

**MINUTES OF THE TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN  
REGULAR SESSION MEETING  
October 11, 2010**

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**THE BLACK MOUNTAIN BOARD OF ALDERMEN** met in regular monthly session on Monday, October 11, 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 Manager  
Rick Shreve, Finance and Information Services 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 led by Pastor David Rayburn, First Baptist Church, Black Mountain. The mayor thanked everyone in attendance and expressed appreciation to the viewing audience and all those attending for the first time. 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.

Mayor Bartlett expressed his condolences on behalf of the Board of Aldermen and citizens of Black Mountain to the Belt family in the recent passing of Bud Belt over the weekend. Bud was active in numerous Town boards and agencies and his son is Town employee Keith Belt. Visitation is scheduled for 6:00-9:00 p.m. at Harwood Funeral Home tonight and the funeral service will be held at First Baptist Church Black Mountain on Tuesday, 11:00 a.m.

Mayor Bartlett said there had been many calls and discussions regarding when the town would officially celebrate Halloween. He stated that Halloween is and has always been October 31 and this year would be no different.

## **II. CITIZEN COMMENTS**

**Mary Soyenova**, 237 Old Toll Circle, has lived in Black Mountain for twenty years. She wanted to thank the Board and the Recreation and Parks Department for following through on the remodeling of the town pool last year and stated she felt it was a great addition to our park system. Ms. Soyenova said that she hoped the decision on the Town Square property would soon be decided to either sell it, park on it or build a park and proposed that when the economy picks up and revenue increases that the town lower the property tax.

**Elizabeth Robertson**, 213 Davis Drive, stated her concern regarding Alderman Sobol's proposal to mandate when garbage could be put out for pick up. If such a mandate is passed, she wanted the town to consider providing help for those who are physically challenged, and unable to meet the requirement.

**Freddy Mitchell**, Asheville resident, addressed the recent racial incident at Ms. Briscoe's home. He felt it was a hate crime and urged the police to do something before something bad happens.

Mayor Bartlett reassured the citizens of Black Mountain that the investigation is ongoing, that we do not tolerate racist remarks and the police department's goal is to ensure safety and peace of mind for all Black Mountain residents.

**Elaine Loutzenheiser**, 410 Avena Road, wanted the public to be aware that tonight at 9:00, Tuesday at 9:00pm and Wednesday, 9:00pm on PBS, Charter Channel 8 there will be a broadcast entitled Pre-Revolution Times, running through 9/11.

**Michael Raines**, 558 Blue Ridge Road, stated that he felt that hunters get a bad rap for trapping and killing bears. He recommended that it would help the bear over-population problem if the hunting season would be extended a couple weeks.

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

### **A. Town Square Steering Committee-Tom Gill, Chair.**

After several meetings of the Town Square Steering Committee and with the approval of the BoA to proceed, Mr. Gill reported that the phone survey, conducted under the direction of the contracted Western North Carolina University consultants Christopher Cooper and Gibbs Knotts,

would be conducted October 18 through October 22. Registered voters of Black Mountain will be randomly called to participate in the brief 10-question survey regarding the Town Square Property. A fact sheet and article in the Black Mountain News alerted the public that this survey would soon take place. Participants' identities will remain confidential and the data will be aggregated into a statistically significant sample. The consultants will prepare analysis and present results to the Town Square Steering Committee on November 18, 2010. A final report will be presented to the BoA in December or January.

**B. Business to Business-Tom Gill, President.**

Mr. Gill updated the board and citizens regarding the downtown sign (kiosk) next to the public restrooms. A map of the downtown businesses is displayed at no cost to the businesses. Precision Graphics provided the signs and Black Mountain Ironworks donated and made the poles. A brief slide show was presented. Documentation is attached and hereby made part of these minutes. Ms. Onieal stated that a replacement awning over the public restroom area has already been ordered and should be installed soon.

Mayor Bartlett took a moment to thank Joe Tyson, Tyson Furniture for acknowledging local businesses and restaurants in the Black Mountain area within his televised furniture ads.

**C. Greenways Commission Annual Report – Julie White, Chair.**

Ms. White gave a brief overview of the current active and completed projects which are attached, and hereby made part of these minutes. Goals for the Greenways Commission for the coming year include:

- Work towards completion of the Flat Creek and Garden Trails
- Plan celebrations at the completion of the above trails
- Begin outreach activities for other trail projects
- Review the final recommendations that come out of the Swannanoa Valley Greenway Feasibility Study and begin to work on them
- Develop fundraising strategies, including seeking grants

Ms. White challenged the community that one of the key ways to become and stay healthy is to be involved in a regular exercise routine. Black Mountain has long held a vision to have the infrastructure in place where people feel safe and have a place to walk and enjoy outdoor activities.

