

**MINUTES OF THE TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN**  
**REGULAR SESSION**  
**June 12, 2006**

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**THE BLACK MOUNTAIN BOARD OF ALDERMEN** met in a regular monthly session on Monday, June 12, 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

The following staff members were present:

Anthony N. Caudle, Town Manager  
Bo Ferguson, Assistant Town Manager  
Shirley Raines, Town Clerk  
Ron Sneed, Town Attorney  
LuAnn Bryan, Recreation and Parks Director  
David Ballard, Golf Pro/Manager  
Gary Bartlett, Public Safety Director  
Casey Conner, Recreation and Parks Superintendent  
Rosa Hilbert, Senior Administrative Assistant  
Tim Rayburn, Fire Chief  
John Shaw, Greens Superintendent  
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 prayer led by Father Jim Swatzell, Church of the Incarnation, Black Mountain, NC.

Mayor Kennedy noted that this is the 1,348<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**

Harry Hamil, 15 John Myra Avenue, commented on Section VIII, Committee/Board Reports, Item E, - Request from ABC Commission to Increase Monthly Per Diem for Commission Members by \$25.00 per month. Mr. Hamil said the ABC Board is the only Board, other than the Board of Aldermen, who receives pay. He said it is ironic that we have pay for the ABC Board because there are other boards that work longer hours handling complex assignments. Mr. Hamil said he finds it very strange that the ABC Board who is already being paid, is now asking for additional payment considering the fact that the Board of Aldermen is looking at a proposed budget which is substantially larger than last year's in taxes. Mr. Hamil concluded that he finds it inappropriate for the Board to grant such an increase.

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

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

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

### **A. Oath of Office**

Mayor Kennedy said that the Oath of Office would be administered to Carole McNutt, member of the Black Mountain Housing Commission. Ms. McNutt was sworn in at this time.

### **B. Proclamation**

Mayor Kennedy said Alderman White would read and present a proclamation honoring Dr. John Wilson for his volunteer work in the community.

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

## **VI. CONSENT AGENDA**

### **A. Adoption of the Minutes**

*Motion: To adopt the minutes of May 3, 2006 – Special Meeting, May 4, 2006 – Agenda Workshop, May 8, 2006 – Regular Session, May 8, 2006 - Closed Session, May 9, 2006 – Budget Workshop, May 16, 2006 – Budget Workshop, May 16, 2006 – Closed Session, May 23, 2006 – Budget Workshop, May 23, 2006 – Closed Session, May 30, 2006 – Budget Workshop*

### **B. Adoption of Budget Amendment #26**

*Motion: To adopt Budget Amendment #26 as submitted*

### **C. Grant Contract with the North Carolina Department of Cultural Resources State Historic Preservation Office**

*Motion: To accept the grant as awarded by the State of North Carolina for the inventory of historic properties in the Town of Black Mountain and to authorize the Town Manager to execute the Grant Contract with the State Historic Preservation Office.*

