

MINUTES OF THE TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REGULAR SESSION
July 12, 2004

THE BLACK MOUNTAIN BOARD OF ALDERMEN met in regular monthly session on Monday, July 12, 2004 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

The following staff members were present:

Anthony N. Caudle, Town Manager
Ron Nalley, Assistant Town Manager
Shirley Raines, Town Clerk
Ron Sneed, Town Attorney
David Ballard, Golf Pro/Manager
Gary Bartlett, Fire Chief
Chad Jonsson, Recreation and Parks Director
Bob Watts, Public Works Director
Allen Willet, Police Chief

Representing the media:

Dan Hesse, Valley Record
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 Pastor Randy Stone, Meadowbrook Free Will Baptist Church, 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 June 7, 2004 – Budget Workshop, June 10, 2004 - Agenda Meeting, June 14, 2004 - Regular Session, June 14, 2004 - Closed Session were approved.

The agenda was amended at the Agenda Meeting on July 8, 2004 with the following changes:

Under VIII, Old Business, moved item “A” to III, Consent Agenda, item “D”

Under III, Consent Agenda, added item “E”

Under VI, Town Manager Projects Update, added item 9

With these changes the agenda was approved with a 5-0 vote on a motion by Vice Mayor Kennedy.

III. CONSENT AGENDA

With the adoption of the agenda for the July 12, 2004 Regular Session Meeting, the following actions were approved:

- A. Adoption of the Minutes
Motion: To adopt the minutes of June 7, 2004 – Budget Workshop, June 10, 2004 - Agenda Meeting, June 14, 2004 - Regular Session, June 14, 2004 - Closed Session
- B. Approval of Agreement with Buncombe County Council on Aging for Lakeview Senior Center Nutrition Site
Motion: To approve the agreement with Buncombe County Council on aging and authorize the Mayor or the Town Manager to sign the agreement on the behalf of the Town.
- C. Contract for Engineering Services Associated with Proposed Greenway Construction
Motion: To approve the proposal of May 25, 2004 as submitted by McGill Associates and to authorize the Town Manager to sign said agreement on the behalf of the Town.
- D. Reconsideration of Budget Allocation to Business to Business
Motion for Consideration: To amend the FY 2004-05 budget to move \$1,000 for mediation services to donation to Business to Business as shown in Budget Amendment #01
- E. Consideration of Proposed Ordinance Revision Governing Number of Members on Urban Forestry Commission
Motion for Consideration: To approve Ordinance Title IX, Section 101.20, “Urban Forestry Commission”, to change the number of members from seven (7) to five (5)

IV. COMMUNICATIONS FROM THE MAYOR

Mayor Begley reported that the July 4th Celebration was a huge success. He said many good comments have been received saying that the fireworks could be seen from most areas around Town. Mayor Begley said the street dance and band were well received and the Board has asked that staff schedule the same entertainment for next year.

V. COMMUNICATIONS FROM TOWN ATTORNEY – No report.

VI. COMMUNICATIONS FROM THE TOWN MANAGER

A. Review of Consent Agenda

B. Projects Update

1. Review of Upcoming Board of Aldermen Meetings - Mr. Caudle reviewed the scheduled meetings for the Board of Aldermen:

- August 23, 2004 – 5:30 p.m. – Joint meeting Board of Aldermen and Recreation Commission to review Master Plan
- September 20, 2004 – 7:00 p.m. – Board of Aldermen and Chairs of Boards and Commissions
- Mr. Caudle asked that the Board of Aldermen consider a meeting with the Planning Department to discuss with them some concerns they have expressed. The Board agreed to schedule this meeting on September 14, 2004 at 7:00 p.m.
- Alderman White asked the Board to schedule a planning workshop to discuss various projects that need to be resolved. The Board agreed to schedule the meeting on September 23, 2004 from 8:30 a.m. – 4:30 p.m. to be held at Ridgecrest Conference Center or at In the Oaks.

2. Resignation of Planning Director – Filling of Vacated Position – Mr. Caudle reported that the position of Planning Director is being advertised and interviews will begin in August.

