

MINUTES OF THE TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REGULAR SESSION MEETING
April 16, 2007

THE BLACK MOUNTAIN BOARD OF ALDERMEN met in regular monthly session on Monday, April 16, 2007 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

Mayor Bartlett called the meeting to order at 6:00 p.m. with the following members present:

Mayor Carl R. Bartlett
Vice Mayor C. Michael Sobol
Alderman Joan Brown
Alderman Chuck McKeown
Alderman Rosalie Phillips
Alderman Mary Leonard White

The following staff members were present:

Anthony N. Caudle, Town Manager
Bo Ferguson, Assistant Town Manager
Shirley Raines, Town Clerk
Ron Sneed, Town Attorney - absent
David Ballard, Golf Pro/Manager
LuAnn Bryan, Recreation and Parks Director
Kevin Pressley, Police Chief
John Shaw, Golf Course Superintendent
Elizabeth Teague, Planning Director

Representing the media:

Andy Grabel, Black Mountain News
Gary & Sally Biggers, Black Mountain Video Productions

Mayor Bartlett led the Pledge of Allegiance, followed by prayer led by Allen Hetzel, Deacon, St. James Episcopal Church, Black Mountain, NC.

II. CITIZEN COMMENTS

Allison Amatangelo, 303 Pinnacle Drive, and Jennifer Woodard, Bitter Creek Trail, request that the bus stop by the Old Depot be moved to another location due to unpleasant situations occurring with the surrounding businesses. They spoke to the recent vandalism and noted that the Old Depot has spent \$5,000 for security improvements. Ms. Amatangelo and Ms. Woodard asked for help in eliminating the vandalism.

Ms. Amatangelo made reference to the Sutton Avenue Traffic Study. She said the Old Depot put up a stage in front of the caboos for use with special events and it has been damaged by cars. They also put up “compact car parking only” signs but people do not observe the signs. Ms. Amatangelo hopes the traffic study will help with the parking issue.

Nancy McKay, 205 New Bern Avenue, said she supports the bus service, but the present location has resulted in serious problems with vandalism and those people waiting for the bus. Ms. McKay requests that the bus stop be moved closer to Montreat Road.

Jordan Redding, 211 N. Park Lane, said he is a skateboarder and requests that the Board not pass the ordinance preventing skateboarders on streets and sidewalks. He asks that some provision be allowed for skateboarding.

Ann Lutz, 211 N. Park Lane, asks that the Board consider limiting the area for skateboarding in Town and hopes the Board will consider building a skateboard park.

Doug Brock, 296 Old Lakey Gap Road, requests the Board to table the ordinance on Flood Plain regulations until more data is available and the FEMA maps are completed.

Harry Hamil, 15 John Myra Avenue, thanked the Board for calling for a public hearing on cutting of streets and sidewalks. He said this will give the citizens a chance to participate and express their opinions on the ordinance. Mr. Hamil would also like the Board to give the citizens a chance to speak regarding the Resolution of county-wide Broadband. He also requests the Board to give the citizens an opportunity to speak regarding the proposed changes on “Special Events and Temporary Uses Regulations” and “Skateboarding” ordinance. Mr. Hamil asked that the Board give the Planning Board a chance to speak regarding the applicants for the Planning Board and also invite the Planning Board to speak on the Flood Ordinance which is on the agenda tonight.

Marilyn Huff, 50 Bethel Drive, thanked the Board for the ETJ study. She feels the Board has shown positive and proactive leadership and hopes the Board will move forward with the ETJ process.

III. ADOPTION OF THE AGENDA

The minutes of March 8, 2007 - Agenda Workshop and March 12, 2007 - Regular Session were approved.

The agenda was amended with the following changes:

Under VI, Consent Agenda, amended item “G” to Call for Public Hearing”;

Under VI, Consent Agenda, added items “L”, “M”, “N”;

Under VII, Communications from the Town Manager, added item “D”;

Under VIII, Committee/Board Reports, added item “B”;

Under IX, Old Business, item “B”, deleted second part of motion

The Board also added items “D” and “E” under X, New Business, and agreed to go into Closed Session to discuss property acquisition in accordance with NCGS 143-318.11(5).

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

IV. COMMUNICATIONS FROM THE MAYOR

Mayor Bartlett thanked all members on staff that helped with the cleanup after the recent wind storm.