- D. Acceptance of Bicycle and Pedestrian Planning Grant and Approval of Municipal Reimbursement Agreement with the NC Department of Transportation  
*Motion:* To approve the Municipal Reimbursement Agreement with NCDOT for the acceptance of a bicycle and pedestrian planning grant; to authorize the Town Manager to execute the Agreement on the behalf of the Town; and, to develop a potential list of nominees to serve on a steering committee and to research potential consultants and contracting procedures as part of this project
- E. Request to Change the Town’s Name of Hunting Lodge Acres Drive to Correspond with the County Emergency Management Name of Hunting Lodge Drive  
*Motion:* To change the Town’s designation of the street known as Hunting Lodge Acres Drive to Hunting Lodge Drive
- F. Adoption of Resolution to Endorse and Update the Buncombe County Solid Waste Plan  
*Motion:* To adopt the Resolution to Endorse and Update the Buncombe County Solid Waste Plan
- G. Rescind Water System Improvements Grant Project Close Out Ordinance #O-06-04  
*Motion:* To Rescind Water System Improvements Grant Project Closeout Ordinance #O-06-04
- H. Water Design Contract  
*Motion:* To approve a contract in the amount of \$31,700 with McGill Associates for engineering services and authorize the Town Manager to sign the contract on behalf of the Town
- I. Request from Helpmate, Inc. to Support Efforts to Acquire and Renovate the former Sisters of Mercy Convent Located Adjacent to the St. Joseph’s Campus of Mission Hospitals  
*Motion:* To approve a Resolution endorsing the efforts of Helpmate to acquire and renovate the former Sisters of Mercy convent located adjacent to the St. Joseph’s Campus of Mission Hospitals
- J. Proposed Amendments to Parks and Recreation Facility and Equipment Rental Fee Schedule  
*Motion:* To approve the proposed Facility Fee and Equipment Rental Fee Schedule as submitted by the Recreation Commission to become effective July 1, 2006.

**VII. COMMUNICATIONS FROM THE TOWN MANAGER**

**A. Review of Consent Agenda**

**B. Projects Update**

**1. Village Way Greenway Construction** – Mr. Caudle said the Public Works Department has been working with the Greenways Task Force to complete the construction at Village Way. He said that the landscaping will be done by the Greenways Task Force.

**2. Provision of Water to Copper Creek** – Mr. Caudle reported that the Copper Creek subdivision that lies on the southwestern border of the Town of Black Mountain that has been approved by Buncombe County is approximately 131 acres for the proposed 264 units. Mr. Caudle said that the City of Asheville has provided a commitment of an allotment of water to the Copper Creek Development contingent upon several items of which one is improvements to the system to address fire flow requirements. Vice Mayor Sobol said that the development is outside the city limits of Black Mountain but it is contiguous to the Town. He said that, in order to make the property a viable operation, the developers will request a permit from MSD to build a pumping station on the property to direct the sewage back over the access road which will be within the city limits of Black Mountain to the manhole south of the interstate bridge. *Vice Mayor Sobol made a motion that the Town of Black Mountain urge the Metropolitan Sewage District Board to uphold its regulation that disallows pump stations except under extraordinary circumstances. The Board vote was 5-0 to approve the motion.*

**3. Pool Repair Expenses** – Mr. Caudle reported that the emergency repairs to the pool have been completed. He said the repair costs totaled \$13,375; the largest portion was \$3,250 for repairs to the roof at the pump house. Mr. Caudle reported that the pool was closed for the repairs to the motor on the pump and a cracked drain.

**4. Health Insurance Renewal** – Mr. Caudle reported that the Town has entered into its second year of a partially self-funded health insurance program for employees. He said that the Town will partner with a third-party administrator to work closely toward disease management which is designed to keep long-term health costs down.

**5. Set end-of-year budget amendment meeting with Board of Aldermen**  
Mr. Caudle asked the Board to set a meeting for end-of-year budget amendments. The Board agreed the date would be Wednesday, June 28, 2006 at 8:30 a.m.

## **VIII. COMMITTEE/BOARD REPORTS**

### **A. Request to Extend Terms of Current Planning Board Members through August of 2006**

*Alderman Brown made a motion to extend the terms on the Planning Board of Mr. Stefan Stackhouse, Ms. Connie Pruitt, and Mr. George Thompson through the month of August in order to complete the Land Use Codes drafting project and to delay the appointment of individuals to fill the impending vacancies until such time as this work is complete. Staff to amend the ordinance to reflect this change. The motion passed unanimously.*

### **B. Proposed Revisions to the Boards and Commission Manual**

Mr. Caudle explained that in reviewing the Boards/Commissions Manual more closely, it appears that the only advisory board or commission that does not have specific membership requirements is the ABC Board. As a result of this review, the following revisions to the Boards/Commissions Manual are requested. The Board agreed to vote on the five amendments individually and to begin with #4.

