

**MINUTES OF THE TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN**  
**REGULAR SESSION MEETING**  
**December 8, 2008**

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**THE BLACK MOUNTAIN BOARD OF ALDERMEN** met in regular monthly session on Monday, December 8, 2008 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 Ruth D. Brandon  
Alderman Joan Brown  
Alderman Chuck McKeown  
Alderman Rosalie Phillips

The following staff members were present:

Marcia D. Onieal, Town Manager  
Ron Sneed, Town Attorney  
Shirley Raines, Town Clerk  
Pam Hoen, Customer Service Representative  
Craig Bannerman, Deputy Fire Chief  
Kevin Pressley, Police Chief  
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 and prayer.

Mayor Bartlett thanked everyone in attendance and expressed appreciation to all those who were attending for the first time and also the viewing audience. He said that the monthly meeting is shown on Government Channel 2 at 8:00 p.m. on Thursday following the monthly meeting and at 9:00 a.m. on Saturday and Sunday following the monthly meeting. Citizens can also go to the Town website and click on "Town Board Video Stream" at any time and view the current Board meeting.

## II. CITIZEN COMMENTS

Terry McElrath, 218 Padgettown Road, Chair, Recreation Commission, thanked the Board of Aldermen for support of the PARTF grant and encouraged the board to adopt the funding package for construction of a new pool for children and adults in the community.

## III. COMMUNICATIONS FROM THE MAYOR

### A. Proclamation Honoring Charlie Arnett – 50 Year Veteran of the Fire Department

Mayor Bartlett recognized Mr. Charles Arnett for 50 years of volunteer service to the Black Mountain Fire Department.

### B. Proclamation Honoring Owen High School Cross Country Team

Mayor Bartlett recognized Coach Joe Hyder and the Owen High School Cross Country Team, winners of the 2-A state title, for their outstanding 2008 cross country season. Mayor Bartlett presented team members with Big Dog ball caps.

Mayor Bartlett commended the Chamber of Commerce and Business to Business for Holly Jolly and the Christmas Parade.

## IV. COMMUNICATIONS FROM THE TOWN ATTORNEY - None

## V. CONSENT AGENDA

### A. Adoption of the Minutes

*Motion: To adopt the minutes of November 6, 2008 – Agenda Session, November 10, 2008 - Regular Session*

### B. Scheduled List of Board of Aldermen Agenda Meetings and Regular Session Meetings for 2009

*Motion: To adopt the scheduled list of Board of Aldermen Agenda Meetings and Regular Session Meetings for 2009*

### C. Authorization to Apply for a 2009 Recreational Trails Program Grant from the Department of Environment and Natural Resources

*Motion: To authorize the Town Manager to apply for the 2009 Recreation Trails Grant*

### D. **CALL FOR PUBLIC HEARING** and Consideration of Resolution of Intent to Close an Unopened Right-of-Way Between 15 Brooks Cove Road and 9 Brooks Cove Road

*Motion: To adopt the Resolution of Intent to close an unopened right-of-way and to call for a public hearing on this matter on Monday, January 12, 2009 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, Black Mountain, NC*

- E. FY 2007 Assistance to Firefighters Grant Project Ordinance Amendment  
*Motion: To adopt the Grant project Ordinance as amended*
- F. Grant Project Ordinance Amendment – NCWTFC FIT Grant Initiative  
*Motion: To adopt Grant Project Ordinance NC Health and Wellness Trust Fund Commission FIT Initiative Grant as submitted*

*The agenda was approved unanimously on a motion by Alderman Brown.*

## **VI. NEW BUSINESS**

- A. Presentation of Annual Audit for FY07-08

Marcy Onieal, Town Manager introduced Rick Hammer from the firm of Lowdermilk Church & Company, L.L.P. to present the annual audit for FY 07-08.

Mr. Hammer informed the board that the audit has been submitted and approved by the Local Government Commission. He reviewed the financial highlights for the year, stating that the town is in good financial standing.

