

MINUTES OF THE TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REGULAR SESSION MEETING
January 9, 2006

THE BLACK MOUNTAIN BOARD OF ALDERMEN met in regular monthly session on Monday, January 9, 2006 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 Kennedy called the meeting to order at 6:00 p.m. with the following members present:

Mayor Will Kennedy
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
Gary Bartlett, Public Works Director
Shirley Raines, Town Clerk
Ron Sneed, Town Attorney
Elizabeth Teague, Planning Director
Bob Watts, Public Works Director

Representing the media:

John P. Kennedy, Black Mountain News
David Forbes, Asheville Daily Planet
Gary & Sally Biggers, Black Mountain Video Productions

Mayor Kennedy led the Pledge of Allegiance, followed by prayer, led by Pastor, Dr. Robert Ratchford, Black Mountain Presbyterian Church, Black Mountain, NC.

Mayor Kennedy noted that this is the 1,343rd regularly scheduled meeting of the Black Mountain Board of Aldermen.

Mayor Kennedy 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.

Mayor Kennedy noted that a time for the Board to receive citizen comments related to specific items to come later in the agenda has been added at the beginning of the meeting. He said the Board would also take general citizen comments at the appointed time of 8:00 p.m.

II. CITIZEN COMMENTS

Elaine Loutzenheiser, 410 Avena Road, said she has been asked to convey some comments from Ruth Brandon, who is out of town. Ms. Loutzenheiser said Ms. Brandon, at the December meeting, asked the Board to consider a policy that the candidate receiving the highest number of votes in the most recent election, but was not elected, would be appointed to the Board of Aldermen in the event of a mid-term vacancy. Ms. Loutzenheiser said Ms. Brandon feels that is the only fair thing to do.

Harry Hamil, 15 John Myra Avenue, referred to the request under New Business from Montreat College asking for participation from the Town and Board of Aldermen in land use planning for development of the In the Oaks campus. Mr. Hamil reminded the Board that the Planning Board has been charged with the rewriting of the Town's zoning and subdivision ordinances. He said the Planning Board has been working on this rewrite for over three years. The Board of Aldermen adopted a Comprehensive Plan and the Planning Department was not included in this process. Mr. Hamil asks that the Board of Aldermen respond to the request to Montreat College by including a designated member from the Planning Board and that the Planning Board be provided a report from every meeting that is held. He said if the Planning Board does not have information from the meetings, it cannot meet the projected schedule for completion of the zoning ordinance rewrite of July 2006.

III. ADOPTION OF THE AGENDA

The minutes of the December 12, 2005 Agenda Meeting and Regular Session Meeting were approved.

The agenda was amended with the following changes:

Under VI, Consent Agenda, moved item "F", "Call for Public Hearing" to X, New Business, item "C".

Under X, New Business, added new item "D", "Letter to Buncombe County Board of commissioners Regarding Transfer of Blue Ridge Road Water Line".

Under XII, Closed Session, added new item "B", "Litigation"

Mayor Kennedy requested that item "B" under "New Business" be moved to item "D".

With these changes the agenda was approved with a 5-0 vote on a motion by Alderman Brown.

IV. COMMUNICATIONS FROM THE MAYOR

A. Mayor Kennedy announced that the Martin Luther King, Jr. breakfast is scheduled for Saturday, January 28, 2006 at Ridgecrest Lifeway Conference Center at 9:00 a.m.

V. COMMUNICATIONS FROM TOWN ATTORNEY

A. Consideration of Policy Stating that the Candidate Receiving the Highest Number of Votes in the Most Recent Election Who Was Not Otherwise Elected to the Board of Aldermen Will be Appointed to the Board of Aldermen in the Event of a Mid-Term Vacancy

Town Attorney, Ron Sneed, reported that at the last Board meeting, Ms. Ruth Brandon had requested that the Board pass a motion to fill any future vacancy on the Board with the person who received the highest number of votes in the last election but not enough to win a seat at that time. Mr. Sneed said that North Carolina General Statute 160A-63 provides that “A vacancy which occurs in an elective office of a city shall be filled by appointment of the city council.” The language in our Town charter provides that “If a vacancy occurs in the office of mayor or alderman, it shall be filled for the remainder of the unexpired term by the remaining members of the Board of Aldermen.” Mr. Sneed checked with David Lawrence with the School of Government and Mr. Lawrence agrees that the Board would not be able to make a determination as to who will fill a vacancy on the board before the situation arises.

