

MINUTES OF THE TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REGULAR SESSION
June 14, 2004

THE BLACK MOUNTAIN BOARD OF ALDERMEN met in regular monthly session on Monday, June 14, 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 The Rev. Rockwell Smith, Retired Presbyterian Minister, Black Mountain

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 March 31, 2004 – Budget Workshop, May 5, 2004 – Special Call Meeting, May 6, 2004 – Agenda Meeting, May 10, 2004 - Agenda Meeting and Regular Session, May 10, 2004 – Closed Session, May 17, 2004 – Budget Workshop, May 24, 2004 – Budget Workshop, May 28, 2004 – Special Meeting were approved.

The agenda was amended at the Agenda Meeting on June 10, 2004 with the following changes:

Under III, Consent Agenda, added item “E”

Under VII, Committee/Board Reports, added items “C” & “D”

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

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

III. CONSENT AGENDA

With the adoption of the agenda for the June 14, 2004 Regular Session Meeting, the following actions were approved:

A. Adoption of the Minutes

Motion: To adopt the minutes of March 31, 2004 – Budget Workshop, May 5, 2004 – Special Call Meeting, May 6, 2004 – Agenda Meeting, May 10, 2004 - Agenda Meeting and Regular Session, May 10, 2004 – Closed Session, May 17, 2004 – Budget Workshop, May 24, 2004 – Budget Workshop, May 28, 2004 – Special Meeting

B. Approval of Contract for Auditing Services

Motion: To approve a Contract with Johnson Price & Sprinkle, P.A. for auditing services for Fiscal Year 2003-04 at a cost of \$14,750 and to authorize the Town Manager, in his capacity as Finance Officer, to enter into the contract on behalf of the Town of Black Mountain

C. Correction to Minutes dated October 13, 2003

Motion: To approve correction to the October 13, 2003 Board of Aldermen minutes under “Committee/Board Reports” to attach the proposal submitted by the Board of Adjustment Chair for appointments to that Board

D. Consideration of Proposed Ordinance Revisions Governing Residency Requirements for Members of Voluntary Boards and Commissions

Motion for Consideration: To approve Ordinance entitled, “An Ordinance to Amend the Code of Ordinances for the Town of Black Mountain, North Carolina, Concerning Board or Commission Members Not Residing in the Town Limits”.

E. Approval of Proposed MSD Easements for Town-Owned Property

Motion for Consideration: To approve the MSD easements on certain property at the Golf Course and at Lake Tomahawk and authorize the Mayor to enter into the agreement on behalf of the Town

IV. COMMUNICATIONS FROM THE MAYOR

Mayor Begley reported that Black Mountain won the Mayor's River Raft Cup Race again this year. He said that due to an injury, he was unable to participate, but that the Town was well represented by Alderman White and the Fire Department. Mayor Begley thanked everyone involved for winning first place again this year.

V. COMMUNICATIONS FROM TOWN ATTORNEY – No report.

VI. COMMUNICATIONS FROM THE TOWN MANAGER

A. Review of Consent Agenda

B. Projects Update

1. Water Improvement Project – Mr. Caudle reported that the water tank on the south side of Town on the Christmount property is nearing completion and will soon be ready for the dome. The contractor will then begin construction on the north side tank located in Black Mountain Estates. We are working on some revisions to the plans for the location of the tank to eliminate construction of some of the retaining walls.

2. Fire Department Substation Development – Mr. Caudle reported the Fire Department Sub-station is virtually complete. He said an open house is scheduled for Sunday, June 27, 2004 at 2 p.m. and encourages everyone to stop by and tour the facility. Mr. Caudle thanked the Fire Department for their effort in getting the sub-station ready.

