

**MINUTES OF THE TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN**  
**REGULAR SESSION**  
**July 10, 2006**

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**THE BLACK MOUNTAIN BOARD OF ALDERMEN** met in a regular monthly session on Monday, July 10, 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 Will 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 – absent due to illness in family

The following staff members were present:

Anthony N. Caudle, Town Manager  
Bo Ferguson, Assistant Town Manager  
Shirley Raines, Town Clerk  
Rosa Hilbert, Senior Administrative Assistant  
Ron Sneed, Town Attorney  
Gary Bartlett, Public Safety Director  
LuAnn Bryan, Recreation and Parks Director  
Steve Padgett, Interim Police Chief  
Tim Rayburn, Fire Chief  
Elizabeth Teague, Planning Director  
Bob Watts, Public Works Director

Representing the media:

Gary & Sally Biggers, Black Mountain Video Productions  
Andy Grabel, Black Mountain News  
Jim Genaro, Asheville Daily Planet

Mayor Kennedy led the Pledge of Allegiance, followed with the Lord's Prayer.

Mayor Kennedy noted that this is the 1,349<sup>th</sup> regularly scheduled session of the Town of 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.

## **II. CITIZEN COMMENTS**

Mike Blaine, North Fork Road, is a member of the Greenways Commission. He feels this Commission should report directly to the Board of Aldermen and not the Recreation Commission. Mr. Blaine said the Greenways Commission is dedicated to providing safe walkability for the citizens of Black Mountain. He said this Commission is not just recreation. Mr. Blaine is glad there is a helmet ordinance in Black Mountain and encourages staff to enforce the ordinance. Mr. Blaine noted that there is a place on Rhododendron Avenue near Dr. Wilson's house that you cannot get out of the road if you are on a bicycle. He hopes the Town will look at areas like this to provide safety for bikers.

## **III. ADOPTION OF THE AGENDA**

*Alderman Brown made a motion to adopt the agenda. Unanimously approved.*

## **IV. COMMUNICATIONS FROM THE MAYOR**

**A. Proclamation Proclaiming July 28, 2006 as “Gary D. Bartlett Day” -**  
Mayor Kennedy read a proclamation proclaiming July 28, 2006 as “Gary D. Bartlett Day” in honor of Mr. Bartlett who is retiring August 1, 2006.

**B. Land-of-Sky Regional Council –** No report due to the absence of Alderman White.

**C.** Mayor Kennedy announced that the Board of Aldermen would meet in a joint meeting with the Economic Development Committee/Chamber of Commerce on Wednesday, July 19, 2006 at 8:00 a.m. in the Public Safety Building to receive information about a new regional economic development initiative.

**D.** Mayor Kennedy announced that the Mayor's Cup Raft Race sponsored by Land-of-Sky Regional Council will be held on August 20, 2006 at 3:15 p.m. at the French Broad River Park.

## **V. COMMUNICATIONS FROM TOWN ATTORNEY - None**

## **VI. CONSENT AGENDA**

A. Adoption of the Minutes

Motion: To adopt the minutes of July 6, 2006 – Agenda Workshop, July 10, 2006 – Regular Session, July 10, 2006 – Closed Session

## **VII. COMMUNICATIONS FROM THE TOWN MANAGER**

**A. Review of Consent Agenda**

**B. Projects Update**

**1. Police Chief Search** – Mr. Caudle reported that the position for Police Chief has been advertised and applications are being received.

**C. Retirement Luncheon for Public Safety Director, Gary D. Bartlett** – Mr. Caudle noted that a retirement luncheon for Public Safety Director, Gary D. Bartlett, has been planned for Friday, July 28, 2006 from 11:00 a.m. – 2:00 p.m. with a ceremony at 12:00 noon.

**D. Congratulations to Casey Conner on the Birth of His New Daughter, Violet Josephine** – Mr. Caudle congratulated Casey Conner, Recreation Superintendent, on the recent birth of their daughter, Violet Josephine.

**E. End-of-year Budget Amendments** – Mr. Caudle provided a copy of Budget Amendment #28 that he authorized on 6-28-06. The Finance Officer is required to report this amendment to the Board of Aldermen as outlined in Section Four of Budget Ord. #0-05-07.

