

MINUTES OF THE TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REGULAR SESSION
April 11, 2005

THE BLACK MOUNTAIN BOARD OF ALDERMEN met in regular monthly session on Monday, April 11, 2005 at 6:00 p.m. in the meeting room of the Public Safety Building, 106 Montreat Road, Black Mountain, NC.

I. CALL TO ORDER, PLEDGE OF ALLEGIANCE, PRAYER

The meeting was called to order with the following members present:

Mayor Wm. Michael Begley
Vice Mayor Will Kennedy
Alderman Joan Brown
Alderman Phil Garrison
Alderman C. Michael Sobol
Alderman Mary Leonard White – Absent – out of town

The following staff members were present:

Anthony N. Caudle, Town Manager
Shirley Raines, Town Clerk
Ron Sneed, Town Attorney
Jerry Atkins, Zoning Administrator
David Ballard, Golf Pro
Gary Bartlett, Director of Public Safety
Jack Staggs, Police Captain
Allen Willet, Police Chief

Representing the media:

John P. Kennedy, Black Mountain News
Gary & Sally Biggers, Black Mountain Video Productions

Mayor Begley led the Pledge of Allegiance, followed by prayer, led by Rev. Janice Pennington, Chaplain, Black Mountain Center, Black Mountain, NC.

Mayor Begley thanked everyone in attendance and expressed appreciation to all those who were attending for the first time and also the viewing audience. The meeting was duly constituted and opened for the transaction of business. The following business was transacted.

II. ADOPTION OF THE AGENDA

The minutes of March 1, 2005 – Special Workshop, March 10, 2005 - Agenda Workshop, March 10, 2005 - Closed Session, March 14, 2005 - Regular Session, were reviewed and approved as written.

The agenda was amended at the Agenda Meeting on April 7, 2005 with the following changes:

Under III, Communications from the Mayor, add item “G”, Resolution Awarding Badge to Retiring Auxiliary Officer, Bill Jones

Under VI, Communications from the Town Manager, add item “5”, Rabies Clinic Scheduled for April 30, 2005 at Town Hall

Under VII, Committee/Board Reports, add “Housing Commission” Report

Mayor Begley also added under VII, Committee Board Reports, “C”, “Bus Report”

With these changes the agenda was approved with a 4-0 vote on a motion by Alderman Brown.

III. COMMUNICATIONS FROM THE MAYOR

Mayor Begley presented the following Proclamations.

- A. Proclamation – “Public Service Recognition Week” – May 2-8, 2005
- B. Proclamation Honoring All Centenarians – May 6, 2005
- C. Proclamation – “National Volunteer Week” – April 17-23, 2005
- D. Proclamation – “Spring Litter Sweep” – April 16-30, 2005 – Area-wide clean-up day is scheduled for April 16, 2005.

Mayor Begley presented the following Resolutions for retiring staff members, effective May 1, 2005.

E. Resolution Awarding Badge and Sidearm to Retiring Police Chief Allen Willet - *Vice Mayor Kennedy made a motion to accept the Resolution awarding the badge and sidearm to retiring Police Chief Allen Willet. The motion passed unanimously.*

F. Resolution Awarding Badge and Sidearm to Retiring Police Officer Richard “Burt” Stone, Jr. – *Alderman Brown made a motion to accept the Resolution awarding the badge and sidearm to retiring Police Officer, Richard “Burt” Stone, Jr. The motion passed unanimously.*

G. Resolution Awarding Badge to Retiring Auxiliary Police Officer, Bill Jones – *Alderman Brown made a motion to accept the Resolution awarding the badge to retiring auxiliary Police Officer, Bill Jones. The motion passed unanimously.*

