

MINUTES OF THE TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REGULAR SESSION MEETING
May 10, 2010

THE BLACK MOUNTAIN BOARD OF ALDERMEN met in regular monthly session on Monday, May 10, 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
Mayor pro tem Joan Brown
Alderman Ruth D. Brandon
Alderman Tim Rayburn
Alderman Carlos Showers
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 & Development Services Director
Rick Shreve, Finance & Information Services Director
Laurel Mabery, Budget Assistant
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 the Rev. Linda Briggs of Black Mountain United Methodist Church.

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 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 read a Proclamation honoring Black Mountain citizens Bill and Mary McMurray on the occasion of their 65th wedding anniversary.

Mayor Bartlett read a Proclamation declaring May 2-8, 2010 as Municipal Clerks’ Week.

Mayor Bartlett read a Proclamation declaring May, 2010 Older Americans’ Month in the Town of Black Mountain.

Alderman Brown announced that a Successful Aging Conference will be held on May 25th from 8:30 AM - 4:30 PM at the Crown Plaza in Asheville. Refreshments will be provided.

Mayor Bartlett offered condolences on behalf of the Town to the family of Stacy Ayers for the loss of his mother and to the family of Don Laws for the loss of his wife.

The Board visited Owen Middle School on May 3rd to recognize students for winning a Progress Energy contest for their design of solar panels that generate about 2 kilowatts per day.

Mayor Bartlett thanked Health Services Program Administrator Carolyn Fryberger for her efforts in coordinating celebrations for Earth Day.

B. Aldermen Brown and Showers – Report from *Stand Against Racism Forum, April 30, 2010.*

Alderman Brown delivered a report from the first Stand Against Racism Forum, hosted by the Town in cooperation with the Asheville YWCA and other Black Mountain organizations. The forum was moderated by WLOS anchor Darcel Grimes and Aldermen Brown and Showers served on the speakers' panel. Alderman Brown thanked the town manager and staff for their attendance and support of the event and Alderman Showers thanked Roberta Madden for helping to facilitate the forum.

Alderman Showers announced that Mills Chapel Baptist Church will host a street ministry on 5/29/2010 from 10:00-2:00 at the Lake Tomahawk pavilion.

C. Alderman Brown – Rules of Procedure Workshop, May 4, 2010

Alderman Brown reported that she, several members of the Planning Board and staff members who support the Town’s boards and commissions had completed a UNC School of

Government training course in Rules of Procedure and that new Rules of Procedure reference manuals have been ordered for all board members.

III. STAFF COMMUNICATIONS

A. Town Attorney

Nothing to report at this time.

B. Town Clerk – Boards and Commissions Applications

Town Clerk Darlene Whisenant gave an overview of the number of openings and applications received for various town boards and commissions, noting that applications from interested individuals should be submitted to her office no later than June 4 in order to be considered at the June Board meeting.

C. Town Manager

On Wednesday, May 12, 2010 Western Carolina University is offering a course in the essentials of economic development, which she, and perhaps a few others from the Chamber's EDC and CEC will be attending.

On Thursday May 13, 2010, Carolina Connect, an arm of Advantage West, is hosting a day long conference at the Renaissance Hotel to be attended by the Mayor and CEC Chair Mary Leonard White.

Micro Electronics Center of NC is hosting a series of web-based workshops that will run from June 7-10th, discussing the planned installation of high speed fiber optic cable in the region, as a result of a successful ARRA application involving local partner ERC Broadband. This will provide a significant boost to economic development efforts in our area in the future

The North Carolina League of Municipalities is hosting Town Hall Day in Raleigh on June 15, 2010. Ms. Onieal will be attending and reminded board members who were interested in participating in the legislative updates to let staff know as soon as possible so that registrations can be processed before the deadline.

The 2010 SAFER Grant Application for hiring 6 new firefighters did not receive funding in the first round, but the application is still active.

The Town Square Steering Committee held an organizational meeting on May 6, 2010. The committee consists of the chairs, or their designees, from all Town Boards and Commissions, as well as the major local business and cultural organizations. The committee was charged by the Board of Aldermen with developing a process for soliciting, receiving and responding to public input about development of the Town Square property, as well as looking at available resources to provide funding for future development. The committee was also asked to

propose an interim use policy for the property until such time that the property is developed or otherwise put to use.

Various stimulus projects are underway and nearing completion. The US Highway 70 sidewalks are nearing completion. The bridge at Lake Tomahawk will be closed from this Wednesday until next Wednesday so that the bridge can be replaced as part of the stormwater improvement projects.

The Town received final design approval from the state at the end of April for sewer extension projects in areas annexed by the town in 1988. Town staff will proceed immediately with soliciting bids for the project, the financing and project ordinance for which have already been adopted by the board.