3. Federally Mandated Stormwater Program Legislation – Mr. Caudle gave an update on the Stormwater Legislation. He said the state has been attempting to develop rules implementing the Phase II federal stormwater requirements, but unfortunately these rules were not approved by the Rules Review Commission. Failure to approve these rules caused several problems for the cities required to implement this program. These problems include (1) lack of clear standards for implementation of the federal requirements, (2) the violation of the federal application requirement for the municipalities designated in 2000, and (3) a loophole in the Phase II program exempting the urbanized unincorporated areas from the program. Mr. Caudle said the NC League of Municipalities is asking that support be given for HB 1585 and SB 1210 because they address all three issues.

4. Fourth of July Celebration – Mr. Caudle said the fireworks will be held on the 4th of July. He said we are trying to move the fireworks display closer into town behind the Bi-Lo shopping center. Mr. Caudle has contacted Progress Energy and some businesses located near Bi-Lo to see if some street lights can be turned off in order to help make a more vivid display. He said the Recreation and Parks Department is working with the Chamber of

Commerce to secure a band for square dancing. The band and food vendors will be set up on Richardson Boulevard.

5. Historic District Designation – Mr. Nalley reported that the Black Mountain Downtown Historic District was entered in the National Register of Historic Places on June 2, 2004. Alderman Brown commended the Historic Preservation Commission for the tremendous job they have done in securing this recognition

6. Traffic Signals Downtown – Mr. Caudle reported that construction on the traffic signals has begun. He said that staff is working with the utility companies to try and eliminate some of the wires.

7. Mr. Caudle reported that Jerry Wood, Planning Director, is out of the office the remainder of the week due to the death of his father.

VII. COMMITTEE/BOARD REPORTS

A. Appointments to Fill Vacancies on Boards and Commissions

Mayor Begley reported that at the Agenda Meeting the Board discussed how to proceed to vote on the appointments to fill the vacancies on the Boards and Commissions. The questions that arose were, “Does each Board member have to vote all of their votes? Or is it permissible to vote on the applicants of their choice?” *After discussion, Alderman Garrison made a motion to proceed with option #2, which allows the Board members to vote on the applicants of their choice.* Alderman White stated that in the past the Board has used option #1 where each member has to vote all their votes. She thinks we should follow that standard. Mayor Begley said the Board needs to choose either option #1 or #2. *The motion to proceed with option #2 failed with a vote of 2-3 with Aldermen Kennedy, Sobol and White voting against. Alderman White made a motion to proceed with option #1. The motion passed with a vote of 3-2 with Aldermen Brown and Garrison voting against.* Mayor Begley stated that each alderman must use all of their votes. The Board then proceeded with appointments.

1. ABC Board (one opening)

Applicants: Donna Hughes, Irene White

The Board voted to appoint Donna Hughes to serve a three-year term.

2. Board of Adjustment (four openings)

Applicants: Beau Bobbitt, Doug Brock, Don Collins, Kitty Betzoldt, Harry Hamil

Alderman Brown made a motion to suspend the rules and reappoint Teresa Tatham to the Board of Adjustment for a three-year term in order to maintain continuity within the Board of Adjustment. The motion passed with a vote of 5-0.

The Board voted to reappoint Beau Bobbitt as a regular member for a three-year term; reappointed Doug Brock as an alternate member for a three-year term; and reappointed Don Collins as a regular member for a three-year term.

3. Historic Preservation (three openings)

Applicants: Susan Robinson, Gay Fox, Martha Cummins

The Board voted to reappoint Susan Robinson and Gay Fox for a three-year term; appointed Martha Cummins to serve a two-year term to fill the vacancy from 2003.

4. Housing Commission (three openings)

Applicants: Cecelia Adams, Irene White, Lamar Williamson

Alderman Brown made a motion to suspend the rules and reappoint Violet Miller to the Housing Commission for a three-year term. The motion passed with a vote of 4-1.

The Board voted to reappoint Cecelia Adams for a three-year term; appointed Lamar Williamson to serve a three-year term.

5. Planning Board (three openings)

Applicants: Ruth Norton, Harry Hamil, Sheridan Hill

The Board voted to reappoint Ruth Norton for a three-year term; appointed Harry Hamil and Sheridan Hill for a three-year term.