**F. Town Policy – Cleaning of Ditches** – Mr. Caudle reviewed the policy for cleaning of ditches. He said this is on a complaint-driven basis or by staff initiation. Mr. Caudle encourages citizens to keep areas in front of their property clean. He said staff will be contracting out grass mowing and devote more time to cleaning ditches.

**G. North Carolina Department of Labor Commendation** – Mr. Caudle said a letter had been received from Kathy Regan with the Department of Labor commending LuAnn Bryan, Recreation Director, and staff for the work that was required to get the pool open to meet the North Carolina Department of Labor standards.

**H. July 4<sup>th</sup> Celebration** – Mr. Caudle thanked all the staff who worked so hard to make the July 4<sup>th</sup> celebration a great success.

**I. MANNA Fresh Produce Program** – Mr. Caudle thanked the Recreation Department for their work in helping with a food drive for MANNA Food Bank. He said this was a great community effort.

**VIII. COMMITTEE/BOARD REPORTS**

**A. Mayor Kennedy administered the oath of office to the following citizens.**

1. ABC Board – Rick Spaulding
2. Historic Preservation Commission – Martha Cummins
3. Housing Commission – Ronald Krantz
4. Recreation Commission – Harry Nanney, Carolyn Lambert

**B. Appointment of Chair for ABC Board**

Mayor Kennedy asked for nominations for Chair of the ABC Board.

*Alderman Brown made a motion to appoint Donna Hughes. She said Ms. Hughes is the senior member of the ABC Board. Vice Mayor Sobol made a motion to appoint Woody Sobol. Mayor Kennedy asked the Board to vote for the two nominees. The vote for Donna*

*Hughes was 3-1 with Vice Mayor Sobol voting against. The vote for Woody Sobol was 1-3 with Aldermen Brown, McKeown, and Phillips voting against.*

**C. Planning Board Annual Report and Presentation of the Land Use Codes Draft**

Elizabeth Teague, Planning Director, presented the Planning Board Annual Report and Land Use Codes. Ms. Teague said that the Planning Board has been rewriting the Land Use Codes for the past year as directed by the Board of Aldermen. She said she would like the Board to appoint a special ad hoc committee to look at two issues: stormwater and floodplain regulations and requirements governing development on ridge-tops and upper elevation. Ms. Teague also asks that the Board of Aldermen give their input after reviewing the draft. She said the Land Use Code will be placed on the web site and there will be a three-month public involvement/input process. The public will be advised of upcoming meetings. *After discussion, Alderman Phillips made a motion to (1) Accept the Annual Report of the Planning Board; (2) Accept the Planning Board draft revisions to the land use codes as presented; (3) Establish a work plan with the Planning Board to finalize the draft text of the land use codes and expand public involvement/input process; (4) and Endorse/address on-going planning activities as identified in the Planning Board's report. The motion passed with a vote of 4-0.*

**D. Consideration of Housing Commission Request to Assess Town-owned Properties for Affordable Housing Opportunities**

Elizabeth Teague, Planning Director, said that the Housing Commission is asking for approval from the Board of Aldermen to assess Town-owned properties for affordable housing opportunities. *After discussion, Alderman Brown made a motion to direct the staff to proceed with an assessment of all or selected Town properties for their development potential as affordable housing opportunities. The motion passed with a vote of 4-0.*

**IX. OLD BUSINESS**

**A. Update on Interstate Interchange Location Study**

Mr. Caudle reported that several months ago the Board requested that the Statewide Planning Branch of North Carolina Department of Transportation (NCDOT) conduct a study of various possible locations for the placement of another interstate interchange in or around the Town of Black Mountain. He said Ms. Beverly Williams will give an update on that project.

Ms. Williams reported that the interchange study is an appropriately named interchange study and she wants to be clear that the Town previously had a feasibility study. She said although we are doing a very like analysis, the product will not come to you in the same format. In this study we will prepare possible locations for the interchange comparing the cost associated with those locations as well as the benefits. The benefits mean primarily the traffic operation capability at a particular location. We have at this point done a preliminary geometric design for the interchange location which allows us to get construction costs. Ms. Williams said those costs include traffic studies, right-of-way costs, environmental and mitigation costs.