4. Establish residency membership requirements for the ABC Commission. *Alderman Phillips made a motion that residency requirements be limited to persons residing in the corporate limits of Black Mountain. This amendment to take effect 7-1-07. The motion passed with a vote of 4-1 with Vice Mayor Sobol opposed.*
1. Replace the language under the ABC Commission guidelines that allows for this group to appoint their own Chair with language that abides by the North Carolina General Statute requiring the Board of Aldermen appoint the Chair of the ABC Commission. *Alderman Brown made a motion that the Board of Aldermen appoint the Chair of the ABC Commission as required by the North Carolina General Statute. The motion passed with a vote of 5-0.*
2. Replace the language under the ABC Commission guidelines that allows for this group to set their own rate of compensation with language that abides by the North Carolina General Statute requiring that the rate of compensation for the ABC Commission be established by the Board of Aldermen. *Alderman White made a motion that the rate of compensation for the ABC Commission be established by the Board of Aldermen as required by the North Carolina General Statute. The motion passed with a vote of 5-0.*
3. Replace the existing language in the current manual that outlines general membership guidelines with a statement directing the reader to the section on the individual board or commission for membership requirements. *Alderman White made a motion to add a statement directing the reader to the section on the individual board or commission for membership requirements. The motion passed with a vote of 5-0*
5. Change meeting date for Urban Forestry Commission from first Wednesday of each month to the second Wednesday of each month. *Alderman White made a motion to change the meeting date for Urban Forestry Commission to the second Wednesday of each month. The motion passed unanimously.*

#### **C. Appointments to Fill Vacancies on Boards and Commissions**

The following candidates were voted by the Board of Aldermen to fill the vacancies on the Boards and Commissions.

**ABC Board** – Rick Spaulding

**Historic Preservation Commission** – Martha Cummins, Bill Munn

**Housing Commission** – Ronald Krantz

**Planning Board** – The Board approved to extend the terms of the current members through August 2006.

**Recreation Commission** – Harry Nanney, Rosella Spencer, Carolyn Lambert

**Urban Forestry Commission** – No applications received.

#### **D. Report from Recreation Commission on Proposed Pool Sites**

Terry McElrath, Chair, Recreation Commission, gave a presentation to the Board of Aldermen recommending proposed pool sites. See attached.

Ms. McElrath said the Recreation Commission proposes the Clevenger site from the list of properties owned by the Town and recommends “In-the-Oaks” property from the list of

properties not owned by the Town. Ms. McElrath noted that Don McMahon, member of the Recreation Commission, said he had discussed with Montreat College the possibility of partnering with the College to use the In-the-Oaks property. He said Montreat College indicated that the College would be interested but it would be several years before they could enter into discussion. Ms. McElrath said after the discussion with the College, the Recreation Commission recommends the pool site be located on the Clevenger property. After discussion, the Board agreed that LuAnn Bryan, Recreation and Parks Director, should bring back to the Board estimates for engineering studies on three of the proposed pool sites (Clevenger, Carver, and Cragmont).

**E. Request from ABC Commission to Increase Monthly Per Diem for Commission Members**

Vice Mayor Sobol was excused from voting on this issue due to a conflict of interest.

*After discussion, Alderman Brown made a motion not to approve a \$25.00 per month increase in the compensation paid to the members of the ABC Commission which will result in the Chairman being paid \$100 per month and the remaining two members being paid \$75.00 per month. 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, said if anyone is serious in becoming a member of the Planning Board, he would like to invite them to come to the meetings between now and August and become familiar with the Planning Board.

**IX. OLD BUSINESS**

**A. PUBLIC HEARING on Proposed Fiscal Year 2006-2007 Annual Budget for the Town of Black Mountain**

Mayor Kennedy opened the Public Hearing.