6. Recreation Commission (three openings)

Applicants: Jim Halvorson, Terry McElrath, Judy Eubanks

The Board voted to reappoint Jim Halvorson for a three-year term; appointed Terry McElrath and Judy Eubanks for a three-year term.

7. Urban Forestry (six openings)

Applicants: Allison Amatangelo

The Board discussed the Urban Forestry Commission. *Alderman Brown made a motion to delay action in filling the vacancies on this committee. After discussion, the motion to delay action until later passed with a vote of 3-2 with Aldermen Kennedy and White opposing.* Alderman White asked that the Board schedule a joint workshop with the chairs of the Boards and Commissions and address broad issues including the process of voting on committee members and the issue of term limits. Mayor Begley asked that Mr. Caudle schedule a date for this workshop.

B. Watershed Advisory Task Force – Bob Watts reported that the Watershed Advisory Task Force has met four times. He said one meeting concentrated on items they would like to see at the watershed and another meeting concentrated on what they would not like to see at the watershed. The committee has talked about the Wilderness Act as applied to the U.S. Forest Service. The committee will be discussing recreation and water as they pertain to the watershed. Mr. Watts said the committee will report back in 4-5 months.

C. MSD Report (Metropolitan Sewage District) – Alderman Sobol reviewed the MSD budget that includes a 2% increase which will help fund the MSD capital improvement fund. Alderman Sobol reported that the City of Woodfin requested a seat on the MSD Board. He said the Charter for the MSD Board was set up in 1962 and called for representatives from each of the municipalities and political subdivisions. The City of Woodfin was not incorporated until the 70's, and it is the feeling of the MSD Board that Woodfin is represented by the Woodfin Water and Sewer District. He said the request has been referred to the MSD Planning Committee and attorney. Mr. Caudle noted that MSD is currently working on Blue Ridge Road. He said that in conjunction with the annexation, sewer lines were to be installed further up Blue Ridge Road. The staff contacted MSD to see if the work could be included at this time. After discussion with MSD, they agreed to run the lines almost to Blue Ridge Assembly Drive and out Wolf Creek Road. Mr. Caudle thanked MSD for their cooperation with this project.

D. Beautification Committee – Alderman White

1. “Friends of the River” Award – (Stephanie Wilds) – Alderman White reported that Stephanie Wilds has been awarded the "Friend of the River" award from Land-of-Sky Regional Council. She said Stephanie was nominated for her work with the Riverwalk Park.

2. Report on “Litter Sweep” – Alderman White reported that the spring "Litter Sweep" was held in April. Alderman White thanked Pam Hoen at Town Hall, the Beautification Committee, and the many volunteers for their time and effort in helping to make this project a success. She said the Beautification Committee would have cleanup days on the first Saturday of each month beginning in July at 9:00 a.m. and volunteers are welcome.

3. Improvements to Well Lot #6/Parking Lot at Corner of Sutton Avenue and S. Dougherty Street – Alderman White reported that the Beautification Committee has received two grants: (1) A grant from the Black Mountain Endowment Fund for the pathway, planting, and iron railing from Black Mountain Iron Works; (2) A grant from River Link for stormwater management in this area. *Alderman White made a motion that the Board of Aldermen accept the proposed improvements as outlined by the Beautification Committee and to endorse the grant application for those improvements. The motion passed with a vote of 5-0.*

VIII. OLD BUSINESS

A. PUBLIC HEARING on Proposed Fiscal Year 2004-2005 Annual Budget for the Town of Black Mountain

Mayor Begley opened the public hearing.

Mr. Caudle gave a powerpoint presentation and overview of the proposed budget for FY 2004-05.

Ruth Brandon, 722 Laurel Avenue, thanked the Board for allocating money to Business to Business. She feels Business to Business is equally important as the Chamber of Commerce.