V. COMMUNICATIONS FROM TOWN ATTORNEY - None

VI. CONSENT AGENDA

- A. Adoption of the Minutes
Motion: To adopt the minutes of March 8, 2007 - Agenda Workshop, March 12, 2007 – Regular Session
- B. Adoption of Budget Amendment #15
Motion: To adopt Budget Amendment #15 as submitted
- C. Resolution Endorsing the U.S. Mayors’ Climate Protection Agreement
Motion: To approve the Resolution Endorsing the U.S. Mayors’ Climate Protection Agreement
- D. Resolution Supporting the Allocation of Broadband Accessibility to Public Safety Needs
Motion: To adopt Resolution supporting a proposal to allocate 30MHz of broadband radio spectrum in the upper 700MHz band to allow for the development of a new public safety broadband network
- E. Pedestrian Master Plan Contract Agreement with Greenways Incorporated
Motion: To approve the Contract Agreement with Greenways, Inc. and to authorize the Town Manager to enter into said contract on behalf of the Town
- F. Authorization of Specified Staff to Sign Purchase Orders
Motion: To authorize Tony Caudle and Sherry Williams to perform the pre-audit function for Town of Black Mountain expenditures
- G. **CALL FOR PUBLIC HEARING** for Consideration of Proposed Ordinance Regulation of and Assessment of Fees for the Cutting of Local Streets and Sidewalks
Motion: To call for a public hearing to amend the Code of Ordinances for the Town of Black Mountain, Title IX, by revoking sections 100.10 through 100.14 and adopting new sections 100.10 through 100.14 to provide for permits and fees for cuts in public streets and sidewalks on Monday, May 14, 2007 at 6:00 p.m., or as soon thereafter as possible, in the meeting room of the Public Safety Building, located at 106 Montreat Road, Black Mountain, NC

- H. Request from the City of Asheville for Environmental Monitoring Equipment Station Easement
Motion: To approve the request from the City of Asheville for Environmental Monitoring Equipment Station Easement and to authorize the Mayor and/or Town Manager to enter into the agreement on behalf of the Town
- I. **CALL FOR PUBLIC HEARING** to Consider Construction of McCoy Cove and Blue Ridge Road Sewer Lines
Motion: To call for a public hearing seeking comments on the construction of the McCoy Cove Road and Blue Ridge Road Sewer Lines on Monday, May 14, 2007 at 6:00 p.m., or as soon thereafter as possible, in the meeting room of the Public Safety Building, located at 106 Montreat Road, Black Mountain, NC
- J. **CALL FOR PUBLIC HEARING** for Stormwater Ordinance
Motion: To call for a public hearing to consider adoption of the proposed Stormwater Ordinance on Monday, May 14, 2007 at 6:00 p.m., or as soon thereafter as possible, in the meeting room of the Public Safety Building, located at 106 Montreat Road, Black Mountain, NC
- K. Golf Course 19th Hole Snack Shop Lease
Motion: To accept the bid from Cathy Moyers at \$400 per month for the next three years, effective May 1, 2007 and to authorize the Town Manager to execute the lease on the behalf of the Town
- L. Resolution Naming William B. Ferguson as Finance Officer for the Town of Black Mountain
Motion: To adopt Resolution naming William B. Ferguson as Finance Officer for the Town of Black Mountain
- M. Request from Black Mountain/Swannanoa Chamber of Commerce to Support Joint Resolution of County-Wide Broadband
Motion: To adopt request from Black Mountain/Swannanoa Chamber of Commerce to support joint Resolution of County-Wide Broadband
- N. Resolution Supporting North Carolina State Energy Office Funding: Bills H839/S939
Motion: To adopt Resolution urging the North Carolina General Assembly to enact H839 and S939 which appropriate \$7.5 million for the SEO in each of fiscal years 2007-2008 and 2008-2009

VII. COMMUNICATIONS FROM THE TOWN MANAGER

A. Review of Consent Agenda

B. Projects Update

1. **2007-2008 Budget** – Mr. Caudle reported that the proposed 2007-08 Budget will be presented to the Board at the May 14, 2007 regular meeting. He said budget workshops will be scheduled at the Agenda meeting on May 10, 2007.

2. **Grant Awards** – Bo Ferguson, Assistant Town Manager, reported that the Town has received two grants: (1) A Waste Reduction Grant from North Carolina Department of Environmental Natural Resources in the amount of \$20,000 to purchase bins for the citizens who

participate in the recycling program. The Town's match will be \$2,500; (2) A grant from the Mobile Source Emissions Reduction Program through North Carolina Department of Environmental Natural Resources (NC DENR) for an electric-powered vehicle to be used by the Police Department in Town.

3. Report of Reallocation of Funds – Mr. Caudle reported that a budget amendment was processed to reallocate funds from various departments for the purchase of an exchange server.

4. Fire Department Report – Mr. Caudle presented the March 2007 report for the Fire Department.

5. Police Department Report – Chief Kevin Pressley introduced Officer Jody Eller, who was recently hired in the Police Department. Chief Pressley presented the March 2007 report for the Police Department.

C. Town Hall Day – Mr. Caudle reminded the Board that Wednesday, May 9, 2007 is Town Hall Day in Raleigh. He said if any Board members wish to attend to let Shirley Raines know as soon as possible so that reservations can be made.