Tony Caudle, Town Manager, presented the Board with the recommended budget and financial plan for the Town of Black Mountain for the fiscal year 2006-2007. Mr. Caudle said staff designed a budget document that met the goals that were set by the Board of Aldermen at their workshop on February 28, 2006. He said they attempted to keep services at the current level and to include all of the projects that were outlined in the previously adopted Capital Improvement Program (CIP); to maintain employee benefits at the existing level; to maintain the fund balance policy; to maintain reasonably acceptable tax rates and user fees.

Mr. Caudle said that this has been an especially difficult process for everyone mainly because it is a revaluation year and much has been said about the revaluation of property in Black Mountain.

Mr. Caudle said there has been a great deal of discussion about what represented a revenue neutral tax rate. He said that the North Carolina General Statute, specifically, NCGS 15911(e), dictates the way in which a revenue neutral tax rate is computed. He went on to state that early computations placed the equivalent rate at \$0.32 but that revised estimates now put the equivalent rate at \$.030 per \$100 of value.

Mr. Caudle then presented an overview of the budget for the Fiscal Year 2006-2007.

Mayor Kennedy asked for public comment.

Allen Greene, 335 Lookout Terrace, said a petition was started several weeks ago throughout the community because of the revaluation of property. Mr. Greene read a prepared statement as follows: “We are going on record stating that the proposed tax rate of 36 cents per \$100 dollar valuation is too high and will cause undo hardship on fixed income and the average working class citizens of this Town. Revenue neutral is not 32 cents but rather it is 26.6 cents per \$100 dollar value. Many citizens of this Town have signed a petition requesting that their elected officials lower the tax rate to 29.5 cents per \$100 dollar value. With growth and the stated tax rate, this would give the Town a 10% increase and revenue that would be sufficient to meet the existing budget needs allowing for the needed increases and expenditures. As the Mayor stated, to me by phone, Buncombe County re-evaluated the property and the Town did not have anything to do with that assessment and, that is true, but the people we voted in to serve our best interest have an opportunity to take some of the burden off its indigenous citizens who built this Town by further lowering the tax rate to 29.5 cents. Tony Caudle, at the Buncombe County Board of Commissioners meeting on June 6<sup>th</sup>, stated that 72% of the East Buncombe Fire District was tax-exempt. This means that, we, the taxpayers are paying for the services given to the exempt areas. How much of the property in the city limits is tax exempt? Tax-exempt property places a burden on the equipment and souls that respond to the calls in these areas. Receiving county dollars for this service is compensation but why so much tax-exempt property? Someone must pay for this service and the burden rests on the backs of the taxpayers. This is not right nor fair and correcting this matter should take precedence before we have any tax increases that will become effective. People moving here in this township take advantage of what we know as a good and wholesome place to raise families. Developers drive the price of land up and for those looking to sell, that is pretty good. Our Town and County government are slowly squeezing the fixed income and average worker out of their community. Unfortunately, the families are moving away because of high costs in taxes, high cost of living in this county and Town. My own son was a fireman for 10 years with this Town and he moved to McDowell County. One of the reasons was for what has already been stated. Something has to be done to slow this course. It can start with lowering the tax rate to the 29.5 cents per \$100 dollar value. We can have our cultural events, parks, clean streets and all the things that we do need in our infrastructure but we have to balance the “wants” with the “needs”.

Deborah Roland said she agreed with Mr. Greene. She said she owns two quarter acre lots on Seventh Street that were purchased for \$600. A couple years ago, Mike Sobol appraised the lots at \$25,000. She put the lots up for sale and no one would buy the lots. It would cost too much to bring them up to code in order to build on them. Ms. Roland said she has a 1983 model single-wide trailer which sits on 20 acres and the appraisal was \$70,000. She said she challenges

anyone who wants to buy it and would sell it tonight. She said the tax rate is ridiculous and people like her mother-in-law who draws under \$600 a month cannot pay the taxes. Ms. Roland said she is disabled and has a tax withdrawal that comes out of her social security for \$172 a month in order to pay her taxes. She said it is like paying rent on property that she already owns. She said that the middle class people, the working people, the elderly and disabled who live in this Town are not able to pay this.