Bob Gunn, 109 Pleasant Drive, said he had written Mr. Caudle a letter with questions concerning the Town budget. He wanted to know why the personnel expenses are so high. Mr. Caudle explained that higher costs in personnel expenses are due to the fact that insurance costs increased by 17%. A cost of living increase is proposed at 2% and merit pay is also included. Some part-time positions have been added over the last year and also this year, as well as some contract labor. Mr. Gunn thanked Mr. Caudle for this information.

Dan Howachyn, Lookout Terrace, said Business to Business has had a very active part in getting publicity out for Black Mountain. He said retail sales are down for 2003 and will probably be down for 2004 also because of plant closings. Mr. Howachyn said if a donation cannot be made to Business to Business, then perhaps town services can be increased; i.e., sweep streets more often, clean up around the school, etc.

Harry Hamil, 15 John Myra Avenue, made several comments:

(1) He said if the Board wants public involvement, the workshops need to be advertised in a more meaningful way; (2) There is not enough detail given regarding the budget so the citizens

can participate and understand; (3) Did the Town receive an audit from the Chamber of Commerce? Mr. Caudle explained the Chamber has provided a report of their expenditures. Mr. Hamil said the Town needs to require a paper trail for donations; (4) How can the debt go down? Mr. Caudle explained that some debts have been paid off; (5) Is Hamlet Street on the schedule to be paved? Mr. Caudle said it is in the 2004-05 budget; (6) The Town needs to budget for the equipment to perform traffic counts.

Elaine Lotzenheizer, 410 Avena Road, would like to see some budget workshops held in the evening so more citizens who work would be able to attend.

With no further public comments, Mayor Begley closed the public hearing.

Mr. Caudle said he does not anticipate any action on the 2004-05 budget. He said a workshop is scheduled for Monday, June 21, 2004.

Vice Mayor Kennedy presented a tax history of Black Mountain and implications. He said compared to other towns with a similar population, all other towns except for one have higher ad valorem tax rates than Black Mountain. Vice Mayor Kennedy said he will propose a tax rate of 40 cents to help develop the web site and to begin to build for projects next year. He said a 1½ cent tax increase would mean only an additional \$15 on a \$100,000 home. He hopes the citizens will think about the services they get as well as what the costs are to the Town.

Alderman Brown does not think this is the time to raise taxes and will vote against any tax increase.

Alderman Sobol said the revenue pie chart in the budget shows that County reimbursements are 10% of our revenues. He asked what is included besides the money that comes from the water authority? Sherry Williams, Assistant Finance/Budget Officer, explained that County reimbursements include Fire District Tax which is proposed to be a little over \$500,000 for next year. This is for the service provided to the citizens who reside outside the city limits but live in the Black Mountain Fire District. She said those citizens pay 9 cents per \$100 property valuation on their county tax bill. The county then reimburses those funds to the Town for fire protection service. Mr. Caudle added that the County contracts fire protection services from the Town. We also propose to receive \$205,000 from the County for the City County Water Agreement.

With no further comments, Mayor Begley called for a brief recess.

X. CITIZEN COMMENTS - At 8:15 p.m. Mayor Begley reconvened the meeting and asked for citizen comments.

Cynthia Brodderick, East Pond Road, said she has concerns regarding the playground at Lake Tomahawk. She said she has a special-needs child and the swings do not service him. Ms. Brodderick would like the Board to consider in the very near future accommodations not only for her family, but for other families who have special needs.

Bob Gunn, 109 Pleasant Drive, said there is a lot of concern about the prospective plans for Blue Ridge Road and the effect it will have on the people who live in that area. If the plans go forward, the people who live on Blue Ridge Road will be subject to condemnation, etc. If the people sell their home, they could not afford to replace it with a comparable home at today's price. He said he cares about what happens to all the people in this Town. Mr. Gunn said at the last Planning Board meeting, Elizabeth Teague and Dan Baechtold from the Metropolitan Planning Organization (MPO) gave a presentation regarding the feasibility study at Blue Ridge Road that is referenced in the Transportation Plan. The question was asked of Ms. Teague what alternative was considered to an interchange at Blue Ridge Road? Ms. Teague replied that the only alternative that was considered was no interchange at all. Mr. Gunn said Ms. Teague helped them understand the MPO. He thinks the feasibility study is flawed because it is so limited and feels that we have justification to ask for a real feasibility study that does include other alternatives, i.e., Lytle Cove interchange. Mr. Gunn asks that the Planning Board not vote until a comprehensive study can be done.

