

**MINUTES OF THE TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN**  
**REGULAR SESSION**  
**May 10, 2004**

---

---

**THE BLACK MOUNTAIN BOARD OF ALDERMEN** met in regular monthly session on Monday, May 10, 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  
Gary Bartlett, Fire Chief  
Chad Jonsson, Recreation and Parks Director  
Jack Staggs, Police Captain  
Bob Watts, Public Works Director  
Jerry Wood, Planning Director

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 Dr. David Rayburn, Pastor, First 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 April 12, 2004 - Agenda Meeting and Regular Session, April 19, 2004 – Special Called Meeting - Blue Ridge Road Interchange were approved as submitted.

The agenda was amended with the following changes:

- Under VI, Communications from the Town Manager, added items #8 & #9
- Under VII, Committee/Board Reports, added items “C” through “I”
- Under IX, “New Business”, deleted item “A”
- Under XI, “Closed Session”, added item #4

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

## III. CONSENT AGENDA

With the adoption of the agenda for the May 10, 2004 Regular Session Meeting, the following actions were approved:

- A. Adoption of the Minutes  
*Motion: To adopt the minutes of April 12, 2004 - Agenda Meeting and Regular Session, April 19, 2004 – Special Called Meeting- Blue Ridge Road Interchange*
- B. Adoption of Budget Amendment #10  
*Motion: To adopt budget amendment #10 as submitted*
- C. Adoption of Resolution Authorizing the Mayor to Execute Agreements Providing for the Town’s Participation in the Asheville Regional Housing Consortium  
*Motion: To adopt Resolution as submitted and approve the joint Cooperation Agreement between the Town of Black Mountain and the City of Asheville*
- D. **CALL FOR PUBLIC HEARING** on Proposed Fiscal Year 2004-2005 Annual Budget for the Town of Black Mountain  
*Motion: To call for a public hearing on the Recommended Budget for Fiscal Year 2004-2005 on Monday, June 14, 2004 at 6:00 p.m., or as soon thereafter as possible, to be held in the meeting room of the Public Safety Building at 106 Montreat Road in Black Mountain, NC*

## IV. COMMUNICATIONS FROM THE MAYOR

- A. Mayor Begley acknowledged proclamations for the following events:
  - Proclamation – “Strive Not to Drive Week” – May 8-15, 2004
  - Proclamation – “Osteoporosis Prevention Month” – May 2004
  - Proclamation – “Older Americans Month” - May 2004
  - Proclamation – “Honoring Centenarians” – May 14, 2004

B. Mayor Begley announced that Susan Robinson, who has been very active on our Historic District Task Force, has been awarded the Griffin Award for leadership by the Preservation Society of Buncombe County. Mayor Begley said Ms. Robinson played a major role in developing the Historic District Design Guidelines for the Town of Black Mountain.

C. Mayor Begley recognized Tony Norris, an officer in the Police Department, who was shot in an incident while assisting the Buncombe County Sheriff's Department. He noted that Officer Norris sustained a bad bruise. He said that the bullet-proof vest he was wearing probably saved his life.

D. Mayor Begley announced that the Mayors' Cup Raft Race, sponsored by Land-of-Sky Regional Council, will be held on Sunday, June 6 at 3:30 p.m. He said Black Mountain won last year and hopes to bring the trophy back again.

E. Mayor Begley noted that Margaret Slagle, former Board of Aldermen member and Mayor, passed away in April. He read a thank-you note from the family of Margaret Slagle, thanking the Board for the floral arrangement that was sent in memory of Ms. Slagle.

**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 construction is underway on the South water tank.

**2. Fire Department Substation Development** – Fire Chief, Gary Bartlett, reported that construction on the substation is 2-2 ½ weeks behind schedule. The contractors should be completed by the end of next week. He said an open house will be scheduled in June.

**3. Replacement of Culverts on Tenth Street and on Laurel Avenue** – Bob Watts, Public Works Director, reported that a 30" pipe has been replaced on 10<sup>th</sup> Street and a 24" pipe has been replaced on Laurel Avenue.