Mike Baldwin, 300 New Bern Avenue, addressed the impact of the increased tax rate on rental property. He said we all look for affordable housing and a clean, safe place to live. He said that his example recommends 36 cents per \$100. He said he realizes that the Town does not control property revaluations but on a modest 2-bedroom, 2 bathroom home that is approximately 40 years old, with no major renovations in the last 12 years that is in clean, well-maintained condition, the property taxes increased 46%. Under the proposed 36 cents per \$100 for the Town, this will add 37% to the property tax on this rental house. The Buncombe Taxes also add 35%. The total increase at 36 cents per \$100 will be 36% increase in property taxes for 2007 versus 2006 on this rental house. How does this impact affordability? This house rents for \$675 per month which is a modest price and is competitive in the Black Mountain market. Under the proposed 36 cents, it would add \$30 a month to the rent for this house assuming that the market will support that level of increase. How does this translate into affordability? Right now it is generally accepted that a person cannot spend more than 30% of their gross salary on housing before it becomes oppressive or difficult. A person would have to earn \$27,000 a year to afford this house, a salary that is not out of line for a teacher, civil servant, or someone else in the middle class. If the rate goes to 36 cents including the Town and Buncombe County taxes, a person will need a \$1,200 a year increase in their salary to afford this house for the same rent with nothing added but the increase in taxes; there is not extra profit and expenditures are increased. He said that another limiting factor is that rental property has to be priced competitive compared to buying that same property. He said that right now the property is not for sale and he does not want to be forced to sell because it will end up taking another piece of affordable property out of the loop forever. He said that right now there is only a \$70 difference between the rent with the increased taxes versus buying the property. When that gap is closed, it forces sales and assumes that the purchaser has a 20% down payment.

Terry McElrath, 218 Padgettown Road, is also the Chair of the Recreation Commission. She questioned why a position was cut from the Recreation Department. She said it may look like it was just a maintenance position but those positions always support events. Ms. McElrath said that the position is greatly needed and recommended that the Board put it back into the budget.

Elaine Loutzenheizer, 410 Avena Road, also questioned why the maintenance position was eliminated from the budget. She said that when there are heavy rains, the walking path that residents use on a regular basis is washed out. She said that at the current rate, it is not being maintained because the person who was maintaining it has been moved to another location. She asked how can the Town eliminate a maintenance position and yet still pay out for the walking and Greenway paths. She thinks it is a luxury that the Town cannot afford. She said that she does not think that extending Greenways and paying money out for sidewalks on US 70 is the top priority.

Harry Hamil, 15 John Myra Avenue, said that the Board has a responsibility to the citizens to see that the County does its job. He said that the revaluations in the Town changed astonishingly depending on the individual. He said that some valuations went down in the Fire district. He said that the revaluation on his commercial property was valued at more dollars per square foot than the property across the street which is Sobol House of Furniture. It was valued at three times the value of the property next door and three times the value of the property behind him. Mr. Hamil asked whether the Town is drilling any wells. Mr. Caudle said the Town is not drilling wells today but there is money in the proposed budget to do that. Mr. Hamil said that for the last 3 years he has asked for the Town to obtain documentation of a request by the Chamber of Commerce and Business to Business for their request and what it is exactly for and documentation as to what the money was used for. He asked if the Town is going to do that this year. Mr. Caudle said that the Chamber of Commerce provides their annual financial report to the Town. Mr. Hamil asked what is the money used for. Mr. Hamil said if we accept the State's methodology for a net rate increase, and we have a 30 cent rate, you are looking at a 35 cent rate, that is a 1/6<sup>th</sup> increase in the taxes on the people overall in this Town. He said that is what matters, not what the tax rate is but what the taxes are.