D. TCC Update – Mr. Caudle reported that the Board voted to advise the MPO to delete the “West Black Mountain Interchange” project. Mr. Caudle said that letter has been forwarded to the staff of the Technical Committee who works in the regional MPO office. The request will be considered at the April meeting of the TAC.

E. Mr. Caudle recognized Ms. LuAnn Bryan, Recreation & Parks Director. Mr. Caudle noted that Ms. Bryan has accepted other employment and would be leaving on April 30.

VIII. COMMITTEE/BOARD REPORTS

A. Committee/Board Appointments

Vice Mayor Sobol commented that in 2005 the number on the Planning Board was reduced from 9 members to 5 members. *After discussion, Vice Mayor Sobol made a motion to increase the Planning Board members from 5 to 7, effective July 1, 2007.* Mr. Caudle explained that the ordinance would have to be amended to effect this change. Vice Mayor Sobol withdrew his motion and requested that the amendment to the ordinance be placed on the May agenda.

1. Planning Board - (2) openings to fill – Mayor Bartlett noted that there are two openings to fill on the Planning Board. *Alderman Brown made a motion to appoint Ames Tryon to fill the vacancy for the term ending July 2009. The motion passed unanimously. Vice Mayor Sobol made a motion to appoint Phyllis Genetti to fill the vacancy for the term ending July 2007. The motion passed unanimously.*

2. Greenways Commission – (1) opening to fill – No applications received.

B. Beautification Clean-up Day – Alderman White reported that April 14-28, 2007 has been proclaimed “Litter Sweep 2007”. She said the Beautification Committee, in conjunction with Quality Forward, will sponsor an area-wide cleanup on Saturday, April 21. If you would like more information, call Pam Hoen at Town Hall.

IX. OLD BUSINESS

A. Presentation of ETJ Study Area by Benchmark Consultants

Elizabeth Teague, Planning Director, introduced Ms. Erin Burriss of Benchmark Consultants who conducted the study on ETJ (Extra-territorial jurisdiction). Ms. Burriss reviewed the study and explained that the recommended boundary would extend Town planning and zoning jurisdiction onto properties outside of the Town's incorporated boundary but within the Town's "Sphere of influence" or the one mile radius outside of Town as allowed by state statute. She explained that the boundary line is drawn along natural features or property boundaries so that impacted properties would not be divided by Town and County jurisdictions. Ms. Burriss noted that the Planning Board recommends that the ETJ boundary be adopted by the Board of Aldermen as proposed and that the Board of Aldermen continue pursuit of extension of the ETJ. She explained that the next step would be to hold a public information session before proceeding. *After discussion, Alderman Brown made a motion to continue study of ETJ and schedule workshops for public input.* Alderman McKeown said he would like to have representatives from the County at the public meetings to compare the County to the Town. *The motion passed with a vote of 5-0.*

B. PUBLIC HEARING on Proposed Revisions to the Flood Damage Prevention Ordinance

Elizabeth Teague, Planning Director, presented a review of the proposed revisions to the Flood Damage Prevention Ordinance. She said the ordinance regulates building and development in the "100 year floodplain", also known as the Special Flood Hazard Area (SFHA). Ms. Teague said the ordinance is based on model regulations provided to local governments by the North Carolina State Emergency Management Division in 2005. It has been revised with input by the Planning Board as part of the Land Use Code Revision process. Ms. Teague noted that the ordinance recommends three feet of freeboard and a "net zero" fill provision which prohibits the use of fill in the SFHA unless compensatory storage is provided. Ms. Teague said the Planning Board recommends that the Board of Aldermen adopt the ordinance and support a task force to continue to study regulations in the coming year. The regulatory maps which delineate the floodplain area (Flood Insurance Rate Maps or FIRMs) are being updated by the State and draft maps should be available this summer.

Mayor Bartlett opened the public hearing at 7:40 p.m.

Elaine Loutzenheizer, 410 Avena, said there should be boundaries in line first and then look at maps.

Joe Tyson, 309 N. Dougherty Street, said he has nine acres that will be impacted by this ordinance. He hopes that the Board of Aldermen and Planning Board will meet with the public. He said we do not know the full impact of this ordinance until the maps are available; requiring three feet of freeboard and net zero fill, in his opinion, is putting a hardship on developers; he would like the Board to pass the State ordinance model.

Wes Yeager with Land Design of Asheville is working with Black Mountain Research and Technology, which is associated with Montreat College. He said he is not in favor of the 3 feet freeboard but does support the State model.

Ken Pittman, 3 Forest Lane, encourages the Board to have workshops with the citizens before passing the ordinance.

Ben LaFrombois, 100 Meadowbrook Drive, with Ingle's Markets, asked that the Board give careful consideration to these changes, especially for small lots. He said this will affect affordable housing.