**4. Condition of Officer Tony Norris** – Mr. Caudle reported that Officer Tony Norris was involved in a shooting in April. He said that because Officer Norris was wearing his bullet-proof vest, he only received a bad bruise. Mr. Caudle said Officer Norris is now back at work.

**5. Health Initiative Task Force Update** – Ron Nalley, Assistant Town Manager, reported that the Health Initiative Task Force has gotten off to a great start. He said five sub-committees have been formed and will be meeting on a regular basis. At the last meeting, Dr. Olson Huff was appointed Chair of the Task Force, Michael Meyer was appointed Vice Chair, and Carl Bartlett was appointed Treasurer.

**6. Tree Replacement on State Street** – Mr. Caudle reported that eight Sevice Berry trees have been planted on State Street to replace the Bradford Pear trees. He said Joe Tyson paid for four trees and Urban Forestry Commission paid for four trees.

**7. Letter of Thanks from City of Asheville** – Mr. Caudle reported that a letter has been received from Jim Westbrook, Asheville City Manager, thanking the Black Mountain Fire Department for the excellent assistance provided to the Asheville City Fire and Rescue Department under the direction of Gary Bartlett and Tim Rayburn. He said Mr. Westbrook appreciates the relationship with the Town of Black Mountain.

**8. Montreat College scheduled May 29 as day that citizens can get mulch from property at Blue Ridge Road and U.S. 70.** – Mr. Caudle reported that Montreat College has purchased the property at Blue Ridge Road and U.S. 70, known as the “Stump Dump”. He said the College has scheduled May 29 for citizens to pick up free mulch from the property.

**9. Transportation Plan** - Mr. Caudle reported that the Metropolitan Planning Organization has completed a draft copy of the Transportation Plan. He said it is being circulated to the Board of Aldermen, Economic Development Committee, and the Planning Board. Mr. Caudle said the plan is available at Town Hall. He said the Planning Board will hold a public hearing on the Transportation Plan in June.

**10. Budget Requests from Non-Profit Organizations** – Mr. Caudle informed the Board of Aldermen that some non-profit organizations have submitted budget requests. He asked the Board of Aldermen if these organizations could present their budget requests at the budget meeting scheduled for Monday, May 24. The Board agreed by consensus.

## **VII. COMMITTEE/BOARD REPORTS**

**A. MSD Report** – Alderman Sobol reported that the Metropolitan Sewerage District (MSD) has received an “Excellence in Management” award recently. This award is given by the national organization, AMSA. He said MSD is only one of two AMSA utilities to win the 2003 National Environmental Achievement Award for the development of the new methods in generating and prioritizing sewer rehabilitation programs. Alderman Sobol said because of these new methods, a lot of money was saved when the sewer construction work was performed on the Tomahawk Basin. Alderman Sobol reminded the citizens that grease should not be poured down kitchen drains as the grease solidifies and stops up the drains.

**B. Greenways Update** – Alderman Sobol reported that McGill & Associates, an Engineering Firm in Asheville, is working with Norfolk Southern Railway to secure passage underneath the railroad trestle located behind Sobol House on Richardson Boulevard. This is the trestle which crosses the Swannanoa River. The committee wants to come from under the park underneath the trestle and come up the river, then to Montreat, and to the watershed. Alderman Sobol said a right of way will have to be obtained from Norfolk Southern.

**C. Housing Commission Update** – Mr. Nalley reported that the Town of Black Mountain can receive up to approximately \$20,000 for funding each year by participating in the

Asheville Regional Housing Consortium. In the past, this money has been used to fund successful housing rehab projects and in our effort to locate land to construct new affordable housing. The funds are administered through Mountain Housing Organization. Mr. Nalley reported that all the 2000 rehab projects have been completed and that two out of three of the 2002 rehab projects are now complete. MHO is currently looking for the third rehab project candidate in Black Mountain. He said if anyone feels they would qualify, they should contact Town Hall or MHO. Mr. Nalley also reported that the Housing Commission is in the process of developing a new program that would help replace dilapidated single-wide trailers with newer single wide and double wide trailers or modular homes in the Black Mountain area.