**D. Recreation Commission- John DeWitt, Chair/Marcy Onieal, Town Manager.**

Mr. DeWitt reported the following updates on the Black Mountain Tennis Courts:

- The water fountain has been repaired and is now working
- Tennis Court lights have been replaced
- Parks staff has met with the contractor regarding the dead spots on the tennis court, and there seems to be a possibility that these are being caused by the high water level and not necessarily by the work done by the contractor. The contractor and town staff agreed to wait until spring to check out the spots, as some have disappeared and that these might all disappear over time. If these

spots are still here in the spring the town may have to replace certain sections. Should the water level continue to be a problem under the courts then a french drain should be installed. As to the drainage of the courts and the water pooling on the lake side of the courts, staff have corrected these.

The Recreation Commission would like to thank Casey Conner, Interim Parks & Recreation Manager, for dealing with these issues in a timely manner and appreciate the work of the Tennis Association members in providing input and information. The committee would also like to thank the Aldermen for the tremendous support of our town programs.

Ms. Onieal updated the Board on the response by staff to the concerns communicated during public comment at the last board meeting regarding the condition of the Black Mountain Golf Course. She noted that a later agenda item calls for the board to schedule a workshop with staff and advisory committee in November for a thorough review of the physical and financial condition of the golf course, contracts, policies and leases associated with golf operations, as well as recommendations for future maintenance and operations.

In the last couple of weeks, Ms. Onieal has met one-on-one with more than 30 individuals, representing groups and individuals with vested interest and expertise in various aspects of golf operations and course maintenance, as a means of independently and objectively evaluating the Black Mountain course in relation to other municipal and area open play courses. The board workshop is intended to provide an in-depth understanding of all matters related to the Town's golf operation, so that the Board will be in position to provide direction with regard to the long-term future of the course and use of related facilities, which undoubtedly comprise one of the Town's greatest physical and financial assets.

Mayor Pro tem Brown commended Mr. Conner and Parks staff for an excellent job of updating the children's playground area at Lake Tomahawk.

Ms. Onieal took the opportunity to formally introduce the new Public Services Director, Mark Combs, who has come to Black Mountain after a year as consulting manager for Curbside Management, and after a long career in public works and administration. Mr. Combs spent four years as an officer in the military, 12 years as Watauga County's Operations Director and 15 years in Asheville as Public Works Director.

#### **IV. PRESENTATION – CREATING A BEAR SMART COMMUNITY**

##### **A. Bear & Wildlife Management Options – Mark Combs, Public Services Director**

Mr. Combs reviewed slides from a presentation identifying statistics of the black bear such as size, eating, sleeping habits and behavior. As of 9/27/10 the BM Police Department has received 49 calls regarding bear damage to property or sightings. Bear education for citizens, garbage management and proposed regulations were briefly discussed. The power point document is attached, and hereby made part of these minutes.

**B. “Living with Bears” – Bill Lea and Ben Prater**

Bill Lea, US Forest Service (retired), American Bear Association (founder), and nature photographer for over 30 years agreed that education is the answer in dealing with bear situations. Bears lose their fear of people when people start feeding them. Bears are a misunderstood animal and we need to know more about them, and how to behave around them; in order to avoid unpleasant or dangerous encounters. Mr. Lea stated that we owe it to the bears, to ourselves, to future generations and to our creator to coexist peacefully. Mr. Lea presented a slide show with informative statistics regarding bear behavior and how important educating the public is for both the bears and the community.

Ben Prater, Associate Director of Wild South, reemphasized the importance of educating the public to create a Bear Smart Community. Mr. Prater reminded the Board and citizens that one of the most precious resources of our local community is our wildlife.

*Alderman Brown made a motion to direct the Town Manager to set up a place and time to invite our guest speaker to share this presentation to our citizens. The motion was unanimously approved, 5-0.*

Alderman Mike Sobol spoke in favor of creating a bear proof container ordinance similar to what Montreat implemented in 2003 and provided copies of their ordinance to the aldermen for review.

*Alderman Sobol made a motion that the Town of Black Mountain convert all its own dumpsters and garbage containers to bear resistant ones, and publicize the process, in order to set a good public example. The motion was unanimously approved, 5-0.*

Ms. Onieal reminded the board that a budget amendment would be necessary to cover the fairly sizable expense of conversion within the current fiscal year, or alternatively, included as part of the FY11-12 budget process.

