

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

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

Carl R. Bartlett, Mayor  
Joan Brown, Mayor pro tem  
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  
Elizabeth Teague, Planning and Development Services Director  
Casey Conner, Interim Recreation and Parks Director  
Mark Combs, Public Services Director  
Darlene Whisenant, Town Clerk

Representing the media:

Mark Vanderhoff, Black Mountain News  
Gary Biggers, Black Mountain Video Productions

Mayor Bartlett led the Pledge of Allegiance. Invocation was offered by Renae Brame, Director of Swannanoa Valley Christian Ministries. 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.

Ms. Brame, Director of Swannanoa Valley Christian Ministries (SVCM), notified the public that a temporary homeless shelter would be available to those who need it during the cold winter nights. The location will be at 1<sup>st</sup> Baptist Church in Black Mountain. Doors will be open when night time temperatures are 38 degrees or colder. After 7:00 pm, those who need shelter would need to have police escort to bring them to the church because the doors will be locked. Solid purple flags placed on the 1<sup>st</sup> Baptist Church sign along Montreat Road and at SVCM will signify nights that the shelter is open. Volunteers are currently undergoing training and additional help is always welcome.

## **II. MAYOR PROCLAMATION**

- The mayor entered into the minutes a written proclamation (as attached) and reported that on Sunday, November 7, 2010 at Christmont the proclamation was read and presented to Glenn Stallard, honoring him on the occasion of his 100<sup>th</sup> birthday celebration.

## **III. CITIZEN COMMENTS**

**Sean Sullivan**, 37 Cottage Settings Lane, is a builder and current resident in The Settings. Mr. Sullivan stated he has been a resident since 2006; that the HOA is active and there are currently 16 homes finished or under construction. Phase I and II are complete with infrastructure and roads. Mr. Sullivan came to represent himself as a resident and as a builder. He expressed his concern that if the temporary moratorium were to include Phase I and II, it would potentially shut business down for builders at a time when business is sorely needed. According to Mr. Sullivan, The Settings HOA is trying to formulate an investor group to buy out the developer and finish the infrastructure.

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

### **A. Planning Board Annual Report – Ames Tryon, Chair**

Planning Board Chair Ames Tryon reported that the purpose of the Planning Board is to make studies of the area within the Town's jurisdiction and surrounding areas and to prepare plans for achieving Town objectives; to develop and recommend policies, ordinances, administrative procedures, and other means for carrying out development plans in a coordinated and efficient manner; to advise the Board of Alderman concerning the use and amendment of these means for carrying out plans; and to exercise administrative and enforcement functions such as reviewing subdivision plats, advising the Zoning Board of Adjustment on Conditional Use Permits and advising the Alderman on right-of-way closures and zoning map and text amendments.

He further reported that within the past year the Planning Board has provided the framework and recommendations for the Robert's Farm Development Agreement; studied in-depth the issues surrounding steep slope and density management, dumpster screening, wood and yard waste processing, animal control, and signage. The board processed two major subdivision plans and preliminary plats and completed a comprehensive revision of local building, subdivision and zoning regulations, in the Land Use Code, which was adopted by the Board of Aldermen in March, 2010. The Planning Board is now reviewing the Land Use Code for any

needed text amendments and will bring the Board of Aldermen their recommendations in March of 2011.

**B. Safe Routes to Schools Update - Carolyn Fryberger, Health Programs Administrator**

Carolyn Fryberger, Health Programs Administrator, provided a power point presentation showing Safe Routes to School funding history, which includes a \$250,000 Demonstration Grant and an Action Plan Service Award for \$15,000 received in 2008. Ms. Fryberger emphasized the successful Kids' Safety Shindig on September 24 at the Black Mountain Primary School with 114 participants focusing on bicycle safety education. On October 27, 2010 there were 80 walkers (50 students and 30 parents) involved in the Walk to School Day event to raise awareness and connect families. Next steps include a completed SRTS Action Plan; installation of US70 Crosswalks and Flat Creek Sidewalk by NCDOT, and spring programming which includes a Black Mountain Elementary Walking Challenge and a Walk to School Day.