Ruth Brandon, 727 Laurel Avenue, said Vice Mayor Kennedy keeps talking about raising taxes and comparing other cities to Black Mountain. Ms. Brandon asks the Board to leave the tax rate at 38.5 cents.

Betty Lane, 278 Cragmont Road, said her road keeps getting washed out due to water runoff. She has asked several times for her road to be fixed, but all the Town does is put gravel down and it washes out. Mayor Begley asked that staff meet with Ms. Lane to resolve the problem.

Mabel Lytle, 148 Carver Avenue, said she has reported a big hole in her road behind the school, and it still has not been repaired. She said she pays taxes too. Ms. Lytle said this is not the time to raise taxes because so many people are out of work. She would appreciate it if someone would come and look at her road. There is also open sewer near her, and this has been reported for two years and nothing has been done.

Linda Stiles, 50 Scripps Drive, Swannanoa, asks that Lytle Cove be considered as an interchange. She said there was an hour wait for a train several weeks ago, which creates a safety issue with the train.

B. Proposed Revisions to the Comprehensive Plan

Mr. Caudle said upon receipt of the Comprehensive Plan from the Steering Committee, the Board of Aldermen reviewed the plan and asked that some changes be made. In addition we looked at some additional language. Mr. Caudle said as we have listened to the comments from people regarding the Blue Ridge Road interchange. He feels the opposition to the proposed interchange appeared to have been to the idea that the interchange would necessarily be located at Blue Ridge Road, and not nearly as much opposition to the proposal that there might be a need now or in the future for additional interstate access. Mr. Caudle said he tried to provide a policy statement that would reflect these views. Mr. Caudle said he also provided language to the Greenways/Thoroughfare Plan/Walkability section, added the Greenway Master Plan, and revised language regarding the Skate/Bike Park to show that if efforts for the ONG Youth Center and Bike Park do not materialize as currently envisioned, the Town would review the cause and

make sure they remain in the Comprehensive Plan. *After further discussion, Alderman Brown made a motion to adopt the revised language for the Comprehensive Plan as modified by the Board of Aldermen.* The Board discussed a memo from Elizabeth Teague with MPO regarding the Blue Ridge Road Interchange and felt some language needed to be more specific. Mayor Begley asked that the Board give their questions to Mr. Caudle in writing, and Mr. Caudle will contact Ms. Teague for clarification. *After discussion, Alderman Brown withdrew her motion. The motion died for lack of action. Vice Mayor Kennedy then made a motion to adopt the revised language for the Comprehensive Plan as modified by the Board of Aldermen. The motion failed with a vote of 3-2, with Aldermen Brown, Sobol, and White voting against.*

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.

The Board agreed to defer this item until the July meeting.

XI. CLOSED SESSION - Alderman Garrison made a motion at 9:30 p.m. to go into Closed Session to discuss the following items:

1. Consult with the Town Attorney in order to preserve the attorney-client privilege;
2. Consider the conditions of appointment of the Town Manager

The motion passed unanimously.

On a motion by Alderman Sobol the Board returned to open session at 9:57 p.m.

Mayor Begley requested that the Town Attorney review with the Board the appeal process as it relates to the Flood Damage Prevention Ordinance.

XII. ADJOURNMENT - With no further business, Alderman Garrison made a motion to adjourn the meeting at 10:15 p.m. Approved unanimously.

Wm. Michael Begley, Mayor

Anthony N. Caudle, Town Manager

ATTEST

Shirley J. Raines, Town Clerk