Vice Mayor Sobol asked if the total assets were broken down on land in the water fund for Dunsmore Cove. Mr Hammer responded the total value of land in the water fund was \$140,200. Vice Mayor Sobol noted that figure represented the price of the land at purchase and he wanted the citizens to know that the land value was more than \$140,200. Vice Mayor Sobol confirmed with Bob Watts, Pubic Works Director that the watershed comprises 425 acres.

Mr. Hammer stated that a compliance audit had also been completed on state grants and there were no findings on any of the items tested.

Ms. Onieal asked Mr. Hammer to elaborate on legal requirements for maintaining fund balance and the Local Government Commission's recommendations for maintaining fund balance on the basis of a town's population, budget and debt load. Mr. Hammer explained that the LGC groups towns by population and reviews respective fund balances as a percentage of operating budget. When a jurisdiction's fund balance falls below the average level of its "peer" or population group, the LGC will send out a warning letter. The statutory minimum fund balance for all towns in North Carolina is eight percent of annual operating budget, or one month's worth of expenditures. Alderman McKeown asked Mr. Hammer what the Town of Black Mountain's fund balance percentage is. Mr. Hammer answered thirty four percent, or about four months of operating expenditures. Ms. Onieal stated that the average fund balance for the Town's peer group stands at approximately 62% and that the Town had received notification from the LGC that the Town was dropping somewhat lower than their peer group. Ms. Onieal stated the Town is not yet in a position of jeopardy, but is maintaining a lower level of reserves than comparable jurisdictions, noting that the Town's adopted policy requires a minimum fund balance level of 30.5% of available budget. Vice Mayor Sobol asked Ms. Onieal if she had information on the Town's amount of debt compared to the peer group. She stated that information was available on the state treasurer's website. Vice Mayor Sobol stated that he felt

the Town of Black Mountain was one of the least indebted towns. He asked Mr. Hammer what the town's total debt was for the general fund. Mr. Hammer responded around \$839,000.00 for installment purchases and capitalized leases.

Alderman Brandon asked Mr. Hammer if the board could receive the report sooner next year where the aldermen would have time to review it before the presentation. Mr. Hammer explained the delay was due to the new requirement that the LGC approve the audit before it could be distributed publicly, but in the future, they could move the presentation out a month. Alderman Brown agreed that in the future that it would be helpful to postpone the presentation to the January meeting to give the aldermen more time to review the report.

Ms. Onieal recognized Sherry Williams, Deputy Finance Officer for her tremendous effort and contributions toward preparing for the audit.

*With no further discussion Alderman Brown made a motion to accept FY07-08 Audit as presented. The motion passed unanimously.*

## **VII. OLD BUSINESS**

### **A. Award Financing Proposal – Black Mountain Pool and Lake Tomahawk Park Project**

Marcy Onieal, Town Manager explained that the Town's 50% match for the \$1 million PARTF proposal, which will result in improvements to the Lake Tomahawk Park and Pool is to be provided through conventional financing. Ms. Onieal stated that the town had solicited requests for proposals to borrow \$500,000 over a 15-year term, receiving two competitive bids. BB&T offered the most competitive rate at 3.91%, with an annual payback of \$44,000. Ms. Onieal noted that construction bids had been solicited, but that the town was seeking the Board's approval strictly on the financing package, in order to meet approval deadlines and requirements of the Local Government Commission, whose permission is required before local governments may borrow money.

