

**MINUTES OF THE TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN**  
**REGULAR SESSION MEETING**  
**May 14, 2007**

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**THE BLACK MOUNTAIN BOARD OF ALDERMEN** met in regular monthly session on Monday, May 14, 2007 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 Bartlett called the meeting to order at 6:00 p.m. with the following members present:

Mayor Carl R. Bartlett  
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  
David Ballard, Golf Pro/Manager  
Casey Conner, Interim Recreation Director  
Kevin Pressley, Police Chief  
John Shaw, Golf Course Superintendent  
Tim Rayburn, Fire Chief  
Elizabeth Teague, Planning Director  
Bob Watts, Public Works Director

Representing the media:

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

Mayor Bartlett led the Pledge of Allegiance, followed by prayer led by Mozelle Lynch, Preacher Steward, Thomas Chapel AME Zion Church, Black Mountain, NC.

Mayor Bartlett said the “Relay for Life” event to raise money for cancer research was held this past weekend. At this time he presented the Mayor’s “Big Dog Award” to Meredith Burpeau and Jackie Garrison for their work in making this event a success.

**II. CITIZEN COMMENTS**

Harry Hamil, 15 John Myra Avenue, requests that the Board, in their discussion of the Flood Damage Prevention Ordinance, be explicit in terms of the process they are going through. He said the Planning Board would like to know what they are supposed to be doing. Mr. Hamil said he is disappointed that no one on the Board approached either himself or a member of the Planning Board concerning their position as to why they are proposing certain things. Mr. Hamil agrees with the Board to increase the Planning Board membership from 5 to 7 as this will keep longevity on the Planning Board.

Doug Brock, 296 Old Lakey Gap Road, encourages the Board to pass only the regulations that are required in the Floodplain and Stormwater Ordinances and take time to evaluate the costs that are involved.

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

The minutes of April 5, 2007 - Agenda Workshop, April 16, 2007 – Regular Session, April 16, 2007 – Closed Session, April 23, 2007 – Special Meeting, April 23, 2007 – Closed Session were approved.

The agenda was amended with the following changes:

Under VI, Old Business, deferred item “B”, “Ordinance Regulating Special Events” to the June meeting.

Under VII, New Business, added item “C”.

Under VIII, Consent Agenda, added item “H”.

Under IX, Communications from the Town Manager, added item #6.

Under X, Committee/Board Reports, added item “A-2”.

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

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

A. Mayor Bartlett read a Proclamation proclaiming the month of May as “Older Americans Month”.

Renee Mastrangelo, Senior Center Director, reviewed the programs that are available to the seniors in the Town and encourages all Senior citizens to participate. Alderman Brown said there are also several citizens in Black Mountain that are 100 years or more and asked that these special people be remembered.

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

### **VI. OLD BUSINESS**

**A. Second Reading of Flood Damage Prevention Ordinance**

Town Manager, Tony Caudle, gave a summary of the Flood Damage Prevention Ordinance. He said the ordinance was passed at the April meeting by a vote of 3-2 but explained that the vote had to be adopted by a 4/5 majority on the date of introduction; otherwise, it requires a second reading before adoption. *After discussion, Alderman Brown made a motion to adopt the 2005 North Carolina Flood Damage Prevention Ordinance, which includes a freeboard height of two feet and eliminate “net fill zero” language; after the new Flood Insurance Rate Maps (FIRMs) are available, review the ordinance for any necessary changes, and have workshops to have input from the citizens. The motion passed with a vote of 4-1 with Vice Mayor Sobol opposed. Alderman White made a motion requesting that the Planning Board and staff look at increasing the freeboard height beyond the two feet just adopted and look at adding net fill zero provision after the Flood Insurance Rate Maps are received and make a recommendation to the Board. The motion passed with a vote of 5-0.*

**B. Second Reading of Ordinance Regulating Special Events**

This item deferred to the June meeting.

**C. PUBLIC HEARING for Consideration of Proposed Ordinance  
Regulation of and Assessment of Fees for the Cutting of Local Streets and  
Sidewalks**

Mayor Bartlett asked for Board comments.

Alderman McKeown asked if this amendment would take a lot of staff time. Mr. Caudle said it would not and the Town would not make a lot of money.

Mayor Bartlett then asked for public comment.

Harry Hamil, 15 John Myra Avenue, said if the ordinance includes all right of ways, not just pavement, anything done in the right of way would require a permit. He is concerned there has not been enough input. There was also some language about drip line of trees, etc. Mr. Hamil said he gardens in part of the right of way because he has a narrow street, and we rely on citizens to provide upkeep for right of way between the pavement and their house. A narrow reading would mean that the upkeep would be limited by this ordinance and he feels this is not the intention. He is concerned when there is not a public explanation of an ordinance like this. Mr. Hamil said this did not go to any committee, including the Planning Board.

