

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

THE BLACK MOUNTAIN BOARD OF ALDERMEN met in regular monthly session on Monday, July 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 – out of town
Alderman Phil Garrison
Alderman C. Michael Sobol
Alderman Mary Leonard White

The following staff members were present:

Anthony N. Caudle, Town Manager
Shirley Raines, Town Clerk
Ron Sneed, Town Attorney
Tim Rayburn, Fire Chief
Jack Staggs, Police Chief
Elizabeth Teague, Planning Director
Bob Watts, Public Works Director
Randy Wilson, Recreation & Parks Director

Representing the media:

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

Mayor Begley led the Pledge of Allegiance, followed by prayer, led by Jim Hunter, Minister of Blue Ridge Church of Christ, Blue Ridge Road and Old Lakey Gap Road, 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 Budget Workshops: May 24, 2005, June 1, 2005, June 2, 2005, June 9, 2005, and June 28, 2005; - June 9, 2005 - Agenda Workshop, June 13, 2005 - Regular Session, and June 13, 2005 – Closed Session were approved. The agenda was amended at the Agenda Meeting on July 7, 2005 with the following changes:

Under V, Consent Agenda, add to item “D”, and to establish that fee at \$75.00 per inspection.

Under V, Consent Agenda, remove item “E”, Consideration of Adoption of Revised Building Permit and Inspection Fee Schedule.

Under V, Consent Agenda, remove item “K”, Retention of Meeting Tapes.

Under V, Consent Agenda, add to item “L”, and Life Insurance Agreement.

Under VI, Communications from the Town Manager, add item 5, Flood Readiness Update.

Under VII, Committee/Board Reports, add new item, Appointments to Fill Vacancies on Boards and Commissions.

Under VIII, Old Business, add item “A”, Resolution Supporting Improvements to Rail Crossings in Black Mountain.

III. COMMUNICATIONS FROM THE MAYOR

A. Flooding – Mayor Begley commented on the recent flooding experienced in the valley. He said there was less rain than last fall during the hurricanes but staff was kept very busy answering numerous calls. It is always good to know how neighbors pitch in to help each other. He said the patience of the citizens during these critical times is appreciated.

IV. COMMUNICATIONS FROM TOWN ATTORNEY – None.

V. CONSENT AGENDA

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

Tony Caudle, Town Manager, reviewed the Consent Agenda.

A. Adoption of the Minutes

Motion: To adopt the minutes of Budget Workshops: May 24, 2005, June 1, 2005, June 2, 2005, June 9, 2005, and June 28, 2005; - June 9, 2005 - Agenda Workshop, June 13, 2005 - Regular Session, and June 13, 2005 – Closed Session.

At this time Mayor Begley noted that the agenda had not been approved and asked for a motion to approve the agenda and ratify Item “A”. *Vice Mayor Kennedy made a motion to approve the agenda with changes noted and ratify Item “A”, Adoption of Minutes. The motion passed with a vote of 4-0. Mr. Caudle then continued review of the Consent Agenda.*

- B. Mitigation Project Ordinance
Motion: To adopt the Mitigation Project Ordinance
- C. Approval of Contract for the Provision of Fire Inspection Services in the Town of Montreat
Motion: To approve the contract for the provision of Fire Inspection services to the Town of Montreat and to authorize the Town Manager to execute said contract on the behalf of the Town of Black Mountain
- D. Proposed Ordinance Amendment Adopting a Fee for Service for the Provision of Occupancy Permit
Motion: To adopt ordinance amendment assessing a fee for inspection service to be charged to owners of businesses required to obtain a Certificate of Occupancy and to establish that fee at \$75.00 per inspection
- E. Proposed Amendment to Section 31.21 of the Black Mountain Code of Ordinances Reducing the Number of Members on the Planning Board from Nine to Six
Motion: To adopt the proposed ordinance amendment to Section 31.21 of the Black Mountain Code of Ordinances that reduces the number of Planning Board members from nine to six
- F. Declaration of Surplus Equipment
- a. Toshiba 3220 Copier, Town Inventory Number 211
 - b. Gateway 500S Computer and Keyboard, Town Inventory Number 01035
 - c. Gateway EV2700 Monitor, Town Inventory Number 53026
- Motion: To declare the above inventory items as surplus to be auctioned or disposed of properly*
- G. 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.
- H. Black Mountain Center for the Arts
Motion: To request approval to seek funds from the Janirve Foundation and the Community Foundation of Western North Carolina for the purposes of renovating the exterior of the Black Mountain Center for the Arts
- I. **CALL FOR PUBLIC HEARING** - Consideration of Resolution of Intent to Close a Portion of the Right-of-Way of Ridgedale Avenue from the Intersection with Reunion Hill Lane to the Intersection with Carolina Heights Road, and the Alleyway from Vine Street into Robert and Jean Briscoe's Property
Motion: To pass the Resolution of Intent to close the right-of-way of Ridgedale Avenue from the intersection with Reunion Hill Lane to the intersection with Carolina Heights Road and the alleyway from Vine Street into Robert and Jean Briscoe's property as recommended by the Planning Board, and to hold a Public Hearing on the matter at the August 8, 2005 Regular Meeting at 6:00 p.m. or as soon thereafter as possible