Alderman Brown stated that she was pleased with BB&T's interest rate. She also said that the entire project, the walking trail, the bathrooms, and the pool improvements were reviewed and commented on by the citizens through meetings that were held at Lake Tomahawk. Alderman Brown expressed concern about the amount of debt to do this project considering the state of the economy and how this will look to the citizens. She said the board discussed in the agenda meeting the possibility of delaying the pool project for a year, stating that the town has up to three years to do the project without losing the grant. Alderman Brown asked Ms. Onieal to explain the loss that would be involved. Ms. Onieal stated that the town had already spent between \$40,000 to \$45,000 on the master plan, project engineering, and the construction bid process. She explained that if the town moves forward with the project that 50% of the amount already spent would be reimbursed by the grant, but that none of that amount would be reimbursed until the construction project had started and the town proceeded with the grant project. Ms. Onieal said that in order for the town to delay the project, the town would have to absorb the amount already spent thus far in the current fiscal year, half of which was not budgeted for and repeat some of this process and expense again next year. Alderman Brown

stated that she wanted to go on record as saying that she is 100% behind the proposal that the contractors have presented for the Lake Tomahawk project, but she is just uneasy about going ahead with it at this time.

Alderman Brandon stated that she was not concerned about going ahead with the project because the pool had been band-aided and the project had been put off numerous times. Ms. Brandon stated that taxes would not have to be raised for this project so she is in favor to go ahead with the pool project.

Alderman McKeown asked if the finance proposal is passed, is the Board obligated to the project. Ms. Onieal stated that even if the financing package is approved, the town would not proceed to borrow money if the Board chooses at a later date not to pursue the construction contract. Alderman McKeown stated that he had the same concerns as Alderman Brown. Alderman McKeown stated that he felt the economy has gotten bad very quickly, and that the Board should wait one more year to see if things improve. He stated his biggest concerns were to be able to pay for town staff and essential basic services. Alderman McKeown stated he is going to vote for this proposal but may vote against awarding the construction bid. Vice Mayor Sobol stated he had no problem voting for the proposal by BB&T and to give it another month or two to see if the town could afford the project or not. Vice Mayor Sobol stated that things needed to be discussed due to changes. He stated that when this project first came up they were talking about renovations of the pool and now a new pool is being proposed. Ms. Onieal stated that this would come back up in the January 2009 meeting for the award of the contract for construction to start by February 1, 2009 to guarantee opening of the pool at the beginning of the summer season. She stated the Board could stretch that out as long as they desired but that a new pool would not be able to open for the summer season unless construction begins by February. Alderman Brown stated this could be put on the agenda for the retreat to look at some of the concerns that had been discussed.

Alderman Phillips asked Ms. Onieal if the sales tax revenue was decreasing and if so by what percentage. Ms. Onieal stated that area local governments had expected to see a decrease in sales tax revenue by as much as 10% over the course of the next two years, but that first quarter sales tax receipts for the current fiscal year so far are down by less than 1%. Alderman Brandon stated that from what she is seeing from the business standpoint, there is not a decrease in sales. Mayor Bartlett stated if Swannanoa incorporates that would also have a big impact on the town's sales tax revenue because Swannanoa would be sharing the county sales tax.

*With no further discussion, Alderman Brown made a motion to award the financing proposal as recommended by the Town Manager. The motion passed with a vote of 5-0.*

Alderman Brown asked to go ahead and set a date for the retreat in January. Ms. Onieal stated the agenda meeting could be incorporated into the retreat. The date was set for January 8, 2009 at 9:00 a.m.

Vice Mayor Sobol discussed the economic stimulus package that would be going to Congress. He explained that the MSD Board has been working with the National Association of Clean Water Agencies (NACWA) in Washington, DC. He stated they are trying to get a Clean