Ms. Williams said that the feasibility study information will be folded into the Comprehensive Transportation Plan (CTP) for the entire region and presented as part of a review for the CTP in the public review process. She said the anticipated time frame for completion is September.

Ms. Williams said that there are relationships that are important and one is the upcoming U.S. 70 Corridor Study. She said that the Corridor Study will go into the budget for the Metropolitan Planning Organization (MPO) to provide a consultant team to complete the analysis study. She explained that the MPO budget process requires the City of Asheville to put all of the items into their budget so they can continually pay ahead. Ms. Williams anticipates the corridor study to begin in August. She said that once the preferred location of the Interchange has been determined, it becomes a product that is set within the Corridor Study. Ms. Williams said that the current land use codes revisions that the Planning Board is reviewing will play a big part in the decision making that will encompass the Corridor Study.

Alderman McKeown inquired whether the Corridor Study and the DOT Study were the same thing. Ms. Williams said the Corridor Study and the Interchange Study are separate but related. She said that the Department of Transportation is not involved with land use but anywhere there is a transportation facility, there are land use considerations, specifically with the Interchange. The Corridor Study is intended to give a broader look at the use around the U.S. Highway 70 corridor, not only from a highway aspect but from rail issues with crossings and closings. She encouraged looking at all the possibilities and recommendations for greenways, bikers and pedestrians within the corridor.

Vice Mayor Sobol said that a majority of the corridor is in the County and inquired how the county is involved in the process. Ms. Williams said that the U.S. 70 corridor is primarily in Buncombe County and partnership efforts are encouraged in the decision-making process with Buncombe County. Vice Mayor Sobol said that the City of Asheville is paying for this study and that the MPO reimburses them; however, does Asheville pay for the entire study? How and what does the County pay and how is it divided up? Ms. Williams said that the study itself is under the control of the MPO, not the City of Asheville; although the City of Asheville acts as the lead planning agency for the French Broad River MPO, and for that reason, the staff and finances are accounted for within the City of Asheville.

Elizabeth Teague, Planning Director, clarified that the MPO will provide the largest share of funding through PL 104 Funds which are federal funds passed through the state to the MPO for planning initiatives. She said the study originated when the Town asked the MPO to do a transportation plan. The drafting process identified the corridor as a critical area for the region not just for Black Mountain. She said that the match for the Town of Black Mountain would be approximately \$8,500 compared to the total cost of the study which is about \$220,000.

Mr. Caudle asked at what level is the City of Asheville contributing. Ms. Williams said their contribution would be part of the general match within the MPO, the 20%. The Federal Planning Fund provides 80% of the funding. She said there is a contribution from everybody within the MPO's part and part of the 20% match. She said specific numbers of the cost breakdown are not available at this time.

Vice Mayor Sobol requested Ms. Williams to provide more information about the specific amount of funding that Buncombe County would contribute to the Corridor Study.

Vice Mayor Sobol referenced DOT funding in relation to the projects already allocated and asked whether the shortfall in funding will affect the study with the French Broad River Transportation Plan. Ms. Williams said that Vice Mayor Sobol was talking about two different types of funding. She said the lack of project funding is construction funding. Ms. Williams said there is adequate funding in the Planning Study for project and construction costs. She said this study is an unfunded project but when it receives construction funds, it will go back to the Planning and Environmental phases in a different way. She said that all of the alternatives will be examined again. The planning phase identifies the costs and benefits about each location so that when it enters the project phase, the locations that are not feasible can be ruled out. She encouraged Black Mountain to maintain its preferred locations and continue to pass ordinances and land control to keep the area from becoming developed to eliminate the additional expense of the project. Vice Mayor Sobol referenced the costs versus benefits and asked about the right-of-ways. He asked whether the right-of-way costs is what is looked at primarily in protecting the preferred areas. Ms. Williams said yes and the study will have an Interchange footprint of the area that it will encompass. Ms. Williams said the Town will be presented with a report on the traffic benefits, construction costs, and right-of-way costs.

Alderman McKeown inquired why the original feasibility showed the interchange taking place in two quadrants with a cloverleaf and an on-ramp. Ms. Williams said they try not to take exception to design standards in the preliminary stage. She said the practice is to put down an interchange that meets current design standards which changes from time to time. The older design standards may have been pre-empted. Ms. Williams said there may have been some kind of feature that was a known problem environmentally or historically so the interchange quadrants were put on the other side. She said that when they come back with the best possible option for the interstate, they will explain their reasons for the particular location. She said that a *no build option* will also be considered.