**D. Nomination for Friends of River Award** – Alderman Brown reported that the Land-of-Sky Regional Council is taking nominations for the “Friends of the River Award”. This award is given each year to people who have made a contribution to the French Broad River. Alderman Brown said she would like to nominate Stephanie Wilds. She feels Ms. Wilds has been instrumental in developing the park behind Bi-Lo. Vice Mayor Kennedy made a motion to close nominations and accept by acclamation. The motion was unanimous.

**E. Notification of Impending Vacancies on Boards and Commissions** – Mayor Begley reviewed the list of committee members whose terms are expiring in July of this year. He encourages the citizens to apply for these openings. An application form can be picked up at Town Hall or downloaded from the web site. Vice Mayor Kennedy said that in the Agenda meeting, the Board agreed that the applications for the vacancies need to be received by Thursday, June 10. Vice Mayor Kennedy asked if the members eligible for a second term are required to complete an application form? Mr. Caudle said in the past there has not been a set rule. The Board agreed that this would not be a requirement.

Alderman White asked for a clarification regarding residency requirements to serve on boards and committees. Vice Mayor Kennedy asked what is a township? Mayor Begley said there is no “township”. He said the term “township” was used in the past for the convenience and helpfulness of identifying which Buncombe County tax district that people are located in. Mayor Begley said Black Mountain had a Township that extended to the boundary where Swannanoa joined and where Montreat joined. Broad River was the township in the other direction. Mayor Begley said he feels the requirement should read inside city limits and outside city limits. He said he does not foresee people from Asheville or Broad River or other far-distant areas wanting to serve on the boards. He suggested to have inside and outside designation and drop township references wherever those occur. Vice Mayor Kennedy asked if the Board could, by consensus, shift the out-of-date designations to beyond the Town limits? The Board asked Mr. Caudle to bring back any ordinance changes at the June meeting. Mr. Caudle said the wording could read 2/3 resident and 1/3 non-resident of Black Mountain. Mayor Begley suggested the wording read “full time residents inside and outside the city limits”.

**F. Bus Report** –Alderman Brown reported that “Strive Not to Drive Week” is scheduled for May 8-15, 2004. She encourages all citizens to ride the bus whenever possible. Alderman Brown also reminded citizens that the Mountain Mobility Bus is available to pick up riders around Town to take them to the Old Depot to connect with Asheville Transit Service. Alderman Brown reported the April ridership numbers: Asheville Transit - 990; Mountain Mobility - 79; Warren Wilson College - 1,664.

**G. Chamber of Commerce Report** – Alderman Brown gave a schedule for upcoming area events:

- May 14 – “Taste of Black Mountain”
- May 15 – “Our Next Generation” Street Dance
- June 5 & 6 – Black Mountain Arts and Crafts Show
- July 3 – Montreat Parade – 10:00 a.m.
- July 4 – Black Mountain Fireworks Show
- August 14 & 15 – Sourwood Festival

**H. Land-of-Sky Regional Council** – Alderman White reported that the month of May has been declared “Older Americans Month”. She said that the Land-of-Sky Regional Council would be honoring all the centenarians in Buncombe, Henderson, Madison and Transylvania Counties at a luncheon on May 14, 2004. Alderman White said that there are two centenarians in Black Mountain: Dr. James Stewart and Ms. Matsu Crawford.

**I. Fireworks** – Mr. Caudle reported that at the May 6 Agenda Meeting of the Board of Aldermen, the Board asked that a street dance be held on Richardson Boulevard in conjunction with the July 4 fireworks show. After discussion, Mr. Caudle said that the Recreation and Parks Department would work with the Chamber of Commerce and arrange with non-profit organizations to set up food booths.