The manager closed her report with an announcement that the Town now has on-line bill pay for water and sewer bills and encouraged citizens to try out the new secure system by going on the town website and using their credit card for a quick and convenient alternative to cash or checks.

D. Other – Items added to the agenda at the request of the Board during the Agenda Workshop immediately preceding the regular meeting

Jim Orr addressed a new marketing program initiated at the golf course last month to stimulate play. After an unusually wet and cold winter, and 65 days closed due to weather, the golf course was not making projected revenue and stood to face a significant shortfall, in the neighborhood of \$400,000, by the end of FY09-10. Mr. Orr contacted a golf course marketing firm to put together a 30/60/90-day marketing plan to encourage new memberships and increased use of the course. The program established several levels of temporary membership offering unlimited play on varying schedules and varying levels of amenities, intended to draw back lapsed members. The second phase of the program is designed to fill unoccupied tee times each day, like mid-mornings on weekday mornings. The marketing firm was contracted for a 20% commission on all new membership sales. The Mayor expressed concern that the new deals are so attractive that some members who previously bought the higher priced memberships are now getting the same thing for much less and questioned how the town will make-up that loss of revenue. Mr. Orr said the program is designed to generate 800 new memberships and that volume and cart fees will more than make up for the relatively few members who switch to one of the new memberships. Mayor Bartlett asked why the contract was not presented to the Town Board for approval. Mr. Orr indicated that staff had always had the authority to engage in marketing programs within the scope of the adopted budget. Alderman Brown suggested following the professional recommendations of staff. Alderman Sobol asked Mr. Orr to provide spreadsheets showing net increases in revenue for other municipal golf courses that have used the same marketing firm. Alderman Showers said that he believes the Board authorized staff to explore and enter into appropriate contracts when this was discussed and approved at the board retreat in February.

Alderman Rayburn asked Planning Director Elizabeth Teague to update the board on the US Highway 70 sidewalk project. Mrs. Teague said that the Town received a Federal Stimulus

grant in the amount of \$227,605 for construction and contract oversight. The project should be completed by July 1st. Staff has addressed concerns of property owners at West End Cabinets and MediCap Pharmacy. Alderman Sobol asked if the concrete used to construct sidewalks across driveways is designed to withstand the weight load of delivery trucks. Mrs. Teague said that she will obtain this information for the Board.

IV. REPORTS OF BOARDS/COMMISSIONS

A. Beautification Committee Annual report – Tom Woerz

Mr. Woerz is co-chair of the Black Mountain Beautification Committee, which is celebrating its 10th year of service to the community. Mr. Woerz introduced Ed Martin who has been a member of the Beautification Committee for eight years. Mr. Martin delivered a power point presentation outlining the various projects completed by the Committee's volunteers in the past year. A copy of his presentation is attached and hereby made a part of these minutes. Litter Sweep on May 1, 2010 resulted in the collection of 117 bags of litter and several truck loads of larger debris. The Fifth Annual Garden Show and Sale will be held as a fundraiser and educational outreach program for the community on May 15, 2010.

V. CITIZEN COMMENTS

Al Richardson, 103 Richard Lane, spoke about the continuing concerns over development of the Goodson Cove project. Property owners along Chapel Road, Bethel Drive, Richard Lane and Greene Drive are all very concerned about this development. The owners would like to see the property annexed and developed in compliance with current Town zoning and regulations. The developer has requested water from the City of Asheville coming off North Fork Road up the ridge. Under the Sullivan Act, the City of Asheville is required to sell water to the development, but is not required to facilitate the acquisition of easements for the construction of water lines. Mr. Richardson had been informed that there had been discussions between the Town Manager and the City of Asheville to request an easement from the Town to install a water line up Greene Drive and Richard Lane. The owners would like the Board to vote on a motion stating that it will not grant an easement for water lines in any town streets or provide town water to the development without the property first being annexed into the town and required to meet all current town regulations.

Alderman Brown made a motion that the Town require that the Goodson Cove development be required to be annexed into the Town and be required to follow all Town regulations in order to receive a grant of easement or water from the Town. Alderman Sobol asked the Town attorney if an amendment is needed for the motion to make sure that the developer isn't able to find a way to develop 71 units under current town regulations that would not be amenable to the Town.

Mr. Sneed said that the Board can pass a resolution of intent. He also addressed Mr. Sobol's comments, explaining that the development could, in fact, use the new conservation subdivision regulations of the land use code to create a development with 71 units. Mayor Bartlett suggested that the motion be amended to require that Goodson Cove be annexed with a

development plan approved by the Planning Board and Board of Aldermen in order to receive water or grants of easement from the Town of Black Mountain.

Alderman Brown amended her motion to state that the Town will not grant easements for water or sewer lines to the Goodson Cove development unless the Town has input into the future development plan. The motion passed unanimously.