Allen Greene, 335 Lookout Terrace, said he spoke previously on behalf of the petitioners and asked to speak on his own behalf at this time. He said his property was annexed about 15 years ago and was told that he would have certain services when he was annexed. He said the road was paved to his property and he does get garbage pick up. When it snows, he never sees the sand truck or the snow plow; he uses his own tractor to clear the road. He said that he never sees any police cars on patrol where he resides. He said there is some illegal dumping going on off Avena Road which he reported. He said he does not have water to his house, although it does go up to an old reservoir that is no longer in use; sewer is coming through and he was told a long time ago that he would get sewer. He said the Town has taken his tax dollars for many years. Mr. Greene said if the Town does not go to revenue neutral, it will hurt the people who have been here and built this town, and loves this town. He is requesting the Board to take a strong look at the property values. Mr. Greene said that the Town has the power to drop the tax rate back where it is not going to hurt an 89-year old lady who is on social security. Her letter to the editor stated that she does not know how she is going to afford this; "I think my own Town is trying to run me out." Mr. Greene said the lady is his mother.

With no further comments, Mayor Kennedy closed the Public Hearing at 8:55 p.m.

*Alderman White made a motion to accept the proposed annual budget with the tax rate of 35 cents.* Alderman Brown said that she was not in favor of cutting positions because every position is critical. She proposed an amended tax rate of 33 cents. Alderman Phillips proposed to leave the tax rate as proposed and reduce fund balance contributions. Alderman Brown mentioned other cuts such as cutting funding for Greenways, beautification, and other areas. Vice Mayor Sobol proposed 32 or 32.5 cents.

Mr. Caudle said there is \$132,000 plus an additional \$35,000 that would be available making a total of \$167,000 available out of fund balance. Mr. Caudle said that once a decision is made to use this money, the Board can then determine which of the items are to be decreased or

eliminated from the budget to either get to a 32.5 cent or a 32 cent tax rate. He said there needs to be another \$83,000 in reductions to get the tax rate to 32 cents.

*Alderman White withdrew her original motion of 35 cents and made a motion to go to 33 cents.*

After discussion, Mayor Kennedy polled the Board to vote for 32.5 cents or 32 cents. Aldermen Brown and White expressed an interest in 32.5 cents, Aldermen Sobol, McKeown, and Phillips expressed an interest in 32 cents. Mayor Kennedy said the straw vote was 3-2 for 32 cents.

*Alderman White withdrew her motion for 33 cents.*

*Alderman Brown made a motion to put the Recreation and Parks maintenance position back into the budget. The Board vote was 1-4 with Aldermen Sobol, McKeown, Phillips, and White opposed.*

*Alderman Sobol made a motion to eliminate the Fire Chief's vehicle from the budget. The Board vote was 3-2 with Aldermen Brown and White opposed. Vice Mayor Sobol made a motion to eliminate one police car from the budget. The Board vote was 3-2 with Aldermen Brown and White opposed. Vice Mayor Sobol made a motion to eliminate the Stormwater Management Plan from the budget. The Board vote was 3-2 with Aldermen Brown and White opposed.*

With these changes, the tax rate would be 32 cents.

Mayor Kennedy called for a 15-minute break at 10:15 p.m. to allow time for Mr. Caudle and Mr. Ferguson to adjust the budget ordinance to reflect a tax rate of 32 cents.

At 10:40 p.m. the Board resumed discussion.

*Alderman Sobol made a motion to adopt Budget Ordinance #0-06-07 for the 2006 – 2007 budget year with the tax rate at 32 cents. With no further discussion, the motion passed with a vote of 4–1 with Alderman Brown opposed.*

**X. NEW BUSINESS – None**

**XII. ADJOURNMENT**

*With no further business Vice Mayor Sobol made a motion to adjourn at 10:45 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, Administrative Assistant

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Shirley J. Raines, CMC, Town Clerk