Water Trust Fund set up, but at the same time they are trying to make sure that the sewer groups of America, with NACWA speaking for them, would be at the table when the stimulus package does actually get to Congress. He said a meeting was held recently with part of the President-Elect's transition team to discuss how big the package would be and what percentage would be for infrastructure. He stated they are trying to push towards ten billion dollars to be included that would then go to the states in the form of grants for just sewers. Vice Mayor Sobol stated he had discussions with Ms. Onieal, and they had sent from MSD up to Washington the sewer project on Blue Ridge Road and Avena Road, which will cost the Town over \$2 million to construct. He stated they had asked for that to be included in the package should this be passed in what comes back to the state. He said he understood that Congress wants projects ready to go in 120 days. He stated he felt the pool project and also the possibility of upgrades to Carver Community Center should be included in the request. He said that in the next two months an engineer could draw up plans to renovate Carver if the Board chooses to do so. He stated the town needs to move in the next four to six weeks and that other departments may have issues they would like to include. Mayor Bartlett stated there are two projects that are ready to go, the pool and the sewer lines. Ms. Onieal stated she would be keeping up with what the provisions of the stimulus package would be and expected more detailed information to be available sometime after the presidential inauguration. Vice Mayor Sobol said he wanted to make sure the Town's projects are sent to the NC League of Municipalities for inclusion on a list of shovel-ready projects.. Ms. Onieal acknowledged that these two projects are truly shovel-ready, and requested specific direction from the board with regard to committing additional unbudgeted monies at this time in order to get other unscheduled projects ready per Mr. Sobol's request. Alderman Brown said she thought the town should go ahead with the request for the two projects but the others should be discussed at the retreat. Alderman McKeown stated they would need an idea of the amount of money needed. Vice Mayor Sobol asked that Ms. Onieal to check with some engineers to get an idea of how much it would cost.

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

### **A. Projects Update**

**1. Sewer Extensions** – Ms. Onieal reported the town's consulting engineer had confirmed final easements are in place for McCoy Cove Road, Avena Road, and Blue Ridge Road, and that with the exception of funding, physically and logistically the projects are ready to go. Ms. Onieal stated that she had just become aware this week that the annexation from seventeen years ago actually involved five areas and that it was her understanding that in addition to the three areas already mentioned, sewer extensions were completed in the Camp Branch/Lakey Gap area and that the area of Highland Farms/Cragmont remains unserved and unplanned for presently. She said she had not received any information or direction from the board, but wanted to make sure that the board was aware there was a fourth section that was part of the annexation agreement, where sewer lines had been promised but never extended; this will need to be addressed in the future. Aldermen McKeown asked where the location was. Ms. Onieal said it was north and east of Highland Farms in the Cragmont Road vicinity, noting that easements had not been obtained nor has any design/engineering work been done in this area.

**2. Town Hall Renovation** – Ms. Onieal reported that the Town Hall project is still on schedule and on budget, with relocation tentatively scheduled for the last week of January 2009. She reported that installation of geothermal wells for a high efficiency HVAC system is underway, and that the Beautification Committee and Urban Forestry Commission had been consulted about salvaging plants and trees from the current site for transplanting at the new site. She also reported that an improved and more versatile telephone system would utilize voice over internet protocol, which will allow the town to increase the number of digital pathways available, while reducing the number of copper lines, thus providing better service at a lower cost. She also stated this change will provide for improved automation, more flexible features and a central Town phone number, but will require a change in individual phone numbers and office extensions. Ms. Onieal requested the Board of Aldermen consider closing all operations except for emergency services for the several days needed to move from town hall to the new building since the town will be moving itself and will utilize the services of all employees in order to expedite the move, and keep service disruption to a minimum.

Ms. Onieal noted that Northwest Property Group, which will take over the entire block bounded by State Street, Montreat Road, Midland Avenue and Honeycutt Street once town offices have been relocated, has not submitted plans or pulled permits for the site, though demolition of all existing buildings may commence as early as spring, 2009.

**3. Manager's Monthly Report** – Ms. Onieal reported that the written manager's report is an effort to improve communication with the Board of Aldermen, and beginning with the change of schedule in February would receive the report in advance with the agenda packet. Ms. Onieal reviewed the Town Hall Renovation Project budget recap in the report and offered to take the Aldermen on a tour of the facility. Mayor Bartlett asked about the money for furnishings for the new town hall. Ms. Onieal stated in the original budget there is a very small allocation for incidental furnishings but those funds have not yet been committed, just to make sure necessities are covered first. Mayor Bartlett asked Ms. Onieal if she felt the project was on target. Ms. Onieal stated the Town Hall project has been a tight project, both from a budgetary standpoint and scheduling standpoint, but that she was extremely pleased with the progress Rafferty Construction has made. Ms. Onieal said there likely will be some unfinished items and a healthy punchlist by January 31<sup>st</sup> but nothing that should prevent the town from receiving a Certificate of Occupancy by the planned deadline. Vice Mayor Sobol requested that sometime in the future after moving in to the new town hall he would like for AWD, who did the geothermal wells, to give a quick PowerPoint to share with the public what geothermal wells are and how they work.