**V. PUBLIC HEARING**

**A. Public Hearing on a Zoning Text Amendment to revise Section 9.4 in the Land Use Codes regarding off-premise signage**

*Alderman Mike Sobol made the motion to open the public hearing on a text amendment request from the Planning Board to allow off-premise signage in limited circumstances. The motion was unanimously approved 5-0.*

*There being no public comment, Alderman Brown made a motion to close the public hearing. The motion was unanimously approved 5-0.*

*Alderman Ruth Brandon made the motion to adopt the Statement of Consistency as provided. The motion was unanimously approved 5-0.*

*Alderman Brown made the motion to adopt the Ordinance providing a Text Amendment to Section 9.2 of the Land Use Codes as presented. The motion was unanimously approved 5-0 on first reading.*

**VI. CONSENT AGENDA**

**A. Adoption of Minutes**

**Motion: To adopt the minutes of October 11, 2010 (Agenda Workshop), October 11, 2010 (Closed Session), October 11, 2010 (Regular Session), and August 31, 2010 (Board Retreat).**

- B. Resolution in support of Buncombe County's grant application to the Metropolitan Planning Organization for funding to update the countywide Master Greenway Plan  
***Motion:*** *To adopt Resolution #R-10-12 supporting Buncombe County's grant application to the MPO for funding to update the countywide Master Greenway Plan.*
- C. Resolution designating Marcia D. Onieal as Finance Officer for the town of Black Mountain  
***Motion:*** *To adopt Resolution #R-10-13 naming Marcia D. Onieal as Finance Officer for the town of Black Mountain effective November 3, 2010.*
- D. Agenda Item moved to Item 7B at the request of Alderman Sobol
- E. Appointment to fill vacancy on Black Mountain Library Board  
*Applicant: Max Langley*  
***Motion:*** *To appoint Max Langley to serve an unlimited term on the Black Mountain Public Library Board.*
- F. Interlocal Agreement for Bulk Purchase of Salt/Sand  
***Motion:*** *To authorize the town manager to execute an agreement between the Town and the City of Asheville for bulk purchase of salt and sand at cost.*

*The consent agenda was approved unanimously 5-0 on a motion made by Alderman Mike Sobol.*

## **XII. NEW BUSINESS**

- A. Call for a Public Hearing on an Ordinance Imposing a Temporary Moratorium on the acceptance of applications for, and/or issuance of, any building permits within The Settings subdivision in the Town of Black Mountain, NC, pursuant to NC General Statute §160A-381.

***Alderman Brown made a motion to schedule a public hearing on December 13, 2010 at 6:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 160 Midland Avenue, for the purpose of considering an ordinance imposing a temporary moratorium on building permits within The Settings subdivision, as proposed. The motion was unanimously approved 5-0.***

- B. Proposal to Finance the Purchase of Various Vehicles and Equipment (item removed from Consent Agenda to be considered separately at the request of Alderman Sobol)

Alderman Sobol commented that the purchase of eight (8) vehicles for the Town was one of the reasons that the Board had to vote to increase taxes this year. Alderman Sobol agreed that some of the vehicles were truly in need of replacement, but felt that a few of the surplusd

vehicles could have been repaired and kept in service for another couple years. Alderman Brown remarked that the independently prepared fleet audit and staff reports showed that more money was being spent annually on maintenance and repairs of these vehicle than they are worth (FMV) and that keeping some of them in service jeopardized employees because of safety concerns.

*Alderman Brown made a motion to adopt Resolution # R-10-14 accepting the proposal from BB&T to finance the purchase of vehicles and equipment in an amount not to exceed \$248,000 for a term of five years at an annual rate of 2.14%. The motion was passed by a 4-1 vote, with Alderman Sobol opposed.*

### **XIII. COMMUNICATION FROM STAFF**

#### **A. Town Attorney – Ron Sneed**

None at this time.

#### **B. Town Manager – Marcy Onieal**

- **NCLM Advanced Green Award** - The Town of Black Mountain was awarded at the most recent NC League of Municipalities Conference in Winston Salem, an Advanced Green Award for sustainable practices and efforts at energy efficiency. Since no one from the Town was able to attend this conference due to scheduling conflicts, an NCLM representative will be present at the December board meeting to make a formal presentation honoring the Town for green and sustainable practices. She noted that the Town was one of only 27 cities in NC (out of 540 cities total) to achieve advanced status in this program and commended the Board of Aldermen for their forward thinking and commitment to serving as a community leader and example for energy efficiency and sustainable practices. Ms. Onieal recognized the efforts of all the staff, and those particularly of Planning Director Elizabeth Teague, who is serving as the Town's Energy Efficiency and Sustainability Coordinator, and who prepared the bulk of documentation required to apply for this award.

- **ADA Compliance Update** – Ms. Onieal reported that with the assistance of volunteer (unpaid) advisors, and professionals associated with various organizations providing services to the disabled, staff has undertaken a complete audit of town facilities, programs and procedure to assure compliance with all provisions of ADA which is a federal law, as well as with all accessibility requirements adopted by the State of NC, specifically though adoption/incorporation/observance of applicable provisions of related standards by the NC Building Code. A request for proposals will be issued in November for work that will require structural modifications or professional services. Upon receipt of proposals and/or estimates, staff, in consultation with an ADA Advisory Committee, will prioritize the work to be done and proceed within the adopted budget. Due to a heavy rental schedule in November and December, work at Lakeview Center is scheduled to commence in January, 2011. Staff will follow with an updated report and cost estimate of work remaining to be done at that time.