## **VIII. OLD BUSINESS**

### **A. PUBLIC HEARING** for Technical Revision to the Town of Black Mountain Minimum Housing Code

Mr. Jerry Wood, Planning Director, reported that a reference to the State Building Code contained within our local ordinance, Title XV, Chapter 154.005, is no longer correct. He said changes made to the State Building Code in 2002 invalidated the existing cross-reference. He said the link could potentially cause confusion as to the correct set of standards to be applied during a housing inspection. Mr. Wood is requesting that reference to the State Housing Code be deleted and that staff concentrate on the Town of Black Mountain ordinance.

Mayor Begley opened the public hearing.

Harry Hamil, 15 John Myra Avenue, said it appears that the previous ordinance would have required him, as a landowner, to have upgraded his property to the 2000 International Building Code and asked if this is correct? He said this appears to be a very significant change to the minimum housing code. Mr. Caudle said that is correct. Mr. Hamil cautioned the Town staff to publicize the change.

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

Vice Mayor Kennedy asked would this action significantly affect the ordinance in any other way? Mr. Wood said at this time we are trying to eliminate confusion by deleting the reference to the State Housing Code and concentrating on the Town’s ordinance.

*Alderman Brown made a motion to amend Section 154.005 of the Town of Black Mountain Code of Ordinances to read as follows: “Every renter occupied dwelling or dwelling unit shall comply with all of the minimum housing standards established by this ordinance.” The motion passed with a vote of 5-0.*

**B. PUBLIC HEARING** on Phase I of the Update of the Town of Black Mountain Zoning Ordinance

Mr. Wood said the Board of Aldermen had charged the Planning Board with updating the zoning ordinances for the Town of Black Mountain. He said the Planning Board decided to divide the project into two phases: Phase I would be to look at the existing zoning ordinance and try to address some problems, concerns, and technical inconsistencies. Once Phase I is complete, the Planning Board would move to Phase II and begin looking at a more comprehensive approach to zoning and planning in the Town and look ahead to see what would be needed in the future. Mr. Wood said the Planning Board has been working on Phase I and has completed five sections (as attached) for approval by the Board of Aldermen. Mr. Wood then reviewed the proposed changes.

Mayor Begley opened the public hearing.

Bob Gunn, 109 Pleasant Drive, asked if traffic generated by home businesses had been addressed? Mayor Begley referred Mr. Gunn to items #6 and #13 on the hand-out.

Harry Hamil, 15 John Myra Avenue, expressed concerns about the topography of the land regarding restrictions on building fences. He also referred to the 30” requirement for the front fence line. He said 30” is inappropriate. Building Height – He does not agree with the proposed changes. Mobile Home – He thinks the size of mobile homes under “definition” is incorrect and not shown in the proper place. Home Businesses – He asked if anyone from the Economic Development Committee gave any input to this change. Mr. Hamil asks that the Planning Board look at all these sections again.

Ron Nalley, Assistant Town Manager, said the Housing Commission discussed the mobile home ordinance change and expressed the following concerns: (1) Mobile homes are one of the few affordable housing choices, and (2) Owners of mobile homes in the R-10 Zoning District would have to go through an extra process, the conditional use process, that others who purchase residential homes do not have to go through.

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

*Alderman Garrison made a substitute motion to defer consideration of the proposed amendments to Chapter 153 of the Town of Black Mountain Code of Ordinances as they pertain to the definitions of Building Height, Building Setback Lines, Residential Fences, Home Occupations and Mobile Homes as specified in the exhibits attached hereto. Alderman Garrison said he would like to see all changes pertaining to Phase I presented at the same time. Vice Mayor Kennedy asked Phyllis Genetti, Planning Board Chair, if these corrections could be made plus more and brought back in 100 days? Ms. Genetti agreed that the Planning Board would try.*

*After further discussion, the motion to defer the consideration of the proposed amendments to Chapter 153 of the town of Black Mountain Code of Ordinances passed with a vote of 5-0.*

**X. CITIZEN COMMENTS** – Mayor Begley called for a brief recess. At 8:35 p.m. Mayor Begley reconvened the meeting and asked for citizen comments.