- J. Membership Agreement and Resolution for Town's Workers' Compensation Insurance Program and Life Insurance Agreement from North Carolina League of Municipalities

Motion: To approve the Membership Agreement and Resolution for Town's Workers' Compensation Insurance Program and Life Insurance Agreement from North Carolina League of Municipalities

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. **Introduction of Recreation & Parks Director** – Mr. Caudle introduced Randy Wilson, who has been rehired to fill the position of Recreation and Parks Director, effective July 11, 2005. Mr. Caudle noted that Randy held this position before being called to active duty after the terrorist attacks in New York City on September 11, 2001.

2. **Closeout of Water Improvements Project** – Mr. Caudle reported that the final adjusting change order for the Water Improvements Program has been received and the project came in \$143,273.70 under budget.

3. **Recent Storm Damage** – Mr. Caudle reported that due to the abnormally hard rains during the past several weeks, the number of complaints regarding water runoff has increased tremendously. He said the Public Works Department is working hard to alleviate the problems. Mr. Caudle noted that some of the problems are on private property. Mr. Caudle thanked the staff for taking the initiative to get prepared for Hurricanes Cindy and Dennis. He also thanked the citizens for their patience during this time.

5. **Flood Readiness Update** – Mr. Caudle commended the staff for making plans in anticipation of another storm that was predicted this week but did not materialize. He said the staff learned a lot from last fall's storms and training is ongoing.

4. **Fourth of July Celebration** – Mr. Caudle reported the street dance was not well attended during the Fourth of July celebration. He said the fireworks were well received. Mr. Caudle noted a tremendous amount of preparation is required for the fireworks display. He commended the staff for their work and effort in making this event happen each year.

VII. COMMITTEE/BOARD REPORTS

A. Appointments to Fill Vacancies on Boards and Commissions

1. **Housing Commission (1)** – *Vice Mayor Kennedy made a motion to appoint Dorothy Jones to fill the vacancy on the Housing Commission. The motion passed 4-0.*

2. **Urban Forestry Commission (1)** – *Alderman White made a motion to appoint Elizabeth Harper to fill the vacancy on the Urban Forestry Commission. The motion passed 4-0.*

B. 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) – John “Woody” Sobol
2. Housing Commission (2) – Dorothy Jones, Irene White
3. Recreation Commission (2) –
Carlos Showers – absent, Fran Roberts - absent
4. Urban Forestry (2) – Elizabeth Harper, Connie Smith
5. Zoning Board of Adjustment (1) – John B. Ellery

VIII. OLD BUSINESS

A. Resolution Supporting Improvements to Rail Crossings in Black Mountain

Alderman White made a motion to adopt the Resolution to support the improvements to rail crossings in Black Mountain as proposed by the North Carolina Department of Transportation, Rail Division, and with italicized changes made by Town staff. Alderman White read the Resolution with changes by staff.

Alderman Sobol said there are four rail crossings within the City limits. Mr. Caudle said he believes there are three public crossings and three private crossings. Alderman Sobol asked why would this study not include the private crossings? If we are looking to improve safety, these should be included. Mr. Caudle said the Resolution only applies to the public crossings. Alderman White said the Resolution is general and applies to all crossings. Alderman Sobol does not agree with the grade crossing proposal for Blue Ridge Road included in the study. He said he would like to delete reference to the crossing at Blue Ridge Road. Alderman Garrison agrees and said he feels that if Norfolk-Southern is going to let the passenger rail service use their railroad tracks, they want to close rail crossings in the spirit of safety.

Vice Mayor Kennedy said the Rail Division did not ask our opinion but asked for our endorsement, and we were caught in the middle by how do we respond for what they need for the bigger negotiations for the railroad. How do they deal with the participation with all the small crossings across western North Carolina. Two options – (1) would be no and (2) do we modify it to say we give our endorsement in general or conceptually and then say, but we reserve the right to finish our studies which have to do with those grade crossings. The reservations in the 2nd paragraph are to preserve our right and to indicate to them. In their letter there was a suggestion that this sort of reservation might be okay but in order for the big package to move ahead, we need to protect the right not to buy into every detail of their plan for these crossings in Black Mountain. This is why I am willing to vote to approve the Resolution realizing this is not as clear as it otherwise would be, but it still protects the vital interest of safety and sensible grade crossings in Black Mountain. Mayor Begley noted there are some strong sentiments about the Black Mountain Avenue grade crossing as well. Alderman White said we are trying to make the

NCDOT Rail Division happy enough to proceed with the rail service, but we want to protect what needs to be protected and that is the interest of our citizens on particular rail crossings.

Alderman Sobol said this is a nostalgic plan. He feels the chances of rail service are very slim. He said you have to have density for this effort. He feels the effort and money would be better spent on alternative transportation.