Marilyn Huff, 50 Bethel Drive, thanked the board for the new “Way Finding” signs that have been constructed around town. She thanked the board for passing the resolution regarding the Goodson Cove development. She spoke about the poor construction and design of the roads, stormwater facilities, and retaining wall in Goodson Cove. She encouraged the Board to make sure that its conservation subdivision ordinances use only the buildable area of a parcel when calculating allowable density, and not allow a developer to include the unbuildable areas in its calculation of the total area of a parcel. Ms. Huff also announced that a Mind and Money forum will be held at New Hope Presbyterian Church on Sweeten Creek Road on June 5th from 2:00-4:00 p.m.

Neil Orange, Trustee of the Black Mountain First Baptist Church, said that the church has developed a plan for remodeling and for construction of an addition to the church. While they plan to preserve the historical integrity and feel of the church, they do plan to replace the existing sanctuary and are concerned about the ability to complete these construction plans if the property is designated as part of a local historic neighborhood. The church would like to be removed from the proposed historic neighborhood designation. Because the church is a tax-exempt organization, it would receive no benefit from this designation.

Bob Gunn, 109 Pleasant Drive, accesses his property using Chapel Drive and spoke about his concerns about the Goodson Cove development. He believes the development to be ill conceived and irresponsible. He does not want the citizens of the town to be held responsible for the success or failure of this project. He is concerned that the town’s taxpayers will be forced to pay to clean up the mess which is sure to be created as a result of poor design and construction.

Rick Watson, US Highway 70, thanked the town Board and Town Manager for the time spent addressing his concerns expressed at the last meeting. He thanked Aldermen Brandon, Brown and Showers for their phone calls and support. Mr. Watson said that he has learned that he can subdivide his property and preserve his ability to sell the property. Mr. Watson read a quote from a recent article in the Black Mountain News in which an Ingles official declined to comment about the project citing a company policy not to discuss potential future construction. Mr. Watson said that it is clear that construction for this project is ongoing. He said that he hopes to be able to have a Sonic Drive-In Restaurant constructed on his property on US Highway 70. Mr. Watson also clarified that he operates a legally permitted stump dump on his property.

Alderman Brandon referenced the memo written by the Town Attorney saying that there is nothing the Town can do to the plans submitted by Ingles and that Ingles understands that the plan’s approval gives them no rights over the property of Mr. Watson. Alderman Brandon said that the Town should have conducted a title search and believes that Mr. Watson has provided enough information to justify requiring modification of Ingles plans.

Elaine Loutzenheiser, 410 Avena Road, asked the board to resume having a second citizen comments section at the end each meeting as well as the beginning of the meeting.

VI. CONSENT AGENDA

A. Adoption of Minutes

Motion: To adopt the minutes of April 12, 2010 (Agenda Workshop), April 12, 2010 (Agenda Workshop-Closed Session), April 12, 2010 (Regular Session), April 12, 2010 (Closed Session), April 23, 2010 (Special Called Meeting)

B. Appointment of Ronald E. Sneed as Town Attorney

Motion: To appoint Ronald E. Sneed town attorney in accordance with the terms of the proposal presented March 31, 2010.

E. **CALL FOR PUBLIC HEARING** on the Proposed FY10-11 Annual Operating Budget for the Town of Black Mountain.

Motion: To call for a public hearing on the proposed FY10-11 Annual Operating budget on Monday, June 14, 10201 at 6:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall located at 160 Midland Avenue.

F. Renewal of Agreement by Town of Black Mountain to participate in the Regional HOME Consortium.

Motion: To authorize the Mayor to renew the joint cooperation agreement between the Town of Black Mountain and the Asheville Regional Housing Consortium.

Alderman Brandon said that she had not seen the minutes from a closed session meeting on April 12, 2010. Ms. Brandon believes the Town was clearly in violation of the open meetings law when the mayor directed the public and staff to leave the meeting. No motion was made to go into closed session. No reason or justification was given for closed session, and the Town attorney did not advise the mayor that a closed session was not permitted. Mr. Sneed has apologized for the oversight. Ms. Brandon advised the public that the meeting was used for the Mayor to request that the members of the board work to get along and strive not to disagree with one another in public. Ms. Brandon asked that the minutes be corrected to reflect what was said and what actually took place.

Mayor Bartlett read the minutes of the April 12, 2010 closed session meeting into the public record as follows:

“Mayor Bartlett read a statement he had prepared asking the board members to put aside their in-fighting and rivalries in order to advance the town’s best interest and goals. He asked them to listen to each other’s concerns and try to find common ground. Alderman Showers also read a statement he had prepared asking the board members to cease their attempts to berate and smear each other.