Mayor Begley reported he had participated in a forum last week representative of municipalities and counties in the area affected by the Regional Water Authority and the attempts to resolve the differences between the City of Asheville and the County of Buncombe as it relates to the water agreement. He explained that the Town receives about \$200,000 per year from the county as one of the terms of that agreement that is intended to transfer money to the Town of the value of the sheriff services that we do not require within the municipal boundaries. Our Police Department does many of the functions that would otherwise be required

to be done by the Sheriff's Department and is true of other municipalities in Buncombe County as well. Mayor Begley said apparently Buncombe County is the only county in the state that has this kind of arrangement. For that reason when the applicability of the City Water Agreement ends in 2-3 months, we don't expect to get this money any more. The rate that the Town will pay for Asheville water may increase, and the rate the Black Mountain citizens, who are on the Asheville water system, will pay for private water bills through that water system may increase. Mayor Begley stated that negotiations will continue to resolve the issue.

IV. COMMUNICATIONS FROM TOWN ATTORNEY - None

V. CONSENT AGENDA

With the adoption of the agenda for the April 11, 2005 Regular Session Meeting, the following actions were approved:

- A. Adoption of the Minutes
Motion: To adopt the minutes of March 01, 2005 – Special Workshop, March 10, 2005 - Agenda Workshop, March 10, 2005 – Closed Session, March 14, 2005 - Regular Session
- B. Adoption of Budget Amendment #12
Motion: To adopt budget amendment #12 as submitted
- C. Consideration of Contract to Provide Auditing Services for FY 2004-2005
Motion: To approve the audit contract and to authorize the Town Manager, in his capacity as Finance Officer, to enter into the contract on behalf of the Town of Black Mountain
- D. Utility System Write-Off Program
Motion: To approve the use of the Utility Billing Write-Off Program as provided in the existing financial computer software system

All items on the Consent Agenda are considered routine, to be enacted by one motion without discussion. If a member of the Governing Body requests discussion of an item, the item will be removed from the Consent Agenda and considered separately.

VI. COMMUNICATIONS FROM THE TOWN MANAGER

A. Review of Consent Agenda

B. Projects Update

1. Filling of Open Positions – Mr. Caudle introduced and reported that Fire Chief, Gary Bartlett, has been promoted to Director of Public Safety. He will be overseeing both the Fire Department and Police Department. Mr. Caudle explained that this action is part of the Staffing Needs Study which was completed in March 2005. Mr. Caudle reported that negotiations are in process to fill the position of Assistant Town Manager and an offer should be made soon. He also reported that negotiations are in process to fill the position of Planning Director. Mr. Caudle reported that the Recreation Services Director position is on hold until other positions are filled. At present Casey Conner is filling in as Interim Director of the Recreation and Parks Department.

2. Development of Annual Budget for FY 2005-2006 – Mr. Caudle reported that a draft for the FY 2005-06 budget will be forwarded to the Board of Aldermen at the May meeting. The public hearing for the budget will be held on June 13, 2005.

3. Fire Department Engine Repair – Mr. Caudle reported repairs on one of the fire engines would cost approximately \$7,500.

4. MSD Work on Golf Course – Mr. Caudle reported that the Metropolitan Sewerage District is running lines across the golf course and should be complete within the next week.

5. Rabies Clinic Scheduled for April 30, 2005 @ Town Hall – 9-1 p.m. – Mr. Caudle reported that a Rabies Clinic has been scheduled for April 30, 2005 in the Town Hall parking lot from 9 a.m. to 1 p.m. This is sponsored by the Asheville Humane Society, the Mimi Paige Foundation, and the Town of Black Mountain.

6. Removal of Bill Boards – Mr. Caudle reported that Jerry Atkins, Zoning Administrator, has been working to follow up on the processes that are associated with the removal of bill boards in Town. The last bill board that is regulated by the Town and is required to come down should have been taken down at the end of February. Due to change of ownership, it took an extra 30 days to locate the owner and get the sign removed.