Bob McMurray, Chamber of Commerce Director, addressed the Board saying he has been attending the meetings with the Rail Division and that Black Mountain is still on the list for being a stop. He said Black Mountain is the second most requested stop of all the other cities. Mr. McMurray said that Morganton, Marion, and Old Fort have recently opened rail stations. Rail service could be 5-20 years away. Part of the Gannett study was to see which rail crossings can be improved from Asheville to Salisbury; not all crossings are closing. There are options and negotiation that needs to take place between one at-rail crossing and others. He said there are a number in our area we can negotiate with them. The Rail Division is trying to speed up the route to provide more satisfactory service. The Rail Division has tried to negotiate partial track improvements and go ahead and start running the rail system, and they are making headway, but Norfolk-Southern wants all the track improvements done at one time before they allow passenger rail service on their line. He said now that Morganton, Marion, and Old Fort stations are completed, they will start looking at Black Mountain, Valdese, and Asheville that need new stations. We will be meeting soon within the next 6 months to a year with the Rail Division to see what the final plans are for Black Mountain.

With no further discussion, the motion passed with a vote of 3-1, with Alderman Sobol opposed.

IX. NEW BUSINESS

A. Proposed Ordinance to Amend the Code of Ordinances of the Town of Black Mountain, North Carolina, to Prohibit Sex Offenders from Use of Public Parks and Recreational Facilities

Alderman White made a motion to approve an ordinance to amend the Code of Ordinances of the Town of Black Mountain, North Carolina, to prohibit sex offenders from use of public parks and recreational facilities as written except delete item "C"- "posting notices of the ordinance" on page 2. The motion passed with a vote of 4-0.

X. CITIZEN COMMENTS - At 7:05 p.m. Mayor Begley asked for Citizen Comments.

Philip Bisesi, 15 Hy View Drive, said he lives off of North Fork Road. He said there have been occasions when he wanted to take a bus to Asheville but said there is no connection between the Black Mountain bus that makes the circle around town and a bus at business commuting hours. He would like to see the bus service improved.

Chuck McKeown, 66 Blue Ridge Assembly Drive, said he does not think the Town will use the rail service. He said the Town should not put themselves in any kind of danger. DOT should be servants of the citizens.

Elaine Loutzenheiser, 410 Avena Road, commended the staff at Recreation and Parks for the great job they are doing in keeping the walking path at Lake Tomahawk open during the MSD construction. Ms. Loutzenheiser referenced the Resolution supporting improvements to rail crossings in Black Mountain. She thinks the Resolution should have more specific language, and feels the audience should have had a chance to speak to the Resolution.

Harry Hamil, 15 John Myra Avenue, spoke to citizen involvement. He said the Board holds the Agenda meeting a week before the regular meeting and makes all the decisions at that time. The public does not attend the agenda meeting; therefore, does not hear the discussion. Mr. Hamil referred to the Certificate of Occupancy fee that was voted on tonight. He said the Board did not give the public or businesses a chance to voice their opinion before this was passed. He said the Board asks for citizen involvement but then does not listen.

Philip Bisesi, 15 Hy View Drive, said he agrees with Mr. Hamil's remarks pertaining to citizen involvement. Mr. Bisesi said he looked at the approved budget which was done by City Council. He said it was totally unintelligible to him. He cannot understand where the money is coming from. Mr. Bisesi asked if the Town could come up with a budget three months before the hearing and mail to every citizen and show cost and benefit line by line so the average citizen can understand it. He said notice of budget hearings should be publicized more.

Elaine Loutzenheiser, 410 Avena Road, noted that all the budget workshops are held at 8:30 a.m. She said there are no night meetings and asked if at least one could be scheduled at night.

Violet Miller, 35 Byrd Road, said that she was without water during the Fourth of July weekend. She said she called the Water Department and got the Police Department. She asked if someone should not be answering the Water Department phone on weekends. Mr. Caudle explained to Ms. Miller that the calls go to the Police Department and are dispatched to the Water Department employee who is on call. He said he would make sure the phone service is working properly.

XI. CLOSED SESSION – With no further business Mayor Begley asked for a motion to go into Closed Session. *Alderman Sobol made a motion to go into Closed Session at 7:25 p.m. to discuss property acquisition and pending litigation as permitted in NCGS 143-318.11(a). Approved unanimously.*

After returning to open session, the Board discussed the 10" water line on Tabernacle Road.

Alderman Sobol asked for discussion on storm water at the #9 South development and water coming off of Timber Park. The Board discussed complaint driven issues versus affirmative action (preventive maintenance). After further discussion, the Board agreed that a brochure should be developed informing the public about the Town's policy regarding maintenance of ditches, that problems would be handled on a complaint-driven system and react on a timely basis, and to work on a new policy in conjunction with NPDES (National Pollutant Discharge Elimination System) permit issued for the control of storm water runoff.

XII. ADJOURNMENT - *With no further business, Alderman Garrison made a motion to adjourn the meeting at 8:10 p.m. The motion passed unanimously.*

Wm. Michael Begley, Mayor

ATTEST

Anthony N. Caudle, Town Manager

Shirley J. Raines, CMC, Town Clerk