**V. UNFINISHED BUSINESS**

**A. Clarification of the Boards and Commission Policy for filing membership vacancies on Zoning Board of Adjustment**

Ms. Onieal noted that ambiguous wording in the Boards and Commissions Policy led to an appointment and succession error in the membership of the Zoning Board of Adjustment (ZBA). She proposed clarifying language that would guarantee that the first alternate automatically succeeds to any vacant position on the ZBA – whether on a temporary or permanent basis – with the second alternate filling the vacancy left by succession of the first, and the third alternate filling the vacancy left by succession of the second. Under this scenario, the board would only, and always, be appointing new members to the ZBA into the third alternate position. This rotation allows for orderly succession of trained individuals, ensuring that the most experienced members available at any time will be seated to hear a case.

*Alderman Brown made a motion to adopt the clarifying language to the Boards and Commissions policy regarding the succession of membership to fill vacancies on the Zoning Board of Adjustment as presented. The motion was unanimously approved, 5-0.*

**B.** Appointments to fill Vacancies on a Town Board or Commission:

*Alderman Sobol made the motion to acknowledge succession of first alternate Jerry Atkins to complete a one-year unexpired term on the Zoning Board of Adjustment, ending June 2011, and to appoint Chad Knight to the Housing Commission for a three-year term, ending June 2013. The motion was unanimously approved, 5-0.*

## **VI. NEW BUSINESS**

**A.** Professional Services Proposal to conduct non-personnel expense reduction and revenue enhancement analysis for the Town of Black Mountain – Rick Shreve, Finance & Information Services Director

Mr. Shreve stated that Robert Segal, CPA, PA has specialized training and audit techniques that they use with hundreds of local governments and municipalities as well as school systems in North Carolina. They know the laws, they know techniques working basically at the margins, obviously pulling the bulk of the revenue where they would be looking for places where we might be able to enhance those revenues or reduce our expenses.

*Alderman Tim Rayburn made a motion to approve a no-risk performance-based contract for professional services as proposed by Robert S. Segal, CPA, PA, for the purpose of conducting an expense reduction and revenue enhancement analysis for the Town of Black Mountain. Motion was unanimously approved 5-0.*

**B.** Request for BCAT funding to establish K-9 Unit within the Black Mountain Police Department – Kevin Pressley, Police Chief

Police Chief Pressley stated that the Black Mountain Police Department has put together a proposal in partnership with Buncombe County Anti-Crime Task Force under the leadership of Sheriff Van Duncan to solicit funding from drug seizure distribution funds to begin a K-9 (canine) unit in the Black Mountain Police Department. The grant would provide all start costs, including the dog, all equipment, and training for the officer(s) assigned to the unit.

While there will be no start up costs for the Town, recurring costs of approximately \$1,000 are expected to cover cost of veterinary care, food, and miscellaneous minor expenditures. The primary goal in initiating a K-9 Unit is improved interdiction and enforcement in suspected drug cases, and public education. In addition, the dog could be trained in search and rescue, and to serve as an aid in general education and PR needs for the department.

Alderman Sobol asked Chief Pressley how many incoming calls for service per year require K-9 support. Chief Pressley responded with approximately 60+ calls. There are five K-

9 units currently in Buncombe County and often times due to location distance and availability, it is not timely to call on their support.

***Alderman Ruth Brandon made a motion to approve the establishment of a K-9 unit for the Black Mountain Police Department, contingent upon receipt of BCAT funding, sufficient to purchase one (1) fully trained Narcotics Detection/Tracking Canine. The vote was unanimously carried, 5-0.***