Bob McMurray, 127 Hilltop Road, asked that the Board carefully review this ordinance, and if they have to act tonight, they should pass the State regulations.

Harry Hamil, 15 John Myra Avenue, thanked Joe Tyson and Ben LaFrombois for attending the Planning Board meetings. He said there were others who attended some of the meetings on the floodplain review and does not know why they are not in attendance tonight. Mr. Hamil said he feels that the Town did not have good plans in place to inform the citizens to evacuate during the flood. He hopes the Board will vote in favor of the ordinance and continue to support education to the citizens.

Mayor Bartlett closed the public hearing at 9:00 p.m.

Alderman Brown made a motion to adopt the 2005 North Carolina Model Flood Damage Prevention Ordinance, which includes a freeboard height of two feet and eliminate "net fill zero" language; after the new Flood Insurance Rate Maps (FIRMs) are available, review the ordinance for any necessary changes, and have workshops to have input from the citizens. The motion passed with a vote of 3-2 with Vice Mayor Sobol and Alderman White voting against.

C. Presentation on Sutton Avenue Traffic Study

Elizabeth Teague, Planning Director, introduced Ken Putnam, Engineer with the firm of Mattern and Craig, who conducted the traffic study to address traffic safety issues along Sutton Avenue between Black Mountain Avenue and Broadway. Mr. Putnam said he met with businesses along Sutton Avenue and Depot Association representatives in the development of his report. He said the report provides traffic counts, turning movements, and parking and pedestrian designs to improve safety. *After discussion, Vice Mayor Sobol made a motion to approve only the following changes along Sutton Avenue as recommended by Mattern and Craig: (1) add the three-way stop at the intersection of Cherry Street and Sutton Avenue; (2) add the traffic island on the Dougherty Street side of the Sutton Avenue/Black Mountain Avenue/Dougherty Street intersection; and (3) remove the four parking places on Sutton Avenue at its intersection with Cherry Street. The motion passed with a vote of 5-0.*

X. NEW BUSINESS

A. Relocation of Bus Stop from Current Location at Old Depot

Mr. Caudle reported that requests have been received from downtown businesses to relocate the bus stop from its current location at the Old Depot to a location away from downtown businesses due to vandalism and other issues with people waiting for the bus. The Board directed Mr. Caudle and staff to find another location as soon as possible.

B. Consideration of Special Events and Temporary Uses Regulations

Alderman Brown made a motion to adopt the Special Events and Temporary Uses Regulations for inclusion in Title IX, General Regulations of the Town of Black Mountain Code of Ordinances as submitted by staff. After discussion, the motion passed with a vote of 3-2 with Vice Mayor Sobol and Alderman Phillips voting against.

C. Consideration of Ordinance to Amend Title VII, Section 73.04, of the Black Mountain Code of Ordinances to Prohibit Skateboards on the Streets and Sidewalks of the Town of Black Mountain

Vice Mayor Sobol made a motion to adopt an Ordinance to amend Title VII, Traffic Code, Section 73.04, of the Code of Ordinances of the Town of Black Mountain to allow skateboarding in some areas of the Town and that staff bring back a recommendation at the May meeting. The motion passed with a 5-0 vote.

D. Vehicle Computer Mounts and Equipment Install – Budget Amendment #16

Mr. Caudle reported that the Police Department has requested to purchase fifteen vehicle computer mounts and equipment install. He said this will allow the officers to access information from their patrol vehicles. Buncombe County has also transferred twenty modems to the Town of Black Mountain Police Department that will also be installed which will allow officers to access vehicle and driver information through the North Carolina State System. *Vice Mayor Sobol made a motion to approve budget amendment #16 to authorize the expenditure in the amount of \$9,500 to a vendor for the purchase of fifteen vehicle computer mounts and equipment install. The motion passed with a vote of 5-0.*

E. Request for Building Permit to Place Shed at Community Garden

Mr. Caudle reported that Dr. John Wilson is requesting a building permit to place a movable shed at the Community Garden to store tools, tillers, fertilizer, etc. for use on the property. *Alderman White made a motion to approve the request to place a movable shed at the Community Garden for storage of materials and gardening equipment. The motion passed with a vote of 5-0.*

**XI. CITIZEN COMMENTS – (at 8:00 p.m. if all preceding items on the agenda have not been finished by then)
None**

XII. CLOSED SESSION – *Vice Mayor Sobol made a motion to go into Closed Session at 9:45 p.m. to discuss property acquisition as permitted in NCGS 143-318.11(5). Motion approved unanimously.*

XIII. ADJOURNMENT - *With no further business, Alderman McKeown made a motion to adjourn the meeting at 10:00 p.m. The motion passed with a 5-0 vote.*

Carl R. Bartlett, Mayor

ATTEST

Anthony N. Caudle, Town Manager

Shirley J. Raines, CMC, Town Clerk