- **CodeRED Implementation-** Darlene Whisenant, Town Clerk reported that several weeks ago the Town of Black Mountain announced implementation of CodeRED, an automated “reverse” emergency communications system, which will provide the towns officials the ability to quickly deliver important brief messages to targeted geographic areas or to the

entire Town at once. This system will be used to relay info such as emergency conditions, road closures, water line breaks, proposed zoning changes, weather-related directives and other service-related information. The CodeRED link to register is available by way of the town's website; [www.townofblackmountain.org](http://www.townofblackmountain.org) or by registering at Town Hall during business hours 8-5, Monday thru Friday, and all citizen's are encouraged to register one or more contacts to receive text messages, emails or phone calls. The system will not be actively engaged until after a series of test calls are successfully implemented during the month of December.

- **Town Square Phone Survey Update** – Tom Gill, Town Square Steering Committee Chair, reported that the scheduled automated phone survey of all registered voters took place the third week in October, with approximately 450 surveys completed. Two randomly selected citizen focus groups met with the consultants to formulate survey questions and assist with interpretation and presentation of data. The results and report of the survey will be presented to the Board of Aldermen at the December 13, 2010 board meeting.

- **United Way – 2011 Community Fund Campaign-** Ms. Onieal re-emphasized the continuing need for human services in our community. United Way works with partner agencies throughout Buncombe County to provide for those human needs and serves many citizens in Black Mountain and the Swannanoa Valley. Ms. Onieal is pleased to announce that the Town of Black Mountain will be initiating a payroll deduction program in December, giving our employees the opportunity to participate in partnership with United Way through directed and undirected contributions and volunteer service to area agencies providing much needed human services. This is a voluntarily effort and one way for Town employees to show their support for the community in need and return in volunteer service what the Town receives from community service volunteers each year.

- **Sewer Extension Update** - Public Services Director Mark Combs reported that the sewer project on Blue Ridge Road started in September. Construction is almost complete in the Blue Ridge Road area and has gotten underway on Avena and Brooks Cove Roads. Overall, the project is about 4 to 5 weeks behind schedule due to weather and unanticipated soil conditions that have required extensive removal and replacement of poor sub-soils. Several residents of Laurel Lane have recently contacted staff with concerns that the main line is not being extended far enough to serve all households on the street and requested that the project be amended to do so. Ms. Onieal noted that the existing project budget cannot accommodate the estimated \$50,000 additional cost to serve six properties without identifying a source of additional revenue, as contingency on the project has already been exhausted due to the substandard soil problem. She also noted that area residents are technically able to be served by an existing MSD line descending from the Blue Ridge Assembly area, but connection would require running service lines across adjacent private properties and at distance further than most residents are willing to pay for on their own. Three of the six properties in question are already served by MSD and the estimated cost of extending the main line further far exceeds the combined cost that the three unserved residents would incur for connecting private service lines to existing MSD lines. She further noted that MSD had already been approached and refused to participate in the customary cost share with the Town for main line extension, since service in the area already exists and further extension down Laurel Lane does not meet their cost-benefit criteria. Staff does not recommend funding this particular extension unless the Board is prepared to respond in-kind to other residents throughout the jurisdiction who are in similar situations. The manager and attorney noted that the current project design (without further

extensions) meet the requirements and promises the Town made with the 1988 annexation agreements and that there are many streets throughout the jurisdiction that do not provide an MSD mainline adjacent to every property. Extending the Laurel Lane Line further represents a marginal improvement for a very small number of residents at a comparatively high cost to the public. Alderman Rayburn suggested that the upper end of Avena Road also needed to be looked at for possible extension to provide for future development of private property in that area.

*Alderman Sobol made a motion to increase the project budget to include extending lines down Laurel Lane and Avena Road to provide a main line adjacent to every property. The motion was defeated 2-3, with Aldermen Brandon, Brown and Showers opposed.*

*Alderman Brown made a motion directing Town staff to investigate the possibility of funding the proposed extension on Laurel Lane and report back to the board by next meeting. The motion was unanimously approved 5-0.*

## **IX. COMMUNICATION FROM MAYOR AND BOARD OF ALDERMEN**

### **A. New Buncombe County Emergency Training Center – Alderman Tim Rayburn**

Alderman Rayburn presented a brief overview of the new \$15 million Buncombe County Public Safety and Emergency Training Center located in Woodfin, which will provide a training facility for use by all police, fire and EMS departments in the county and surrounding areas in WNC. This project began over four years ago when Alderman Rayburn was Fire Chief for Black Mountain and he and Chief Dennis Pressley, from Skyland and Chief Richard Sales from Reynolds engaged AB Tech in talks to establish an area-wide initiative to reduce capital costs to individual agencies and improve the quality of facilities and training throughout the area. The initial project should be completed within 18 months. Construction of a \$7 million classroom facility will follow construction of the outdoor training facility and will comprise AB Tech's third campus in Buncombe County.