## VII. CONSENT AGENDA

- A. Adoption of Minutes  
***Motion:*** *To adopt the minutes of September 13, 2010 (Agenda Workshop), and September 13, 2010 (Regular Session).*
- B. Call for Board of Aldermen Work Session for the purpose of discussing Black Mountain Golf Course Operations and adopting a Board Code of Ethics  
***Motion:*** *To call for a board Work Session on Monday, November, 22 at 4:00 pm in the Board Room of Town Hall, for the purpose of discussing Black Mountain Golf Course Operations and adopting a Board Code of Ethics.*
- C. Change in Recreation Commission Meeting Schedule  
***Motion:*** *To acknowledge a change in Recreation Commission's regular meeting schedule for October, November & December, 2010, with dates and times to be announced, and to approve a change in the regular meeting schedule for the Recreation Commission from 7:00 pm to 6:00 pm on the 4<sup>th</sup> Thursday of each month, effective January 1, 2011.*
- D. Call for a Public Hearing for a Zoning Text Amendment to revise Section 9.4 in the Land Use Codes regarding off-premise signage for businesses.  
***Motion:*** *To call for public hearing on November 8, 2010 at 6:00 pm for the purpose of considering a zoning text amendment regarding off-premise signage for businesses.*
- E. Appointment of Voting Delegates to the International Code Council Final Hearings on proposed changes to the International Building Code, October 26-29, 2010 in Charlotte, NC  
***Motion:*** *To appoint Building Inspectors Dan Cordell and Jennifer Tipton, Alderman Michael Sobol and Housing Commission Member Phil Bisesi as Black Mountain's voting delegation to the ICC Final Hearings on proposed changes to the International Building Code, promoting energy efficiency in new construction.*
- F. Amendment to PARTF Grant Project Ordinance  
***Motion:*** *To approve the PARTF Grant Project Ordinance as submitted authorizing the transfer of \$11,700 from the construction/facility renovation line item to the planning/project administration line item.*
- G. Budget Amendment Allocating Donation from June Purcilly Trust

***Motion: To approve budget amendment #FY2011-05 as submitted, allocating \$67,910 to line item 10-82-6190-730 for improvements at the Lakeview Senior Center for Senior Programs and Meals.***

- H. Authorization to enter into a NCDOT supplemental agreement for Safe Routes to School Program Demonstration Project.

***Motion: To execute the Supplemental Agreement with NCDOT to carry out the Safe Routes to School Demonstration Grant.***

- I. Authorization to continue participation by Black Mountain in the Community Development Block Grant Program, Scattered Site Housing Program, which is administered by Buncombe County.

***Motion: To continue participation in the Community Development Block Grant Program administered by Buncombe County.***

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

Alderman Sobol requested that the Town Manager contact Reese Lasher regarding pruning some of the bushes above and behind Hole 16 on the Black Mountain Golf Course.

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

- A. Town Attorney – Ron Sneed

**The Settings –**

Since the last BoA meeting Mr. Sneed has made contact with the bond company which is holding the completion bond on The Settings. During the past month, Mr. Sneed has also talked to homeowners, contractors and other persons interested in seeing The Settings progress toward completion. The development company will not be proceeding in any capacity to complete the project. Mr. Sneed recommended that the Board authorize him to call the bond.

***Alderman Sobol made a motion to authorize Town Attorney Ron Sneed, to proceed with calling the bond for The Settings subdivision. The vote was unanimously approved, 5-0.***

- B. Town Manager – Marcy Onieal

No additional reports at this time.

- C. Manager’s Quarterly Report – Leadership Staff

Due to the lengthy meeting, quarterly leadership staff reports were provided in writing during the agenda work session for board review, in lieu of providing oral reports during the regular session.

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

Alderman Brown reminded the public regarding the upcoming “Dialogues on Race” sessions on November 9th and December 14<sup>th</sup> from 5:30-7:30pm. These meeting will be held at Town Hall.

Alderman Showers wanted to commend Chief Jones and the Black Mountain Fire Department for the successful Open House on October 10, 2010. Everyone seemed to have a good time and Mr. Showers took that opportunity to tour the fire department.

Alderman Rayburn shared that a couple weeks ago he had received several phone calls regarding issues with the tennis court and he would like to commend Mr. Conner and the staff for responding so quickly to correct the outstanding issues.

**XI. CITIZEN COMMENTS**

**Marilyn Sobanski**, 516 Laurel Avenue, requested an update as to whether or not the benches that were previously placed in front of the public restroom would be replaced. Ms. Sobanski felt that it was very convenient for the visitors to have a place to sit, rest and wait for those using the restroom.

Ms. Onieal reminded the audience that those particular benches were unsightly, in serious disrepair, had repeatedly caused damage to the landscaping, and that the town had intentionally tried to remove obstacles to pedestrian traffic in such a limited space to make sure individuals could easily see and access the information center and provide adequate access particularly for wheelchair users as required by ADA. Ms. Onieal noted that benches, provided by both merchants and the town, are available throughout the area, and that staff will review all locations for accessibility and assess locations where additional benches might be appropriate and convenient.

**XII. ADJOURNMENT**

*There being no further business, Alderman Rayburn made a motion to adjourn at 8:10 p.m. The motion passed unanimously.*

ATTEST:

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Carl R. Bartlett, Mayor

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Darlene Whisenant, Town Clerk

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Marcia D. Onieal, Town Manager