Philip Bisesi, 15 Hy Vu Drive, said anyone cutting in right of way should have a permit.

*With no further discussion, Vice Mayor Sobol made a motion to adopt an ordinance to amend the Code of Ordinances for the Town of Black Mountain, Title IX, by revoking sections 100.10 through 100.14 and adopting new sections 100.10 through 100.14 to provide for permits and fees for cuts in public streets and sidewalks. The motion passed with a vote of 5-0.*

**D. PUBLIC HEARING and Possible Consideration for Stormwater Ordinance**

Elizabeth Teague, Planning Director, gave an introduction of the Stormwater Ordinance and gave a powerpoint presentation. She said the purpose of this ordinance is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing requirements and procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint and point source pollution associated with new development and redevelopment as well as illicit discharges into municipal stormwater systems. Proper management of construction-related and post development stormwater runoff will prevent surface water quality degradation to the extent practicable in the streams and lakes within Town jurisdiction. Ms. Teague said this ordinance seeks to meet the requirements of the Town's National Pollutant Discharge Elimination System (NPDES) Permit and its general purposes.

Ms. Teague said the State Law requires post-construction runoff controls for any development activity that cumulatively disturbs an acre or more of land. She noted that the Stormwater Advisory Group and the Planning Board are recommending that the Town consider governing smaller lots so that new development taking place within the Town as "in-fill" development or small subdivisions would also be encouraged to minimize their disturbance of land. The Town Planning Board settled on a threshold of 12,000 square feet. The goal with this threshold is to avoid putting additional costs on smaller residential, infill development and to encourage larger scale residential development to minimize their disturbance.

Ms. Teague said if we go with the state recommendation of one acre lot, we will only be capturing a small portion of the lots in Black Mountain to treat for stormwater. She said if the owner builds within the 12,000 square feet, they do not have to have a stormwater permit.

Mayor Bartlett opened the public hearing to the Board of Aldermen.

Alderman Phillips said she is concerned about utility fees. She would like to see the State minimum requirements adopted. Alderman Phillips said she thinks this will be very expensive.

Vice Mayor Sobol asked how do the State regulations for sedimentation relate back to 1" runoff? Ms. Teague said the sedimentation control deals with keeping sedimentation on site during construction. It does not address water runoff.

Vice Mayor Sobol said this process will get expensive for citizens.

Ms. Teague said only if someone cumulatively disturbs 12,000 square feet or more do they have to obtain a permit. She said the definitions are redevelopment and development. You only have to comply if you are increasing impervious surface or if you are making it more difficult for rain to filter into the ground.

Vice Mayor Sobol asked that staff get a copy of the Department of Transportation's stormwater permit.

Alderman Brown asked about exemptions.

Ms. Teague said commercial and residential development within the Town Historic District will be limited in what it can do given the build-out and architecture of the Historic

District. She said residential development or redevelopment that cumulatively disturbs less than 12,000 square feet and is not part of a larger common plan of development is exempt from this ordinance.

Alderman White said the whole purpose of this is to treat the stormwater before it gets in the streams.

Mayor Bartlett opened the public hearing to the audience.

Doug Brock, 296 Old Lakey Gap Road, said he is now in the construction business and prior to that, he worked in real estate. He said if an engineer is required to evaluate your property before building, this will cause costs to go up. He said he hesitates to say we need to implement more than what the State requires now prior to knowing the impact of what the State's requirements are going to do to costs. Mr. Brock said he does want clean water. He said the State is coming up with formulas they think are going to do a good job keeping the water clean. We are trying to add to this, and we do not know what will work. He said new technology and new ways of dealing with the environment will come into play in the future that will definitely be helpful

Alderman Brown asked what is wrong with passing the minimum State requirements. Alderman White said there are two reasons why we should do more than what the State requires. (1) – the topography is different in the mountains, it rains harder and faster in this area, and the water has to be handled differently; (2) it is easier to start off stricter and then loosen the rules.

Vice Mayor Sobol said only new development coming forward will be affected and we have a good idea on how to try to encourage proper control measures. He said we may be enacting stormwater regulations without having to adopt this ordinance. Ms. Teague said the State mandates that we have to adopt a local ordinance governing stormwater.

Philip Bisesi, 15 Hy Vu Drive, said the Town should require comprehensive planning up front with contractors to implement proper stormwater controls.

Bob Gunn, 109 Pleasant Drive, said there seems to have been a lot of effort and work on the part of the task force in regard to the stormwater regulations. He said if the cutoff is one acre, it leaves a large number of small lots not affected and large lots would be more like mansions. He said we should not be concerned about the cost impact on larger lots. He would like to see low cost housing. He agrees we do need some measures to prevent another "Goodson Cove" situation.

