa Valley Museum, and \$30,000 for the Disease Management Program for Town employees, retirees, and dependents.***

Ms. Onieal explained that the Disease Management Program was begun several years ago when the town's health insurance for employees was self-funded in an effort to keep employees healthy, thus hopefully limiting future costs. The program pays for the co-pays for drugs used to treat diabetes, asthma, high cholesterol, hypertension, etc. Participants are required to visit with a pharmacist for 20 minutes per month. The pharmacist is paid \$35 per month per person, plus the cost of the medications.

***The motion was defeated by a vote of 2-3 with Aldermen Showers, Brandon and Brown in opposition.***

***Alderman Brown made a motion that the Board not consider funding these three budget items for the remainder of this budget year, and to instruct the Town Manager to investigate a better health program that would provide similar benefits to Town employees. The motion was approved by a vote of 3-2 with Aldermen Sobol and Rayburn opposed.***

## **IX. COMMUNICATIONS FROM BOARDS & AGENCIES**

### **A. Urban Forestry Commission Annual Report – Van Burnette, Chair**

Mr. Burnette reported that the Urban Forestry commission completed a tree survey of town this year. Black walnut trees were removed from the community garden property. Apple trees were planted at the community garden and at the Black Mountain primary school. An urban orchard has been built on the Bi-Lo property. The Public Services Department has mulched trees around town. A dogwood tree planted outside of the Town Hall building has died.

He thanked Stephanie Wild, Bob Watts and the many volunteers that have worked on the Dog Walk Park behind the Bi-Lo store. The commission recommends that more energy be devoted to the maintenance of this area. Poison ivy needs to be removed, the creek banks are overgrown and the public is less apt to utilize this space. The commission requests that the Town make removal of dead limbs and maintenance of trees at Lake Tomahawk a higher priority.

Mr. Burnette also announced the opening of his butterfly flight house to the public on Fridays at 10:00 and Saturdays at 10:00 and 12:00 on Walker Town Road. More information can be obtained by calling 664-1166 or by visiting [www.hoppinblueberryfarm.com](http://www.hoppinblueberryfarm.com).

**XI. CITIZEN COMMENTS**

None at this time.

**XII. CLOSED SESSION**

*Alderman Sobol made a motion to go into closed session to consult with the town attorney on litigation matters, as permitted in NCGS 143-318.11(a)(3). The motion passed unanimously.*

*Upon returning to open session at 10:20 pm, Alderman Sobol made a motion that all town employment vacancies be brought before the board to decide whether or not each position should be filled or held open for budgetary reasons. The motion failed by a vote of 2-3 with Aldermen Showers, Brandon and Brown in opposition.*

**XIII. ADJOURNMENT**

*There being no further business, Alderman Showers made a motion to adjourn at 10:25 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 Whistenant, Clerk

Prepared by:

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Anna V. Stearns,