

MINUTES OF THE TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REGULAR SESSION MEETING
October 6, 2008

THE BLACK MOUNTAIN BOARD OF ALDERMEN met in regular monthly session on Monday, October 6, 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
Steve Jones, Fire Chief
Jim Orr, Recreation Director
Kevin Pressley, Police 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 Pastor Mike Siemen, Bee Tree Christian Church, Swannanoa, NC.

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 - None

III. ADOPTION OF THE AGENDA

The minutes of September 4, 2008 – Agenda Workshop, September 4, 2008 – Closed Session, September 8, 2008 - Regular Session were approved.

Due to the light agenda there was no agenda meeting for the month of October.

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

IV. COMMUNICATIONS FROM THE MAYOR

Mayor Bartlett informed citizens that the Swannanoa Valley Muesum started their fund raising campaign this week and wished them success during this process.

Mayor Bartlett thanked Rep. Goforth, Sen. Nesbitt, the Governor’s office and gas distributors for their help during the gas crunch.

V. COMMUNICATIONS FROM TOWN ATTORNEY – None

VI. OLD BUSINESS

A. Update on McGill Flow Study on Flood Insurance Rate Maps (FIRMs)

Town Manager, Marcy Onieal, introduced Jonathan Heald, Engineer with McGill Associates. Mr. Heald reported the results of the hydrology study that the board requested at the September meeting. He stated that inconsistencies within the maps still remain, but that data would have to be corresponding to a specific flood event to be useful in refuting the state’s predicted flows during a future flood event. Mr. Heald stated that after conducting their study, the findings were that they substantially agree with the discharge rate as reported in the 2007 FIS on the Swannanoa River. Mr. Heald confirmed that the state numbers reflected in these areas were accurate and advised the town not to spend additional funds on engineering services for flood map study.

Vice Mayor Sobol noted that residents have voiced concerns about the levels reflected in the 2007 state flood map draft in relation to the 2004 flood. Planning Director, Elizabeth Teague, reported that not enough verifiable data from the 2004 flood was available for state mapping officials to use in creating the 2007 maps.

Vice Mayor Sobol made a motion for the Town Manager to direct the Planning Director to get verifiable data and documentation from those residents and report back at the November meeting. (Withdrew motion.)

Alderman Brown said she does not think that these residents can give us verifiable and accurate data at this point.

After discussion, Vice Mayor Sobol withdrew his motion but requested by staff direction for the Planning Director to obtain data from those residents and report back at the November meeting.

After discussion, Alderman Brown made a motion to suspend work on any further efforts to produce independent discharge data to challenge the Flood Insurance Study (FIS), including money and staff work.

Alderman Phillips asked if the staff is still to obtain verifiable data from certain residents? Mayor Bartlett replied yes.

Mr. Heald said he feels there are two separate issues. (1) He said as part of the work for the town McGill Associates has developed a hydraulic model to look specifically at the discharge rates and what he thinks Alderman Brown is saying is to stop working on that issue. (2) Mr. Heald said the other issues on the table in response to what the state has just sent out, he believes the board still wants McGill Associates to continue to work with the town on the other parts of the study that have been paid for. Alderman Brown agreed. *The motion passed with a vote of 4-1, with Alderman Sobol opposed.*

B. Resolution of Support for Revised Rail Study Crossing Recommendations

Alderman Brown made a motion to adopt the Resolution of Support for Revised Rail Study Crossing Recommendations as presented.

Alderman McKeown asked what had been left on the study and what had been taken off. Town Manager, Marcy Onieal, responded that nothing had been taken off. She explained that the level of support had been revised for the three items that were requested. (1) The support of Broadway and NC Highway 9 for proposed improvements including accommodating median separators, curbing, better sidewalks, etc. (2) The Board is not in favor of closing Black Mountain Avenue, but suggested closing of that crossing be reevaluated closer to time when rail passenger service is a legitimate possibility. (3) Blue Ridge Road would be endorsing some design and possible change.

Alderman Brandon asked if the railroad could close that area anyway if they wished. Elizabeth Teague, Planning Director, responded that she didn't think they could. She stated that actual feasibility of passenger rail has yet to be determined. Once passenger rail is reinstated, the issue would be looked at again.

Ms. Teague stated that environmental studies would be done on the Blue Ridge Road area and the railroad would get back to the town. Alderman McKeown stated that it was ridiculous for the railroad to even talk about this area when the land at Goldmont Street off of Hwy. 70 was high enough that you could bridge the railroad there rather than build the monstrosity that would start at the creek and go 200 yards beyond. Ms. Teague stated what the

federal government requires is a NEPA process. They would have to come up with three alternates and choose the least impactful version.

Vice Mayor Sobol stated that he was in favor of Broadway and Black Mountain Avenue but not in favor of Blue Ridge Road. Ms. Onieal stated that the resolution actually says that Black Mountain will encourage land development that is harmonious with the development of the Salisbury-Asheville corridor for future freight and passenger rail options and does not address that specifically.