Harry Hamil, 15 John Myra Avenue, Chair of the Planning Board, hopes the Board does not pass the ordinance tonight. He said the Planning Board has not finished reviewing the ordinance. Mr. Hamil made the following points: (1) The Town of Black Mountain gets all of its water from ground water. He asked if the Town has monitored the level of ground water? He said if we do not do something, it will get lower and lower; (2) A total of approximately 4,500 lots in Black Mountain, largely developed with the exception of The Settings. We are talking about a small number of lots that will be affected. We need to coordinate this ordinance with land use; (3) The goal is to keep things from getting worse, not to make everything better; (4) Hopes the Board will give direction to the Planning Board and bring back the ordinance at the June meeting.

Vice Mayor Sobol said he appreciates all the time spent on this ordinance. He said if we pass an ordinance, we need to educate the public, and also partner with the Department of Transportation.

Alderman Brown said we should take the minimum requirements now to avoid paying fines and let the Planning Board come back later with recommendations.

Alderman White said these same discussions being held tonight have been held with the study groups. She said none of these issues have been ignored.

The Board came to a consensus to defer this item to the June meeting.

**XI. CITIZEN COMMENTS** – (at 8:00 p.m. if all preceding items on the agenda have not been finished by then)

Marilyn Sobanski, representing Rainbow Recycling, asked the Board to consider placing at least six recycling bins in the downtown area.

**VI. OLD BUSINESS (continued)**

**E. PUBLIC HEARING to Consider Debt Issuance for Construction of McCoy Cove and Blue Ridge Road Sewer Lines**

Bo Ferguson, Assistant Town Manager, explained that this public hearing is required by the Local Government Commission as a precursor to granting approval for debt issuance for the construction of the McCoy Cove Road and Blue Ridge Road sewer lines. He said this approval is required before the debt can be issued. Mr. Ferguson said the maximum debt being considered is \$800,000, though staff anticipates less will be needed to complete the project.

**F. Selection of Consultant to Prepare Lake Tomahawk Pool and Clubhouse Master Plan**

*Vice Mayor Sobol made a motion to select the firm of Haden Stanziale to prepare Lake Tomahawk Pool and Clubhouse Master Plan, and direct staff to negotiate a price and scope of service to begin the planning process. The motion passed with a vote of 5-0.*

**VII. NEW BUSINESS**

**A. Recommended Changes to the Town's Boards' and Commissions' Manual from the Town Planning Board**

*Alderman Brown made a motion to adopt text changes to the Town's Boards and Commissions' Manual to allow newly appointed members of Boards who are appointed to fulfill un-expired terms to vote on issues as soon as they are appointed as opposed to waiting until the following month. The motion passed with a vote of 5-0.*

**B. Adoption of a Capital Project Ordinance for Construction of Annexation Sewer Lines**

Bo Ferguson, Assistant Town Manager, explained that adoption of this ordinance does not change the nature or costs of the projects previously approved by the Board of Aldermen; it removes the projects from the annual budget and sets up a separate accounting mechanism for the projects. He said this accounting tool allows us to span the two budget years that it is going to take to complete this project. *Vice Mayor Sobol made a motion to adopt a Capital Project Ordinance for Annexation Sewer Line Construction as presented. The motion passed with a vote of 5-0.*

**C. Request to Amend Personnel Policy Manual to Allow for the Employment of Immediate Relatives within the Same Department**

Mr. Caudle said our current policies prohibit the employment of immediate family members within the same department. He said staff is requesting that the policy be revised to accommodate an exception when the Manager believes that such employment will be in the best interest of the Town. *Alderman Brown made a motion to amend the Town of Black Mountain Personnel Policy Manual by adopting the revisions to Section 8, "Limitations of Employment of Relatives". The motion passed with a vote of 5-0.*

**VIII. CONSENT AGENDA**

- A. Adoption of the Minutes  
*Motion: To adopt the minutes of April 5, 2007 - Agenda Workshop, April 16, 2007 – Regular Session, April 16, 2007 – Closed Session, April 23, 2007 – Special Meeting, April 23, 2007 – Closed Session*
- B. Adoption of Budget Amendment #17  
*Motion: To adopt Budget Amendment #17 as submitted*
- C. **CALL FOR PUBLIC HEARING** on Proposed Fiscal Year 2007-2008 Annual Budget for the Town of Black Mountain  
*Motion: To call for a public hearing on the Recommended Budget for Fiscal Year 2007-2008 on Monday, June 11, 2007 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*
- D. Municipal Enhancement Agreement for US Highway 70 Construction  
*Motion: To approve the Resolution to enter into the Enhancement Agreement with the North Carolina Department of Transportation to construct a sidewalk from Old US 70 to Blue Ridge Road and to authorize the Mayor to sign the agreement on the behalf of the Town*
- E. Appointment of Town Representative to the Trail Advisory Committee to the National Park Service's Rivers, Trails and Conservation Assistance (RTCA) Program  
*Motion: To appoint a designee to represent the Town on the Trail Advisory Committee to the National Park Service's Rivers, Trails and Conservation Assistance Program*
- F. Amend Capital Project Ordinance – Water System Improvements Grant Project  
*Motion: To adopt Resolution amending Capital Project Ordinance – Water System Improvements Grant Project to reflect actual expenditures*
- G. Increase of the Planning Board Membership from 5 to 7 Citizens