Alderman Showers delivered a letter of censure from the board members to Alderman Sobol detailing the errors they found in Mr. Sobol's letter to Chief Jerry Cash of the Cherryville Fire Department in which Mr. Sobol asked Chief Cash not to award the Town the grant to hire new firefighters. A copy of the letter is attached to these minutes.

Alderman Sobol said that there is nothing ethically or morally wrong about him sending out the letter according to the League of Municipalities and the North Carolina School of Government standards.

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

Mayor Bartlett called for a five-minute recess at 8:10 p.m. The meeting was called back to order at 8:15 p.m.

VII. NEW BUSINESS

A. Update on Goodson Cove Development (*request of Al Richardson*)

There was no further discussion about this agenda item as all issues were addressed as part of Public Comment.

B. Resolution Supporting the Historic District Nomination for the South Montreat Road Neighborhood as a locally designated Historic District (*request of Historic Properties Commission*) – Clay Griffith, Acme Preservation

Mr. Griffith delivered a power point presentation detailing the process of being listed in the national register of historic places. Property owners may take advantage of rehabilitation tax credits, with no limitation on an owners' ability to make changes to his/her property.

Alderman Brandon asked if the rehabilitation credit will take away from the town coffers. Mr. Griffith said that the tax credit will not affect the property tax to the town and property owners are not required to take advantage of these tax credits.

Rebecca Johnson, State Historic Preservation Office, addressed the board saying that required notifications have been sent to each property owners of the intent to nominate the district, and notifying the property owners of this meeting and their opportunity to speak at this meeting. The National Register is non-regulatory. It will not affect property rights or add additional restrictions on property use. Each property owner has the opportunity to object to the designation.

Alderman Brown moved to table this item and call for a public hearing at the next meeting. The motion passed unanimously.

C. Presentation of Proposed FY10-11 Annual Operating Budget and Scheduling of Budget Workshops

Ms. Onieal introduced her FY10-11 budget proposal by outlining a number of initiatives instituted over the last two years to increase efficiency and cost effectiveness. The Town has saved over \$75,000 in the last two years in salary and benefit costs through restructuring. Debt was refinanced to allow the town to take on additional debt without increasing the amount of debt service payments. New technologies have been introduced to lower costs or to expand service at the same cost. Staff have been cross-trained to do more without adding additional staffing. Capital and maintenance costs were all but eliminated in the previous two years budgets in order to absorb 2 cents on the tax rate worth of increased costs in sanitation services. The Town regularly budgets fund balance to balance the budget, which is a viable option in difficult economic years, but can't be relied on indefinitely, as it equates to spending a one-time savings account for ongoing recurring expenditures. The manager's recommended budget is in direct response to the plans adopted by this and previous boards and reflects the commitments already made by the Board during the previous year, and virtually no change in basic services and departmental operations. Ms. Onieal is recommending an increase of \$.07 to the tax rate in order to provide for the acquisition of the town square property (\$210,000), the sewer extensions to the area annexed in 1988 (\$105,000), the SAFER grant being used to hire six new firefighters (\$35,000), 5-year financing for the replacement of vehicles in various departments that would be more costly to maintain than to replace (\$65,000), increases in required contributions to the state retirement and health system over which the town has no control (\$95,000), a cost of living increase of 2.9% for all town employees (\$90,000), directed by the board for inclusion in the budget, for a total of \$600,000 in new expenditures already committed by the Board of Aldermen, and representing \$.065 cents of the tax rate increase. The proposed budget also includes about \$45,000 in miscellaneous items that will improve customer service and service efficiency, including a reverse notification system, additional IT support, development of GIS databases, online bill pay services, and a service request tracking system for citizens. The town will continue to budget approximately \$295,000 in fund balance to balance the budget, maintaining an unrestricted reserve of approximately 31%.

The water fund is an enterprise fund which is not tax supported. The budget proposes a 5% increase in water rates, which is the amount the wholesale rates for water purchased from the City of Asheville will increase by. Generally, the town tries to match town rates with those of the city because about 30% of town citizens obtain water through the city system.

About \$.025 cents of the tax increase must be used to pay the debt service payment for the downtown property this year. Alderman Brandon spoke about her opposition to this portion of the tax rate increase.

Alderman Rayburn made a motion to adopt the budget workshop schedule as follows: 8:30 am – 10:00 am on May 27, 2010; June 3, 2010; June 11, 2010; and with an extra date of June 17, 2010 set aside if needed. The motion was unanimously approved.

VII. ADJOURNMENT

With no further business, Alderman Brown made a motion to adjourn at 9:02 p.m. The motion passed unanimously.

Carl R. Bartlett, Mayor

Marcia D. Onieal, Town Manager

ATTEST

Darlene Whistenant, Clerk

Prepared by:

Anna V. Stearns,