3. Water Improvements Project – Mr. Caudle reported that the south side water tank is complete. He said staff is working with Timber Park in regard to the color of the tank. Mr. Caudle said construction should begin on the north side tank next month.

4. Local Transportation Plan – Mr. Caudle reported that the Transportation Plan remains in development at this time. He said the Metropolitan Planning Organization staff is still accepting input. Mr. Caudle said the MPO is waiting on some language with regard to the improved interstate access issues that remain with the Town and hope to include that in the Local Transportation Plan before submitting it to the Planning Board for review.

5. Solid Waste Supplemental Pick-Up Fee Proposal – Mr. Caudle reported that the Board of Aldermen had requested staff to prepare a cost proposal for white goods and brush pick-up fee for service. This will be available at the August meeting.

6. Manager's Attendance at Training Seminar July 18-31, 2004 – Mr. Caudle reported he would be attending a Training Seminar from July 18-31, 2004. He said any questions should be referred to Ron Nalley, Assistant Town Manager.

7. North Carolina League of Municipalities Annual Conference – October 24-26, 2004 – Mr. Caudle reminded the Board that the North Carolina League of Municipalities Annual Conference will be held on October 24-26, 2004. He stated that if any Board member wishes to attend, to let the Town Clerk know so reservations can be made.

8. Answers to Questions Regarding Improved Interstate Access – Mr. Caudle reported that at the last Board meeting there were questions regarding the development of the Comprehensive Plan in regard to the improved interstate access issues. He said the only question that remained unanswered, that was forwarded to him, was once the project has been funded, would the review of alternatives include simply the review of design alternatives or would it include the review of location alternatives? He said information from DOT representative, Beverly Williams, states that the design phase reviews include looking at alternative locations as well as alternative designs.

9. Asheville-Buncombe Water Authority – Mr. Caudle reported that the proposed dissolution of the Water Agreement between the City of Asheville and Buncombe County would have an impact on our citizens in Black Mountain. The Water Agreement includes not only water, but recreational facilities and payments for services not provided by the County within municipalities. The Town receives \$200,000 per year from Buncombe County. Mr. Caudle said if this agreement is dissolved, the \$200,000 will cease. Not only will we have to deal with the loss of revenue, but the agreement also regulates the rates that people outside the City of Asheville pay for water. He said it is a common practice in the State of North Carolina for cities to charge additional money for those who receive water outside the jurisdiction. Mr. Caudle said he and the Mayor attended a meeting with the county leaders and a meeting with the city leaders is being scheduled to determine what the positions are on this issue. He said under the agreement either party can terminate with one year's notice, and the City of Asheville has effectively given one year's notice of its intention to terminate, which would be July 2005. Mr. Caudle said if the agreement is terminated, the people in our jurisdiction that get water from the City of Asheville would pay double water rates and the Town of Black Mountain would no longer receive the \$200,000 subsidy from the County.

10. Fourth of July Celebration – Mr. Caudle reported that the Fourth of July celebration was a great success. He thanked all the departments who helped to make the event so successful. He also thanked Arthur Joe Hemphill for allowing the Town to use his property for the fireworks display.

VII. COMMITTEE/BOARD REPORTS

A. Oath of Office for Boards/Commissions

Mayor Begley administered the oath of office to the newly appointed members of the following boards/commissions. Mayor Begley noted that the newly elected members who were

not present at this meeting would need to come by his office to be sworn in before the scheduled meeting date of their committee.

1. ABC Board (1) – Donna Hughes – not present
2. Historic Preservation Commission (3) – Martha Cummins, Gay Fox, Susan Robinson
3. Zoning Board of Adjustment (4) – Beau Bobbitt, Doug Brock, (not present), Don Collins, Teresa K. Tatham
4. Housing Commission (3) – Cecelia Adams (not present), Violet Miller, Lamar Williamson
5. Planning Board (3) – Harry Hamil, Sheridan Hill (not present), Ruth Norton
6. Recreation Commission (3) – Judy Eubanks (not present), Jim Halvorson (not present), Terry McElrath (not present)

Mayor Begley thanked the citizens for being willing to serve and bringing their talents to the various boards and commissions. He said serving in this capacity is not a lightly undertaken endeavor. It involves a significant commitment of time, and the Board appreciates the level of interest that each of you show by being willing to serve in those capacities.