Mayor Bartlett questioned the section of the resolution that stated that the Municipality of Black Mountain will continue to work with NCDOT to reduce the number of at-grade crossings to the minimum number possible along the Salisbury-Asheville corridor through the transportation planning process.

Alderman Phillips asked what is the status of the crossings at Ingle's Warehouse and the former Blue Ridge Broadcasting. Ms. Teague stated that what the railroad and NCDOT has asked Ingle's to do is to relocate the main entrance to Ingle's to Grovestone Road and create a four-way stop. Ingle's would like to close the area at the former Blue Ridge Broadcasting as a formal entrance. The town has asked that they keep it informal to allow access for emergency vehicles as an additional access if for some reason the entrance at Grovestone was closed off.

Ms. Teague stated that five locations were mentioned in this study and three came back that they still wanted to work on.

Alderman McKeown asked what the downside on not voting for this at all was and he also questioned who had done this study. Ms. Teague responded that a group called Gannett Fleming, Inc. performed the study and was hired by the state rail division.

With no further discussion, the motion was defeated with a vote of 1-4, with Aldermen Brandon, McKeown, Phillips and Vice Mayor Sobol opposed.

VII. NEW BUSINESS – None

VIII. COMMUNICATIONS FROM THE TOWN MANAGER

A. Review of the Consent Agenda

B. Projects Update

1. Town Hall Renovations – Ms. Onieal stated that contracts were signed and delivered last week for the new Town Hall. Rafferty Construction, Inc. has started work this week along with electricians and HVAC. She also complimented the Public Works department on the sidewalk project. Ms. Onieal explained that after research on moving the existing vault door to the new building as per the board request, it was determined that it is not a practical option at this point. The door is not needed for fire protection. The fee just to prepare the site

for that door was approximately \$12,000 - \$15,000. She recommends we stay on track with current plan.

2. Gas Crisis – Ms. Onieal thanked citizens for their patience during the gas shortage. Ms. Onieal explained the town services were not affected by the crisis as the town has our own fuel facility and was able to continue to receive deliveries during this time. She also stated departments did cut back, such as the police department using bicycles and walking. Ms. Onieal explained that the shortage may still be spotty and that some measures have been authorized if the shortage happens again, such as office staff could work remotely if it becomes a necessity and opportunities for carpooling are available for out of town employees who are critical to be onsite. Ms. Onieal stated she feels the town is prepared and hopes the shortage does not happen again.

3. Recognitions – Ms. Onieal informed the citizens and the Board that Craig Bannerman, Deputy Fire Chief has been appointed to the Local Government Advisory Council for the State Employees Credit Union. Ms. Onieal recognized Bob Watts, Public Works Director who was honored with the Paul Harris award by the Black Mountain Rotary Club for his service to the local community as well as his contributions to the international service and work of Rotary International throughout the world. Ms. Onieal also said a letter was received from Gary Hamrick with Progress Energy commending Dan Cordell, Building Inspector, for the great job he is doing in the community.

4. Fit Communities – Ms. Onieal stated that UNC-TV is featuring Black Mountain in a program that is currently airing on Public TV through the rest of October on designated Fit Communities in North Carolina. Ms. Onieal recognized the Recreation Department staff and community volunteers for their work on this project.

C. Departmental Reports

- **Water** – None

- **Fire** – Steve Jones, Fire Chief, invited the Board of Aldermen to the Black Mountain Primary School on Tuesday, October 7, 2008 where Black Mountain Fire Department along with Skyland Fire Department Characterization Team would be performing three clown shows at 8:00 a.m., 10:00 a.m. and 1:30 p.m. to kick off Fire Prevention Week. He also invited the Aldermen and public to the Fire Department Open House on Sunday, October 12, 2008 from 2:00 to 4:00 p.m. He also stated that the police department would have activities set up as well.

- **Police** – None

- **Recreation** – None

IX. CONSENT AGENDA

A. Adoption of the Minutes

Motion: To adopt the minutes of September 4, 2008 – Agenda Workshop, September 4, 2008 - Closed Session, September 8, 2008 – Regular Session

B. Budget Amendment #06

Motion: To adopt Budget Amendment #06 as submitted authorizing the allocation of insurance proceeds, controlled substance tax, and fund balance appropriated