Alderman Brown requested that the Board consider the highest vote getter if a vacancy should occur.

Mayor Kennedy ruled that the Board accepts the recommendation from the Town attorney.

VI. CONSENT AGENDA

- A. Adoption of the Minutes
Motion: To adopt the minutes of December 12, 2005 - Agenda Workshop and December 12, 2005 - Regular Session
- B. Adoption of Budget Amendment #11
Motion: To adopt Budget Amendment #11 as submitted
- C. Adoption of Budget Amendment #12
Motion: To adopt Budget Amendment #12 as submitted
- D. Adoption of Budget Amendment #13
Motion: To adopt Budget Amendment #13 as submitted
- E. Adoption of Budget Amendment #14
Motion: To adopt Budget Amendment #14 as submitted
- F. Municipal Bridge Inspection Agreement and Resolution
Motion: To approve the Agreement and Resolution authorizing the North Carolina Department of Transportation to perform bridge inspection work in accordance with the National Bridge Inspection Standards
- G. Appointment of Trustee to the Black Mountain Local Firemen’s Relief
Motion: To appoint Sterling Poe to serve as the Board of Aldermen’s appointment until January 2007 as recommended by the Black Mountain Firemen’s Local Relief Fund Board

VII. COMMUNICATIONS FROM THE TOWN MANAGER

A. Review of Consent Agenda

B. Presentation of Annual Financial Report by Mr. Scott Hughes with Johnson Price & Sprinkle, PA, for Fiscal Year Ending June 30, 2005

Mr. Scott Hughes with Johnson Price & Sprinkle, PA, presented the annual financial report for fiscal year ending June 30, 2005. *After review, Alderman Phillips made a motion to accept the Annual Financial Report for FY 2004-05 as presented by Scott Hughes of Johnson Price and Sprinkle, PA. The motion passed unanimously.*

C. Projects Update

1. Report of Reallocation of Funds – Mr. Caudle reported that in accordance with FY 2005-2006 annual budget ordinance, the Board approved a reallocation of funds in the amount of \$10,000 from the Public Buildings capital outlay line item to the Recreation and Parks capital outlay line item to be used for the Clevenger Indoor Athletic Facility.

2. Pay Classification Plan Update – Mr. Caudle reported that the Pay Classification Study has been completed. The Board agreed to meet with Mr. Maxwell, consultant with Springsted, on Friday, January 20, 2006 at 8:30 a.m. to review the study. Mr. Caudle said the Board has also scheduled a workshop on February 28, 2006 to discuss ETJ.

3. Christmas Cheer Program Report – Lt. Johnny Raines gave a report on the Christmas Cheer Program. He said that the program was started 22 years ago by the Police Department. This year 88 families (a total of 127 children) were given assistance with food, clothing and toys. Lt. Raines thanked The Settings Development who donated \$11,000 to the fund. He also thanked all the staff and citizens for their support over the years.

4. Carver Avenue Development – Elizabeth Teague, Planning Director, reported that the developer for the Carver Avenue project is planning to install six double-wide manufactured homes on the property. Ms. Teague said the developer has agreed to speak to the Housing Commission at their January meeting about the project.

5. Planning Board January Workshops – Elizabeth Teague, Planning Director, announced that the Planning Board has scheduled two workshops in January: January 12 – Conditional Use Process and January 26 – Flood Plain Management Issues. The meetings will begin at 7:00 p.m.

6. U.S. 70 Sidewalk – Bob Watts, Public Works Director, reported that bids are expected in mid-January for the construction of the sidewalk on U.S. 70.