VII. COMMITTEE/BOARD REPORTS

A. Urban Forestry Commission – Will Blozan, Chair – Mr. Blozan presented the findings on the infestation of area hemlock trees by the Woolly Adelgid. He said a group of volunteers inspected the hemlock trees on public property within the Town and found 1,800 trees that need to be treated. The Commission has submitted a grant application requesting assistance for the treatment of the hemlocks. After meeting with the Commission, Mr. Blozan recommends to the Board that a treatment plan be implemented as soon as possible on the trees that can be saved. He said the Commission is willing to coordinate this effort with assistance from staff. The Board agreed that money would be budgeted in the 2005-06 budget to implement the treatment program to begin in the fall. In the interim the staff should work with the Urban Forestry Commission to identify immediate trees needing treatment and use funds from the Urban Forestry Commission budget. Alderman Sobol also requested that the survey be kept on file and updated showing which trees are treated for future use.

B. Housing Commission – Vice Mayor Kennedy announced that the Housing Commission meeting for April will be held on April 19, 2005 at 5:30 p.m. in the Public Safety Building. He said that Charlotte Kaplan, Community Development Director of Buncombe County, will present the five-year Strategic Plan for the four-county Housing Consortium and the Housing Trust Funds in Asheville and Buncombe County, and Scott Shuford, Director of the Department of Planning and Development of the City of Asheville will present infill and other housing initiatives, the Unified Development Ordinance, and planning and zoning in Asheville.

C. Bus Report – Alderman Brown reported that the third annual “Strive Not to Drive” week will be held April 22-30, 2005. She invites everyone to ride with her on

April 27, for “Ride with Joan” Day. The bus will leave from Black Mountain at 10:40 a.m. and go to the Asheville Mall and return.

Alderman Sobol reminded the public that a work day at the pool to resurface the deck is scheduled for Saturday, April 16, 2005. He invites volunteers to join together in this project.

VIII. OLD BUSINESS

- A. PUBLIC HEARING** on the Annexation by petition of a Portion of the Property Known as The Settings, a.k.a. Buncombe County Property Identification Number 0618.00-45-4735 as Described in Plat Book 0021, Page 0012

Mayor Begley opened the public hearing.

Mr. Caudle explained that required information was not received to proceed with the Public Hearing. *After discussion, Alderman Garrison made a motion to continue the public hearing to May 9, 2005, at 6:00 p.m., or as soon thereafter as possible on the proposed annexation by petition of a portion of the property known as The Settings, a.k.a. Buncombe County Property Identification Number 0618.00-45-4735 as described in Plat Book 0021, page 0012. The motion passed with a vote of 4-0.*

- B. PUBLIC HEARING** on a request for a zoning change by Endre Pasztor for property located at 1194 Old US Hwy. 70 West

Mayor Begley opened the public hearing.

Jerry Atkins presented a request from Endre Pasztor requesting rezoning of his property located at 1194 Old US Hwy. 70 West from Office Institutional (O-I) to General Business (C-2). He said Mr. Pasztor has owned the adjoining property at 1196 Old US Hwy. 70 West since 1996 and the zoning for it was changed in May of 1998. He would now like to have the property at 1194 Old US Hwy 70 West rezoned so that all of his property is under one zoning classification. At the March 7, 2005 Planning Board meeting, this request was approved by a vote of 7-2.

Harry Hamil, 15 John Myra Avenue, said he was one of the two on the Planning Board who voted against the request because he thinks it is a good example of the creeping technique of expanding commercial districts, which is detrimental to good, long-term planning. The Planning Board is going to consider rezoning a larger area. He said he was not on the Board when the other property was rezoned but feels the request was approved because the existing building was clearly a commercial building, and it had a potential use, a minimal use of the property and did not prove to be a particular problem for buildings on either side. In this case we are talking about a much larger piece of property. The historic Black Mountain Inn adjoins this property and to approve the rezoning request would have a negative impact on the Black Mountain Inn. Mr. Hamil asks that the Board vote against this rezoning request.