### **B. Report on ICC Building Code Conference – Alderman Michael Sobol**

Alderman Sobol reported that he, Housing Commission member Philip Bisesi, Permits Clerk Jennifer Tipton and Building Inspector Dan Cordell attended the recent ICC Building Code Conference in Charlotte, NC. Over 700 attendees, reviewed, discussed and voted on recommendations for improving building codes related to energy efficiency. The current proposals recommend changes in code that should increase average energy efficiency of newly constructed homes and buildings by at least 30%.

### **C. Dialogue on Race – Alderman Joan Brown**

Alderman Joan Brown reminded the Board and audience of the upcoming Dialogue on Race Sessions on November 9<sup>th</sup> and December 14<sup>th</sup>, from 5:30-7:00 p.m. here in the Town Hall Board Room.

**D. Commendation – Alderman Carlos Showers**

Alderman Showers expressed his gratitude for how the Manager, Police Chief and PD staff have handled the recent racial incident, dealing with all parties with great professionalism, discretion and fairness. Alderman Showers also commended Fire Chief Steve Jones and his team for the quick response during the recent fires in the area.

**E. Economic Development Announcements – Mayor Carl Bartlett**

Mayor Bartlett said that he recently participated in a ribbon cutting at the new Carolina Foam & Fabric Store, which has been in the area for over 30 years, and recently relocated to the old Chevrolet dealership in downtown Black Mountain. He also shared that there should be a letter of intent signed in the next few days regarding location of a new business in the Food Lion Center. According to Mayor Bartlett the application to certify Black Mountain as a Certified Entrepreneurial Community through Advantage West and NC Dept of Commerce should be completed by the end of the year. If approved, Black Mountain will be the only Town in the state with this certification, as all other certified communities are counties. Mayor Bartlett also reported that High Carolina Golf Course, located in the Cliffs Development in Swannanoa is still slated for completion in 2012, despite the economic downturn and the developer's extended delays in completing infrastructure and other amenities in the Cliffs community.

**X. CITIZEN COMMENTS**

**Fran Roberts**, 34 Laurel Lane, stated that when the sewer project first started, she called Town Hall and MSD to find out whether her property would be served by the new sewer line, and was informed she would be, even though the newly constructed line stops 100 feet short of her home. Ms. Roberts said she paid MSD sewer fees as part of her City of Asheville water bill from 1978 until 1993, before discovering that her property is actually served by septic. She said that based on her having unnecessarily paid MSD fees for 15 years (which were never refunded) and paying Black Mountain property tax since her property was annexed into the town, she is now very disappointed to learn that her property will not be served by the new line as has been anticipated. She further requested that the Town extend the line to the end of Laurel Lane now while the contractors are still in the area working on the project.

**Bob McMurry**, Executive Director Black Mountain/Swannanoa Chamber of Commerce. Mr. McMurry wanted to remind the public of several upcoming Christmas Events.

- Holly Jolly- Friday, December 3, when downtown merchants provide refreshments, entertainment and stay open for holiday shopping until 10:00 p.m.
- Annual Black Mountain Christmas Parade-Saturday, December 4, 4:00 p.m. John and Nancy Wilson will be the Grand Marshall.
- Chamber of Commerce Open House and Pictures with Santa, Saturday, December 4- 10:00 a.m. -2:00 p.m.
- Annual Chamber of Commerce Christmas Banquet & Silent Auction, Tuesday, December 7<sup>th</sup> 5:30 p.m. at Assembly Inn.

**Dick Kennedy**, 43 Fates Overlook Loop, in The Settings subdivision. Mr. Kennedy stated that 85% of infrastructure is completed with paved roads, sewers, gutters, and utilities, and over 200 lots sold. He stated that current residents are not inconvenienced by the unfinished

infrastructure in Phase III and that the proposed building moratorium may be well intended, but if approved would be counter-productive because it would serve to deprive those 200+ property owners of the opportunity to initiate projects and serve further to depress and already depressed economy.

**XI. CLOSED SESSION**

*Alderman Sobol made a motion to go into closed session as permitted in NCGS §143-318.11(a)(6) to discuss personnel matters. The motion was unanimously approved 5-0.*

**XII. ADJOURNMENT**

*Upon returning to open session and there being no further business, Alderman Sobol made a motion to adjourn at 8:15 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