7. Water Mitigation Project – Mr. Watts, Public Works Director, reported that bids will be taken at 2:00 p.m. on January 18, 2006 for the Water Mitigation Project. It is anticipated that a request will be made at the February meeting for approval of the low bid contractor. He said construction should begin within 30 days of bid approval.

8. Dogwood Lane Bridge – Mr. Watts, Public Works Director, reported that construction on the Dogwood Lane bridge is anticipated to start on or before January 31, 2006. Construction should take about 90 days. He said the bridge width should be sufficient for a walkway on the south side.

9. Clevenger Athletic Facility – Alderman Sobol reported that renovation to the Clevenger Athletic Facility is moving slowly. He said the opening date is scheduled for January 28, 2006. Alderman Brown thanked Alderman Sobol for all his effort in getting this facility developed.

10. Feasibility Study by NCDOT – Mr. Caudle reported that he received an e-mail from Mr. Dan Baechtold, staff member with the French Broad River Metropolitan Planning Organization (MPO) saying that the request for the feasibility study at Lytle Cove Road has met a snag in Raleigh. Mr. Baechtold reported that a letter from the NCDOT Program Development Branch recommends that the Lytle Cove Road location be evaluated by the NCDOT Transportation Planning Branch through the Comprehensive Transportation Plan (CTP) mapping process prior to conducting a new feasibility study. Mr. Baechtold is concerned how the process will be perceived by the public and hopes that they will be able to do a thorough evaluation of the Lytle Cove Road location through the CTP process and other studies. The CTP process is a joint project of the NCDOT and the MPO. Mr. Caudle said Mr. Baechtold will keep the staff informed.

11. Fire Department Banquet – Mr. Caudle reported that the annual Fire Department banquet is scheduled for January 30, 2006 at Assembly Inn at Montreat Conference Center beginning at 6:30 p.m.

VIII. COMMITTEE/BOARD REPORTS

A. Oath of Office for Boards/Commissions

Mayor Kennedy administered the Oath of Office to Dawn Wilson, a new member of the Housing Commission and the Zoning Board of Adjustment. Dorothy Jones, a new member of the Zoning Board of Adjustment was not able to be sworn in due to sickness. Ms. Jones will be sworn in at a later date.

B. Consideration of Appointments of Governing Body Members to Serve on the Land-of-Sky Regional Council

Alderman Brown made a motion to appoint Mayor Kennedy and Alderman White to serve as the primary and secondary representatives to the Land-of-Sky Regional Council. The motion passed unanimously.

IX. OLD BUSINESS

A. PUBLIC HEARING on the Annexation of a Portion of the Property Known as The Settings

Mayor Kennedy opened the public hearing at 7:05 p.m.

Harry Hamil, 15 John Myra Avenue, said he is not opposed to the annexation. He is concerned about the process and what could potentially happen if things did not occur as everyone expects them to occur. He said the ordinance is written very well but feels some of the wording should be stricter.

With no further public comments, Mayor Kennedy closed the public hearing at 7:11 p.m.

Alderman White made a motion to defer action on this item until the February Board of Aldermen meeting.

Alderman Brown said she is not in favor of postponing the request.

Vice Mayor Sobol said he shares concerns about future development, but feels The Settings has been very cooperative in responding to our requests.

Mayor Kennedy asked what is the anticipated date to request annexation for Phase III? Chip Knight said it would be early summer. Alderman White said she would vote for the annexation but would like to wait a month. She asked Mr. Knight if there is a way to connect the greenways to Cheshire. Mr. Knight said he would have to defer her question to his legal advisor. Alderman White said this is just an example of questions that need to be answered. *With no further discussion, the motion failed with a vote of 1-4, with Aldermen Brown, McKeown, Phillips, and Sobol voting against.*

Alderman Brown made a motion to approve the annexation ordinance which incorporates the annexation agreement for Phase II of the property known as The Settings, as shown on those plats recorded in plat book 100 at pages 42, 43, 44, 90 and 153. The motion passed with a vote of 5-0.