Elaine Loutzenheiser, 410 Avena Road, said she cast the other dissenting vote on the Planning Board. She does not feel we should change all properties to C-2 zoning and asks that the Board not approve this request.

Mayor Begley closed the public hearing.

Alderman Brown made a motion to approve a request to rezone the property located at 1194 Old US Hwy 70 West, further described as PIN #0609.16-84-5103, from O-I to C-2 as recommended by the Planning Board at their meeting on March 7, 2005.

Vice Mayor Kennedy asked if a member of the Planning Board is in attendance who voted in favor of the request.

Mikkel Hansen, 112 Hilltop Road, said he voted in favor of the request. He thought it would be okay to tie into both lots.

Alderman Sobol asked what is to be developed on the property? Mr. Atkins replied that he did not know. Mr. Sobol also inquired if this would be considered to be “spot zoning”.

Ron Sneed, Town Attorney, stated that this is not spot zoning.

Vice Mayor Kennedy asked Mr. Atkins if there were any negative responses from the neighbors. Mr. Atkins said no.

With no further discussion the Board voted 2-2. Mayor Begley voted in the affirmative to approve the request, which, therefore, passed by 3-2, with Vice Mayor Kennedy and Alderman Sobol opposed.

IX. NEW BUSINESS

A. Consideration of Contract with Buncombe County Friends for Animals, Inc., d/b/a Asheville Humane Society for the Provision of Animal Control Services in the Town of Black Mountain

Captain Jack Staggs presented the contract with Buncombe County Friends for Animals, Inc. He said the contract has been reviewed by the Police Department and recommends that the Town approve the contract with Buncombe County Friends for Animals, Inc., d/b/a Asheville Humane Society to provide animal control services in the Town of Black Mountain. Ron Sneed, Town Attorney, noted there are some minor corrections in the contract which will be finalized. *After discussion, Alderman Garrison made a motion to approve both contracts (one effective May 1, 2005 through June 30, 2005 and the second contract effective July 1, 2005 through June 30, 2006) with Buncombe County Friends for Animals, Inc., d/b/a Asheville Humane Society for the provision of Animal Control Services in the Town of Black Mountain and subject to the approval of the Town Attorney. The motion passed with a vote of 4-0.*

B. Presentation from Representatives of the North Carolina Department of Transportation (NCDOT) on the Construction of an Interchange to Improve Future Access to Interstate 40

Mayor Begley explained the procedure that would be followed during the presentation and discussion of the proposed construction of an additional I-40 interchange. He said the purpose tonight is for discussion of the modeling information and the process. Mr. Caudle then introduced the speakers associated with the Department of Transportation (DOT) who would be giving presentations. Mr. Greg Schuler, Project Engineer, is with the local office, Division 13, of DOT, Mr. Dan Baechtold and Ms. Elizabeth Teague are the local staff to the Metropolitan Planning Organization (MPO), Ms. Beverly Williams is with the State Department of Transportation Planning Branch and our MPO representative from Raleigh to this area, and Mr. Don Bryson is with the engineering firm that has developed the traffic model for Buncombe County and under contract with DOT. He works closely with Beverly Williams and with the MPO.

Mr. Greg Schuler, Project Manager with DOT, said an initial request was made from the Town of Black Mountain to alleviate truck traffic and congestion in general. The best way to do that would be to provide a connector to I-40. The first step to accomplish that goal was the feasibility study which was completed in 2000. He said as a local arm of the DOT, Division 13 is here to serve the citizens. They will try to accommodate Black Mountain during this process, with safety being the number one priority. A project of this size is something that has to be addressed through the State's Transportation Improvement Plan. Once a project gets in this pipeline, it is generally a ten-year process. The charge of the DOT is to work with the funds available and to serve the greater good. Mr. Schuler quoted from the Feasibility Study completed in 2000. "The purpose of this project is to provide an additional interchange on I-40 at Blue Ridge Road to reduce the traffic congestion and truck volume in the downtown area of Black Mountain. The interchange is also expected to improve the traffic safety and operations of the adjacent I-40, NC9 interchange. The project was requested by the Town of Black Mountain." This has some specific language, but we are mandated by the federal government to look at many different alternatives.