B. Appointment to Urban Forestry

Mayor Begley reported that two applications have been received for consideration for appointment to the Urban Forestry Commission. *Alderman Brown made a motion to appoint Allison Amatangelo and Patte Mitchell to the Urban Forestry Commission by acclamation. The motion passed with a vote of 5-0.*

C. Beautification Committee – Betty Becker/Bronte Lamm

Betty Becker, co-chair of the Beautification Committee, addressed the Board. She said the Beautification Committee would like to provide the citizens of Black Mountain the opportunity to discard items which are not picked up by the regular garbage service by scheduling September 25, 2004 as “Operation Cleanup” day. Ms. Becker said the committee is working with Bob Watts and the Public Works Department to organize this endeavor. The committee requests that the Board of Aldermen endorse this project so that they may proceed.

D. Bus Report – Alderman Brown reported that June was one of the best months for ridership for Asheville Transit and Mountain Mobility since the public transportation was started in Black Mountain. Alderman Brown reported on the following routes:

- Route 28 – serviced by Asheville Transit – ridership – 1,189 in June
- Route 28-A – serviced by the Mountain Mobility Service – 289 in June. This is the highest number of riders for the entire time that this service has been in operation.

VIII. OLD BUSINESS - None

IX. NEW BUSINESS

A. Appeal of an Order to Take Corrective Action under the Flood Damage Prevention Ordinance

Requested Actions: To hear an appeal of an Order to Take Corrective Action from the Flood Damage Prevention Ordinance. The Board of Aldermen may affirm, modify and affirm, or revoke the order.

Mayor Begley opened the hearing and read a brief summary of the order. Mayor Begley then swore in witnesses: Jerry Wood, Dan Cordell, Martha Metcalf.

Mr. Wood addressed the Board of Aldermen and said that the appellant has asked to address the Board. Ms. Metcalf stated that her brother-in-law is a serious diabetic and is in the hospital. She said he has been assisting her with this appeal. Ms. Metcalf asked if she could postpone the appeal to a later date. Alderman Garrison stated that Mr. Wood, Planning Director, would not be employed with the Town after July 16. Mr. Wood said that Dan Cordell, Floodplain Administrator, would be available to present the Order. *Alderman Brown made a motion to grant Ms. Metcalf's request to continue the hearing until the August 9, 2004 Board of Aldermen meeting. The motion passed with a vote of 5-0.*

B. Review of Street Paving Policy

Mr. Caudle reported that the Street Paving Policy was discussed at a budget meeting in May. The Board requested that the policy be placed on a future agenda for discussion. The issue in question was when are adjoining property owners willing to pay for the preparation of the sub-base that goes along with a street where the right of way has been dedicated and accepted? He said upon completion, the Town will then pave the street as funds become available.

Alderman Sobol said this issue was discussed because of the development that occurred at the end of Hamlet Street and Montreat Road. He said because of that development, it was necessary to have another entrance and exit down Hamlet Street. He felt it was not the Town's responsibility to pave the road; it should have been the responsibility of the developer. The developer should pay for the sub-straight and the paving of the street. Alderman Sobol said that with any development built now, the Town will take over the streets after the streets are built to Town specs, which include sub-straight and paving. He said the issue needs to be resolved.

Mr. Caudle said the developer put in the street within the development and proposed that it connect to a previously platted, dedicated and accepted right of way and asked that the Town pave it in accordance with the existing policy.

Alderman Brown said the Board should fulfill our obligation to pave Hamlet Street. Alderman Sobol agrees.

After discussion, the Board agreed that Mr. Caudle should review the minutes of the Planning Board and Board of Adjustment for the Laurel Court Development to see what the developer said regarding the paving of the streets. Alderman White said staff should also find

out if a petition was submitted to pave the street. The Board requested that Mr. Caudle bring back a revised policy.