*Motion: To adopt an ordinance to amend the Code of Ordinances for the Town of Black Mountain, North Carolina, Title III, Chapter 31.21 to enlarge the membership of the Planning Board*

H. Resolution Declaring a Vehicle as Surplus Property

*Motion: To adopt Resolution declaring a 1989 Ford Ranger as surplus property, and directing staff to sell the vehicle via electronic auction*

**IX. COMMUNICATIONS FROM THE TOWN MANAGER**

**A. Review of Consent Agenda**

**B. Projects Update**

**1. Relocation of Bus Stop from Current Location at Old Depot Update –**

Bo Ferguson, Assistant Town Manager, reported that he did not hear from the private owner regarding the relocation of the bus stop. He said he would meet with Asheville Transit and Mountain Mobility to find a suitable location. Alderman Brown noted that she feels this issue has been misrepresented. She said she has talked with the merchants and only one merchant was in favor of moving the bus stop. Alderman Brown would like staff to talk with Bruce Black with Asheville Transit to see if the drivers are experiencing any problems.

**2. Fire Department Report –** Chief Rayburn reported that the Department

of Insurance inspection is scheduled for June 25. He said his department is working hard to prepare for this inspection. Chief Rayburn noted that the car that was washed down river during the 2004 flooding surfaced this past week. He said he is working with the owner's insurance company to get the car removed. Chief Rayburn said that Universal Studios contacted the Fire Department to obtain permission to use the 1926 fire truck in a movie being filmed in Statesville.

He said two staff members transported the truck to Statesville last Thursday and returned the next day. Chief Rayburn then presented the April 2007 report for the Fire Department.

**3. Police Department Report –** Chief Kevin Pressley presented the April 2007 report for the Police Department.

**4. Skateboard Ordinance Modifications –** Mr. Caudle reported that at the last meeting, the Board directed staff to bring back recommendations for areas where skateboarding could be allowed within the Town. After discussion, the Board asked that staff look into the cost of constructing a skateboard park.

**5. Proposed Budget 2007-2008 Presented to Board –** Mr. Caudle reported that the proposed FY 2007-2008 budget has been presented to the Board. At this time, the Board scheduled budget workshops for May 17 and May 30, 2007.

**6. Corridor Study Update –** Mr. Caudle reported that the Corridor Study update will be completed at the end of the calendar year and will show reference to Blue Ridge Road interchange removed.

**C. Town Hall Day – Wednesday, May 9, 2007 report –** Mr. Caudle reported that Mayor Bartlett and Assistant Town Manager, Bo Ferguson, accompanied him to Town Hall Day in Raleigh on Wednesday, May 9. He said they were able to meet with Senator Nesbitt who is sponsoring the bill to give the Town of Black Mountain employees the opportunity to go with the State medical insurance. He said they did not get to meet for very long with Rep. Goforth, but overall, the trip was very productive.

**X. COMMITTEE/BOARD REPORTS**

**A. Board/Committee Appointments**

1. **Greenways Commission – (1) opening to fill** – *Alderman Brown made a motion to appoint Dottie Shuman to the Greenways Commission. The motion failed with a vote of 2-3 with Aldermen McKeown, Phillips, and Sobol voting against. Vice Mayor Sobol made a motion to appoint Diana McCall to the Greenways Commission. The motion passed with a vote of 3-2 with Aldermen Brown and White voting against.*

**B. “Litter Sweep” Report** – Alderman White reported that April 21, 2007 was designated as an area-wide cleanup day in Black Mountain. She said a total of 22 people participated in the cleanup.

**XII. CLOSED SESSION** – *Alderman White made a motion to go into Closed Session at 9:00 p.m. to consult with Town Attorney as permitted in NCGS 143-318.11(3) and discuss real property acquisition as permitted in NCGS 143-318.11(5). Motion approved unanimously.*

**XIII. ADJOURNMENT** - *With no further business, Alderman McKeown made a motion to adjourn the meeting at 9:20 p.m. The motion passed with a 5-0 vote.*

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Carl R. Bartlett, Mayor

ATTEST

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Anthony N. Caudle, Town Manager

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Shirley J. Raines, CMC, Town Clerk