Mr. Don Bryson, principal engineer of Martin, Alexiou, and Bryson Engineering Company, said his firm was asked by the Board of Aldermen to develop a model to study Blue Ridge Road and Lytle Cove as possibilities for an interchange for 2030 and explained the process for adding an interchange in or near Black Mountain. The modeling includes traffic forecasts, employment, and housing. He said at present 3,000-4,000 vehicles a day use Blue Ridge Road. He predicts that by 2030, this number will increase to 10,000. Mr. Bryson's model showed that an interstate interchange at Blue Ridge Road would actually increase traffic through downtown Black Mountain by an additional 1,200 to 1,600 vehicles a day. Blue Ridge Road would see an increase in traffic from 1,000 to 4,100 above the base growth of traffic. His study showed that if there were an interchange located at Lytle Cove Road in Swannanoa, there would be fewer vehicles traveling through downtown Black Mountain, approximately 2,400 to 3,400, less than the predicted 10,000 by 2030, but that traffic would begin to back up around the existing interchange on N.C. Highway 9. Blue Ridge Road would see a decrease of 600 vehicles from the growth predictions. An interchange at Lytle Cove Road would not help congestion along Hwy. 9, although an interchange at Blue Ridge Road would.

Ms. Beverly Williams, with the State Department of Transportation Planning Branch and our MPO representative from Raleigh to this area, explained that currently the Blue Ridge Road Interchange is an unfunded project with the NCDOT Transportation Improvement Program. She said the earliest another interchange in Black Mountain could be funded would be in 2012. Ms. Williams explained that after a project is funded, there is a 10-year period before the completion of the project. The earliest date an interchange could be completed is in 2022. Vice Mayor Kennedy asked if the Town would lose its place in line if we asked NCDOT to move the location of the interchange. Ms. Williams said no. She explained that the original application for an interchange at Blue Ridge Road was simply a place holder; a name given to the project in the Transportation Improvement Program (TIP). She said that NCDOT needs a statement as to where locals want to build a future road. She said we cannot have a vanilla description of simply wanting an interchange in the TIP. Alderman Garrison asked what if the preferred location is outside the city limits. Ms. Williams said this is where the MPO comes in. She said the appropriate thing would be to partner with Buncombe County. It is important to build relationships and do land use planning during this time. We cannot have a description of where you do not want an interchange, but that you would still like to have an interchange in the TIP.

The Board took a ten-minute break.

Mayor Begley opened the floor for questions.

Bob Gunn, 109 Pleasant Drive, said he thought the Board had asked for alternatives, i.e., Lytle Cove. He continues to see documents referring to improvements of Blue Ridge Road. He would like to request that the Board provide documents to clarify confusion and give updates on this project on an ongoing basis

Mark Tokay, 109 Lady Slipper Trail, Swannanoa, Kevin Adams, 193 Wildflower Cove, Swannanoa, and Linda Styles, 50 Scroops Drive, Swannanoa stated that they would like the interchange to be located at Lytle Cove, as the railroad currently cuts off their community when a train is passing. They gave copies of petitions from the Lytle Cove community that were presented to the Buncombe County Commissioners requesting consideration of an interchange near Lytle Cove Road.

Rhonda Cox, 6 Blue Ridge Assembly Drive, asks that the Board support an interchange at Lytle Cove.

Chuck McKeown, 66 Blue Ridge Assembly Drive, stated that Lytle Cove is the preferred choice by the citizens for the interchange.