Ms. Onieal reviewed the Monthly Water Report. Mayor Bartlett asked if the auditor found any discrepancies regarding the Black Mountain-Montreat water exchange. Ms. Onieal stated the report is not something the auditor reviews because there has generally been no financial transaction associated with the water exchange, but that staff had accurately tracked exchange figures back to 1999, which is as far back as the town's software has electronic records, noting that during that time, Black Mountain has provided the Town of Montreat approximately 12 million gallons of water, while Montreat has returned to Black Mountain approximately 9 million gallons. Ms. Onieal stated the old water agreement between Black Mountain and Montreat is vague at best and has not been consistently interpreted over the years,

as staffs in both communities have turned over. She has spoken with Montreat's Town Administrator, Ron Nalley, about presenting to both town boards a revised agreement that would continue to encourage mutually beneficial exchange while providing clear parameters under what conditions water and/or payment for water is exchanged between the two towns. Mayor Bartlett, and Aldermen Brandon and Brown all agreed this needs to be addressed.

Alderman Brandon questioned the status of the Myers/Edney project on State Street at the current town hall site, asking if the board could limit the height of the building. She said that Mr. Edney had stated at a previous meeting he would not put in anything that was three stories high. Ms. Onieal stated the board had not placed any deed restrictions on the land during the property exchange, noting that current zoning guidelines would restrict the height of any face of the building to an average of 40 feet per facing side.

## **IX. COMMITTEE/BOARD REPORTS**

Vice Mayor Sobol stated he would like to discuss the hiring freeze so that everyone could be clear on the matter with the economy situation. Ms. Onieal stated that the last direction she had received from the board was that there was to be no hiring freeze at this time, noting that the two positions currently open had been advertised, and finalists had been interviewed. She reported that the Leadership Team had discussed a hiring freeze along with many other options to prepare for a potential budgetary gap, with the understanding that the Board and Leadership Team would address the economy and budgetary challenges as part of the joint retreat being planned in January around the topic of establishing program and service priorities. Ms. Onieal reminded the board of its previous discussion regarding the importance of the role of the Finance Director in having staff dedicated to providing the board the kind of information it regularly needs to make prudent decisions. Alderman Phillips stated she had understood that Ms. Onieal was in the process of offering the finance director position to someone. Ms. Onieal stated the position had been offered and accepted but for personal reasons unrelated to the economy or the job itself, the individual had to withdraw so therefore the position had been re-advertised. A large number of applications were received for the re-advertised position and the staff is ready to interview finalists again. Vice Mayor Sobol asked what the second position is. Ms. Onieal responded that it is a part-time grant-funded position working through the Parks & Recreation Department. Alderman McKeown stated he is not in favor of freezing the finance director position but is in favor of freezing everything else until the Board could figure out where they are.

*Alderman Brown made a motion to freeze all jobs until the retreat in January. The motion was defeated with Aldermen Brandon, Phillips, Sobol and McKeown opposed.*

*Alderman McKeown made a motion to freeze all jobs except the finance director position. The motion passed with a vote of 4-1, with Alderman Brown opposed.*

**X. CITIZEN COMMENTS** – (at 8:00 p.m. if all preceding items on the agenda have not been finished by then)  
None

**XI. ADJOURNMENT**

*With no further business, Alderman McKeown made a motion to adjourn at 7:25 p.m. The motion passed with a vote of 5-0.*

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Carl R. Bartlett, Mayor

ATTEST

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Marcia D. Onieal, Town Manager

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Shirley J. Raines, CMC, Town Clerk