Mayor Kennedy asked how Black Mountain might partner with the county to be more effective. Ms. Williams said by maintaining open communication within the MPO. She said that the CTP process incorporates public forums for discussion; however, the primary opportunity lies with the consultant team. Mayor Kennedy asked about the procedure for Black Mountain to set out arbitrary options to go into the MPO toward the funding process. Ms. Williams said there will always be dissention in the areas of design issues. She said that Black Mountain will be strongly supported as a conclusion is reached within the MPO.

Mr. Caudle asked whether the cost and traffic would take into account what the Rail Division is considering. Ms. Williams said that the MPO does not directly interface with the Rail Division but will consider their recommendations regarding crossings and closings.

Mr. Caudle asked whether the Interchange Study would consider multiple locations. Ms. Williams said yes, and the study team will also consider the rest of the corridor between Lytle Cove and Blue Ridge Road.

Mr. Caudle asked if Exit 64 is a consideration. Ms. Williams said that the alterations to be made at Exit 64 because of the anticipated traffic increase would be included in the study.

Mayor Kennedy thanked Ms. Williams for her presentation.

**B. Adoption of Ordinance to Establish Greenways Commission**

Bo Ferguson, Assistant Town Manager, explained that at the May 8, 2006 Board of Aldermen meeting, the Board approved a Resolution to establish the Greenways Commission as an official commission of the Town government. He said staff worked with the current Greenways Commission to develop a proposed structure for the commission and approved that document at their meeting on June 20, 2006. Mr. Ferguson said the Recreation Commission reviewed the proposed structure of the Greenways Commission and agreed to ask that the Board of Aldermen make the Greenways Commission a sub-committee of the Recreation Commission. Mr. Ferguson said if the Board approves the establishment of the Greenways Commission this evening, a second motion is needed to amend the Boards and Commissions Manual with language recognizing the Greenways Commission. *After discussion, Vice Mayor Sobol made a motion to approve part (1) To adopt ordinance establishing the Greenways Commission as an official Commission of the Town of Black Mountain; and Alderman Brown made a motion to approve part (2) (Contingent upon passage of item #1) to amend the Board and Commissions Manual by including the newly established Greenways Commission, setting forth structures, purpose, duties and membership as outlined in the ordinance establishing the Commission. The motions for part 1 and part 2 passed with a vote of 4-0.*

**X. NEW BUSINESS**

**A. Request to Buncombe County Board of Commissioners to Name A Black Mountain Area Resident to the County Economic Development Committee**

Town Manager, Tony Caudle, explained that appointments to the County Economic Development Committee are made effective July 1. *After discussion, Alderman Brown made a motion to table this request to nominate a Black Mountain resident to the Buncombe County Economic Development Committee to the October Board of Aldermen meeting and notify the Black Mountain Economic Development Committee of this process. The motion passed with a vote of 4-0.*

**XI. 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, congratulated the Board and staff on the quality of the presentation of this year's budget discussion. Mr. Hamil said in order to make it easier on staff, he suggests placing a copy of the agenda and back-up data on the counter at Town Hall for public inspection. Mr. Hamil commented that the Economic Development Committee is not a part of the Town but a part of the Chamber of Commerce. He said Business to Business was not mentioned. He asks that the Board consider making Business to Business a free-standing committee.

**XII. CLOSED SESSION** – *Vice Mayor Sobol made a motion to go into Closed Session at 7:50 p.m. to discuss:*

A. Legal Advice from Attorney – as permitted in NCGS 143-318.11(a)(3)

B. Personnel - as permitted in NCGS 143-318.11(a)(6)

*The motion passed unanimously.*

**XIII. ADJOURNMENT**

*With no further business Alderman McKeown made a motion to adjourn at 8:06 p.m. The motion passed unanimously.*

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Will Kennedy, Mayor

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Anthony N. Caudle, Town Manager

ATTEST

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Rosa Hilbert, Sr., Administrative Assistant

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Shirley J. Raines, CMC, Town Clerk