Bob Gunn, 109 Pleasant Drive, referred to the Board of Aldermen meeting held on May 5 to discuss the Blue Ridge Road Interchange. He said the citizens were surprised that the agenda was not what was implied. Mr. Gunn said Montreat College gave a presentation, but the citizens who were in attendance were not allowed to speak.

Randy Stone, 204 Blue Ridge Road, is concerned about the meeting held on Wednesday, May 5. He said there is a presumption that there is building going on with Montreat (College). He said he has no problems with Montreat (College) buying “In the Oaks” and the “Stump Dump”, but he feels Montreat should be responsible for their property and Black Mountain should be responsible for the Town. Rev. Stone said the citizens on Blue Ridge Road would like the study to be postponed for two years. He asked did the Board really want to go through the process with the Department of Transportation for the citizens to say “no”?

Elaine Loutzenheiser, 410 Avena Road, said she does not want the Board to ask for another \$5 tax on automobiles. She is opposed to levying more taxes to support public transportation.

Harry Hamil, 15 John Myra Avenue, said he has not heard of any public input on the location of a railroad station. He asks that a meeting be held to discuss it. He feels it would create a traffic jam if it is located in the public parking lot by Sutton Avenue. Mr. Hamil said our Comprehensive Plan is not comprehensive.

Mike Ross, 4 Endeavor Place, asked how the Comprehensive Plan would be addressed in the future? He said comments were made in previous meetings that staff would remove some items from the comprehensive plan during editorial revisions, i.e., the skateboard park and the youth center (ONG). He said the skateboard park may be part of the youth center, but there is not a guarantee. He said each community has to raise funds to have the skateboard park included. Mr. Ross said the skateboard park and youth center ranked high during the comprehensive plan process and the interchange ranked at the bottom. Mayor Begley said if the circumstances are different with regard to the skateboard park, the Board could entertain having comments at that time.

Landon Runion, 564 Blue Ridge Road, said his house is the oldest house in the valley. It was built in 1830. He said his house is where the off-ramp is being proposed on Blue Ridge Road. Mr. Runion said he does not want to lose his house.

Mayor Begley referred to the comments made by Mr. Gunn regarding the meeting on May 5 when citizens were not allowed to speak. Mayor Begley explained that the meeting was to discuss the Clevenger property and Blue Ridge Road Interchange among the Board. He said an alderman had attended a meeting at Montreat College and had seen the presentation which could possibly involve Black Mountain in a partnership with Montreat College and asked if the

presentation could be made at that meeting. He said the Board agreed to allow the presentation from Montreat College because it involved the Clevenger property, and the Board thought it would be appropriate to hear the presentation before the discussion by the Board.

Vice Mayor Kennedy said when the Board of Aldermen has a workshop, it is not to make decisions, it is to explore. He said the meeting was called for the Board to discuss the uses of the Clevenger property and to discuss the Blue Ridge Road Interchange. The meeting was not for public input; it was for Board discussion. He said on some issues, the Board needs time for discussion among themselves. Vice Mayor Kennedy said he felt the input from the College was helpful. He said the interchange is not settled. He feels the Board is in agreement to move forward to get the studies that are needed.

Alderman Sobol said we do need to have more dialogue; this is a divisive issue and he had hoped the meeting on May 5 would give some direction and alternatives for the citizens who are affected by the proposed interchange. Alderman Sobol said the people on Blue Ridge Road do not know what the plan is except that the Town is moving forward in supporting the interchange at Blue Ridge Road and hoping that there will be studies after it is funded, and hope it could be at 64 or at Blue Ride Road or at Lytle Cove. He thinks these are false assumptions.