Sara Marcia Rafter, 132 N. Dougherty Street, said she was president of the Economic Development Committee when the request for an interchange was made and it was a unanimous vote of the Board of Aldermen when they requested the original feasibility study. She hopes the Town Board will support all possibilities and take into account the economic development of the Town. Ms. Rafter said there is a lot of learning for everyone and hopes the future Board will make the right decision.

Joe Friddle, 221 Pine Grove Road, agrees with Ms. Rafter that if we had access to this information earlier, more information would have been better for everyone. He addressed Ms. Williams saying that general vanilla categories of looking at options is not something DOT deals with: that it is better to request a feasibility study if it is an alternative you want to seriously look at; that it is helpful among your feasibility studies to choose a locally preferred alternative in terms of partnering with the MPO and DOT in moving that forward and that choosing a locally preferred alternative, even if it is different from the one in the priority needs list, does not compromise or lose your place in line in terms of funding. Ms. Williams replied that is correct.

Harry Hamil, 15 John Myra Avenue, said he appreciates the forward thinking efforts of the Economic Development Committee a number of years ago. Because of their request, we have a place in line. He said we have to work together and partner with Buncombe County and Swannanoa. The call for an update of the Thoroughfare Plan and the fact there was a local transportation plan started and got in line with the MPO, that process seems to me needs to go forward. Mr. Hamil said we need to have the support of the Board of Aldermen to move the local transportation plan forward so that it would be available to the MPO.

Ron Collins, 400 Blue Ridge Road, referred to the map in the presentation: Blue Ridge Road interchange is circled and looks to be surrounded by blue and green designation, which I think is floodway or floodplain. Are there any restrictions about berming up areas like that? Ms. Williams replied she cannot give specifics. These are environmental considerations at the very broad level. It does not mean it stops the project. Where we cause problems, we have to mitigate. Mr. Collins said if there is no ranking of unfunded projects, who assigns the ranking on the priority list? Ms. Williams referred to Mr. Dan Baechtold. He said it is correct that in the TIP the unfunded projects are not ranked. If they are unfunded, it is assumed they are happening some time after the time frame of the TIP. In our local plan we have listed a top tier of 5-6 projects that are most important to the region and based on other factors in working with the state as to what their priorities are. We could apply a ranking to those projects. We have not had a need because we have not seen any new projects getting funded. We can work together and prioritize those. Mr. Collins said the web site shows the project as #2 priority. He asked if there is a web site that gives an accurate update. Ms. Williams said the wording was changed within the draft. She said there are many different voices with different input. One of the voices that was heard was that extensive renovation was intended for Blue Ridge Road. The intent of this wording was to clarify specifically what the original feasibility study included at the project limit. It did not increase the project limit in any way. It was more specific language to clear up a misconception that there was an intent to widen Blue Ridge Road to a four or five lane facility, which there is no intent nor is there a project to do that. Mr. Collins said he understood from the presentation that taking the do-nothing route ensures that there will be an interchange built at Blue Ridge Road in the future. Ms. Williams replied no, that only insures there will be a project considered for location at Blue Ridge Road or some other location that is identified in the development process. It does not guarantee an interchange at that location or at any other.

Mayor Begley thanked everyone for their input.

X. CITIZEN COMMENTS - At 9:44 p.m. Mayor Begley asked for Citizen Comments.

There were no citizen comments.

Alderman Sobol asked if DOT has to receive a document to start the feasibility study at Lytle Cove. Ms. Williams said the appropriate way to get a feasibility study initiated is to go to the MPO, discuss it in committee, have the MPO act on it, and present something in writing to the State. Alderman Sobol asked if the Mayor could request that. Ms. Williams said either the Mayor with the TAC or Mr. Caudle with the TCC can request the study.

XI. ADJOURNMENT - *With no further business, Alderman Garrison made a motion to adjourn the meeting at 9:45 p.m. The motion passed unanimously.*

Wm. Michael Begley, Mayor

ATTEST

Anthony N. Caudle, Town Manager

Shirley J. Raines, Town Clerk