X. NEW BUSINESS

A. Request from Montreat College to Participate in Land Use Planning Activity

Alderman White made a motion to appoint Mayor Kennedy, Alderman Phillips, and staff member, Elizabeth Teague (Planning Director), as consultants with Montreat College on land use planning for the development of the In the Oaks campus. Alderman Sobol requested that these representatives provide feedback to the Planning Board after all meetings and that a written report of the meetings be given to the Planning Board and Board of Aldermen in a timely manner. Alderman White then restated the motion to appoint Mayor Kennedy, Alderman Phillips, and staff member, Elizabeth Teague (Planning Director), as consultants with Montreat College on land use planning for the development of the In the Oaks campus and that these

representatives provide feedback to the Planning Board after all meetings and that a written report of the meetings be given to the Planning Board and Board of Aldermen in a timely manner. The motion passed with a vote of 5-0.

B. CALL FOR PUBLIC HEARING: To Solicit Input on Proposed Water System Impact Fee

Bo Ferguson, Assistant Town Manager, reported that at the direction of the Board of Aldermen, Town staff has developed a proposal to establish a water impact fee for any new customers to the Black Mountain water system. He said the purpose of the fee is to fund the expansion of the water system to serve new customers and to fund required efficiency improvements. Mr. Ferguson said the impact fee would be in addition to the existing tap fee. *Alderman Brown made a motion to call for a public hearing to seek input on the proposed Water System Impact Fee to be held on Monday, February 13, 2006 at 6:00 p.m., or as soon thereafter as possible, in the Meeting Room of the Public Safety Building, 106 Montreat Road. The motion passed with a vote of 5-0.*

C. Letter to Buncombe County Board of Commissioners Regarding Transfer of Blue Ridge Road Water Line

Alderman Brown made a motion that Mayor Kennedy write a letter to County Commissioners Chair requesting transfer of Blue Ridge Road water line to the Town of Black Mountain. The motion passed with a vote of 5-0.

D. Review of December Financial Reports

Tony Caudle, Town Manager, gave a review of the financial report covering the first six months of the fiscal year.

XI. CITIZEN COMMENTS - At 8:20 p.m. Mayor Kennedy asked for Citizen Comments.

Elaine Loutzenheiser, 410 Avena Road, said that Ruth Brandon had also called David Lawrence at the School of Government regarding a policy if there is a vacancy on the Board, and he said that it could be done. Ms. Loutzenheiser said Ms. Brandon was asking for a policy that in the event of a vacancy that what you would do is go to the next highest vote getter and that was not what I heard you say. Ms. Loutzenheiser thanked Alderman Brown for supporting Ms. Brandon's request.

Harry Hamil, 15 John Myra Avenue, thanked the Board for the public review of the financial report. He said he would like to see an overhead projection of the report next year. Mr. Hamil pointed out that in August 2005 the state statutes which empower the Town to have zoning ordinances were radically revised which will affect some of the language in the ordinances that the Planning Board is working on. It is going to call for when you have a change in zoning that there be a reference in any such action taken to how that fits into the plan that the Town has established. The reason that I want to point that out is that had we had such a requirement for this annexation, the Town would have been forced to publicly engage one of the facts about this, i.e., that it does not fit our vision of a Town of neighborhoods with housing that

is affordable. He said he does not mean the narrow term of affordable housing, but a variety of types of housing and which have public roads and public rights of way. What has been created with The Settings is private roads. I support the annexation, but I believe we need to say out loud when we go against established policy of the Town and say we are doing it for this reason. In my case it is that nice green hillside that we hoped to retain.

XII. CLOSED SESSION

Alderman McKeown made a motion to go into Closed Session at 8:25 p.m. to discuss:

- A. Property Acquisition – as permitted in NCGS 143-318.11(a)(5)
- B. Litigation - as permitted in NCGS 143-318.11(a)(3)

The motion passed unanimously.

XIII. ADJOURNMENT - *With no further business, Alderman McKeown made a motion to adjourn the meeting at 9:22 p.m. The motion passed with a 5-0 vote.*

Will Kennedy, Mayor

ATTEST

Anthony N. Caudle, Town Manager

Shirley J. Raines, CMC, Town Clerk