Mayor Begley said five people on the Board understand that the best opportunity to study everything relevant to Black Mountain needing another interchange is when there is funding available. This does not mean that DOT has decided to spend the money and do the project. It means that funds are available to start the process. At that time we will be looking at all the alternatives and whether and how much the traffic numbers justify the interchange. At the stage funding is available, we will be able to look at the project contemplated at Blue Ridge Road, Lytle Cove Road, and all relevant information before the project is designed. It includes a significant amount of input from the public.

Alderman Sobol asked why the Town could not request a feasibility study now? Mayor Begley explained that a 19-vote group decides the projects which includes representatives from Henderson, Buncombe, and Haywood counties. If a feasibility study were requested, it would not be important as a regional issue and would not get the priority.

Mayor Begley asked the Board if they wanted to open the floor for comments from the public. The Board agreed to do so by consensus. The following citizens spoke in opposition to an interchange at Blue Ridge Road.

Bob Gunn, 109 Pleasant Drive, is concerned about the decision-making process.

Jay Quattromani, 5 Blue Ridge Assembly Drive, said when 30 people spoke against the interchange, the Board listened to four people who were in favor of the interchange.

Rhonda Cox, 6 Blue Ridge Assembly Drive, feels the Board does not listen to the citizens. The Board is defensive.

Ron Collins, 400 Blue Ridge Road, said he has contacted the State and was told there is money available for a feasibility study. He intends to follow up on this and would like the Board to pursue this also. He does not understand why the Board cannot ask for another study.

**IX. NEW BUSINESS**

**A. Consideration of Proposed Resolution Reserving Municipal Property at the Intersection of Broadway and the Norfolk-Southern Railroad Tracks for Future Train Station Location**

*Alderman Brown made a motion to approve the Resolution reserving the municipal property located adjacent to the Norfolk-Southern railroad right-of-way at its intersection with Broadway/N.C. Highway 9 for future use as a location for a passenger rail service depot in the Town of Black Mountain. After discussion, the motion passed with a vote of 5-0.*

**B. Review of Proposed Projects Potentially Eligible for Enhancement Grant Funding Through the North Carolina Department of Transportation (NCDOT)**

Mr. Caudle explained that the money for this grant program is designed to support projects that are oriented toward alternative transportation needs and the enhancement of existing transportation alternatives. He said this is federal grant money that is administered through the State. He said staff has listed six projects that may be eligible, and the Board needs to choose one project. Mr. Nalley reviewed the projects. *Vice Mayor Kennedy made a motion to pick one project to be submitted to the NCDOT for funding consideration under the NCDOT Enhancement Grant program. After further discussion, Vice Mayor Kennedy withdrew his motion. Alderman Brown made a motion to submit U.S. Highway 70 Sidewalk project as the first choice and the Flat Creek section of the Greenway System as the second choice. The motion passed with a vote of 5-0.*

**C. Consideration of Request to Obtain Authorization for Automobile Fee in Order to Subsidize Public Transportation**

*Vice Mayor Kennedy made a motion to authorize the Mayor and the Town Manager to approach the local state legislative delegation in pursuit of authority to levy an additional \$5.00 motor vehicle fee for the purpose of funding the local mass transit effort. The motion passed with a vote of 5-0.*

**XI. CLOSED SESSION - Alderman Sobol made a motion at 10:55 p.m. to go into Closed Session to discuss the following items:**

1. Prevent disclosure of information that is privileged under the law of the State of North Carolina or the United States.
2. Consult with the Town Attorney in order to preserve the attorney-client privilege.
3. Consider the conditions of appointment of the Town Manager.
4. Review of Property Negotiations

*The motion passed unanimously.*

**XII. ADJOURNMENT** - *On a motion by Alderman Sobol the Board returned to open session at 11:24 p.m. With no further business, Alderman Garrison made a motion to adjourn the meeting at 11:25 p.m. Approved unanimously.*

---

Wm. Michael Begley, Mayor

ATTEST

---

Anthony N. Caudle, Town Manager

---

Shirley J. Raines, Town Clerk