C. Construction of Urban Trail Segments Adjacent to Blue Ridge Road Bridge

Alderman Sobol said the Board of Aldermen approved an application to the State to apply for enhancement funds to start a sidewalk at the St. James Episcopal Church coming down the north side of US 70 to Neighbors Grocery. In the application we included a statement that we are pursuing an urban trail that would start on the south side of US 70 along Blue Ridge Road to Rec Park Drive. Alderman Sobol said a meeting is scheduled on July 14 with Jerry Bobilya with Montreat College, Alderman Brown, and Tony Caudle to ask for a right of way on the Montreat College property on Blue Ridge Road so that a trail can be made through that property. Alderman Sobol said Mr. Caudle has raised a question about potential liability regarding the foot traffic on the bridge on Blue Ridge Road. Alderman Sobol said people have been walking on Blue Ridge Road for a long time and if the trail is constructed, pedestrians would not be on Blue Ridge Road except to cross the bridge. *Alderman Sobol made a motion to authorize, contingent upon permission from appropriate authorities, the construction of urban trail segments along the east side of Blue Ridge Road from U.S. Highway 70 to Rec Park Drive.*

Vice Mayor Kennedy asked what is the definition of the right of the pedestrian in regard to the bridge? Mr. Sneed, Town Attorney, said the pedestrian has the right of way. The issue is if we are leading people to the bridge or away from the bridge, are we creating more risk? Are we becoming a party if someone should sue if there is an accident? Mr. Sneed said he feels we are becoming a party to a lawsuit. Alderman Brown asked if warning signs could be placed on each side of the bridge? Mayor Begley said there is probability of more children crossing the bridge, and the path needs to be constructed so that kids will be safe. Alderman Garrison said we are creating a path with no shoulder on the bridge. Alderman White feels the Board should pursue a pedestrian crosswalk at Blue Ridge light. Alderman White suggested that the Department of Transportation look at the bridge before a decision is made. After discussion, Alderman Sobol withdrew his motion and asked Mr. Caudle to get information about a crosswalk at Blue Ridge Road and US 70 intersection and the issue about the narrow bridge and the access.

Alderman Sobol noted that Blue Ridge Road has been repaved. He said the Department of Transportation is ready to stripe the road and asked Mr. Caudle if DOT could shift the in-line marking thereby creating a walkway. Mr. Caudle said he would talk with the Department of Transportation.

X. CITIZEN COMMENTS – (at 8:00 p.m. if all preceding items on the agenda have not been finished by then)

Harry Hamil, 15 John Myra Avenue, said he listened to the earlier discussion about the paving of Hamlet Street. He said he has a copy of an e-mail from Tracy Taylor to Tony Caudle asking that Hamlet Street be paved. Mr. Hamil said Ms. Taylor had made numerous calls asking for the road to be paved. He said there was a controversy about the use of an all-terrain vehicle on that road as it was supposedly open. Mr. Hamil said he would like to see the ordinance that opened that road. He said it is common practice according to our Zoning Administrator, Jerry Atkins, that the road is open, but Mr. Hamil said the roads in front of his office and in front of his

house are not open. Mr. Hamil said the policy is not consistent as to when roads are taken over by the Town. He said the Board closed the alleyway on Hamlet Street so the development could go forward even though adjoining property owners resisted. Mr. Hamil said the Board should research and look at all the effects when a Planned Unit Development (PUD) is proposed.

Bob Gunn, 109 Pleasant Drive, said he listened to discussion about the walkway on the narrow bridge. He said instead of adding lighted signs, maybe it would be possible to put 2 x 10s or 2 x 12s underneath the bridge to make a 4' wide continuation of the greenway alongside the bridge.

Christine Moss, 724 Laurel Avenue, said she is concerned about the cleanliness and upkeep of Lake Tomahawk. She mentioned several issues that should be addressed:

- Ms. Moss asked if signs could be erected asking people not to feed white bread to the ducks as white bread will poison the ducks.
- General cleanliness of lake – trash cans need emptying.
- Chemicals from golf course going into lake.
- No one patrols the lake.
- She would like to volunteer at the lake and help enforce the rules but was told she had to be a sworn officer.

XI. ADJOURNMENT - *With no further business, Alderman Garrison made a motion to adjourn the meeting at 7:40 p.m. Approved unanimously.*

Wm. Michael Begley, Mayor

ATTEST

Anthony N. Caudle, Town Manager

Shirley J. Raines, Town Clerk