- C. Budget Amendment #07
Motion: To adopt Budget Amendment #07 as submitted authorizing the allocation of \$6,500 from contingency funds to the contract service line item in the Planning Department for the analysis of the Flat Creek and Swannanoa Headwaters
- D. Declare Certain Property as Surplus
Motion: To approve a Chevrolet Brush Truck and a Chevrolet King Cab as surplus and sell on GovDeals and sell used water meters as scrap brass
- E. Designation of Voting Delegate to the North Carolina League of Municipalities Annual Business Meeting
Motion: To appoint Mayor Carl R. Bartlett as the Town of Black Mountain's Voting Delegate to the North Carolina League of Municipalities 2008 Annual Business Meeting to be held on Tuesday, October 14, 2008 at 8:30 a.m. in the Charlotte Convention Center and to designate Alderman Rosalie Phillips as the alternate Voting Delegate to that same meeting
- F. Resolution Authorizing the Filing of an Application for Approval of a Financing Agreement Authorized by NC General Statute 160A-20
Motion: To adopt the Resolution authorizing the filing of an application for approval of a financing agreement authorized by NC General Statute 160A-20 as submitted
- G. Appointment of Town Attorney
Motion: To secure the services of the law firm of Ronald E. Sneed, P.A. to fulfill the duties of Town Attorney as required by NCGS 160A-173
- H. **CALL FOR PUBLIC HEARING** Authorizing the Filing of an Application for approval of a Finance Agreement Authorized by NCGS 160A-20 for the Black Mountain Pool Renovation Project
Motion: To call for a public hearing to be held on Monday, November 10, 2008 at 6 p.m. or as soon thereafter as possible, in the meeting room of the Public Safety Building, 106 Montreat Road, Black Mountain, NC, authorizing the filing of an application for approval of a financing agreement as required under NC General Statute 160A-20 for renovations to the Black Mountain pool.

X. COMMITTEE/BOARD REPORTS

Alderman Brown discussed the Hand-In-Hand program that involves local churches in the valley. She explained how the program is designed to provide local schools with supplies and funds for children that are at or near poverty level. She stated that by doing various fund raisers and with additional donations, Hand-In-Hand has raised more than \$10,000 in 12 months and distributed to schools in this valley. Alderman Brown commended everyone involved with the Hand-In-Hand program for their hard work. She also invited the citizens to attend a Hot Dog Supper fund raiser for the Hand-In-Hand program to be held on Friday, October 10, 2008 at 5:00 p.m. in the lot between Black Mountain Methodist Church and Harwood Funeral Home. Alderman Brown also stated that citizens could donate any school supplies, diapers, money, etc. to any church in the Swannanoa Valley and they would be distributed locally to the schools.

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, asked if any member of the Board was willing to make a motion to suspend the rules so that he could have a dialog for a few minutes about the issue of flood maps.

Vice Mayor Sobol made a motion to allow Mr. Hamil five minutes to have dialog with the board to discuss the flood maps. The motion passed with a vote of 4-1, with Alderman Brown opposed.

Mr. Hamil said he may have to ask questions of the consultant in order to get an answer to his question. He said it seems there are several things missing. He said he has reviewed all the responses from the State. He sent a letter to the Planning Director pointing out matters raised by him and that there was no response from the State. There was a fifth matter regarding the size of the throat on the railroad trestle. Mr. Hamil asked Mr. Heald that without the matter of the size of the throat, is there any way to know whether or not the State's study is correct?

Mr. Heald said the question goes back to: Is the geometry in the state's model accurate? He said McGill was hired to review the flood insurance maps for the Town and did not go into that type of detail. We did not have the hydraulic model to look at all the openings and geometries. He cannot answer whether or not the size of the throat or any other opening is accurate. It is a legitimate question that could be asked. He explained that he understands that in the protest and appeals process that all issues need to be brought forward initially. Mr. Hamil asked Mr. Heald if he can figure out whether or not the map is correct if you do not know whether or not they have the right opening. Mr. Heald said hypothetically, yes, they can if they have a hydraulic model and have time they can go back and verify every opening, cross section, etc. Mr. Hamil explained he had asked the question verbally of the Town with no response ever received. He said without that information, it is impossible to effectively dispute the state's study because he does not know what they used. He said a Greenways study has measured this, so the numbers are available. It is less than 6 weeks before the deadline, and what he has been asking for since January, he still does not have and cannot make an effective argument against the state. He said the point of getting as much data as possible from the 2004 storm is that McGill could then put it in the HMS model like they put in the data before. It is not whether it comes out exactly; he thinks it will generate a significantly higher discharge.

Bob Watts, Public Works Director, stated that when trying to calculate the amount of water that flows through the trestle, you are dealing with an intensity, not an overall duration. He said in order to calculate how much water went through the trestle, you are talking about how hard did it rain in an hour. You can have all these buckets, but it does not tell you the intensity of the peak of the storm.

Mr. Heald agreed with Mr. Watts that you are looking at intensity during the duration of the storm and also agreed with Mr. Hamil that you could have a number of rainfall gauges producing a lot of numbers.

Mr. Hamil stated a federal weather station was set up in Black Mountain and the curve of the storm is also important. Mr. Hamil thanked the board for allowing him to speak.

XII. CLOSED SESSION

Vice Mayor Sobol made a motion to enter into closed session at 7:10 p.m. to discuss personnel in accordance with NCGS 143-318.11(a)(6). The motion passed unanimously.

XIII. ADJOURNMENT

With no further business, Alderman McKeown made a motion to adjourn at 9:00 p.m. The motion passed with a vote of 5-0.

Carl R. Bartlett, Mayor

ATTEST

Marcia D. Onieal, Town Manager

Shirley J. Raines, CMC, Town Clerk