

MINUTES OF THE TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REGULAR SESSION MEETING
May 18, 2009

THE BLACK MOUNTAIN BOARD OF ALDERMEN met in regular monthly session on Monday, May 18, 2009 at 6:00 p.m. in the meeting room of Town Hall, 160 Midland Avenue, Black Mountain, NC.

I. CALL TO ORDER, PLEDGE OF ALLEGIANCE, PRAYER

Vice Mayor Sobol called the meeting to order at 6:00 p.m. with the following members present:

Mayor Carl R. Bartlett – arrived at 6:30 p.m.
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 and Parks Director
Steve Padgett, Police Lieutenant
Kevin Pressley, Police Chief
Rick Shreve, Finance Director
Elizabeth Teague, Planning Director
Bob Watts, Public Works Director
Sherry Williams, Deputy Finance Officer

Representing the media:

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

Vice Mayor Sobol led the Pledge of Allegiance, followed by prayer led by Rev. David Rayburn, Pastor, First Baptist Church, Black Mountain, NC.

Vice Mayor Sobol 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

weekly viewing times of monthly Board meetings are shown on Government Channel 2 at 8:00 p.m. on Friday, at 2:00 p.m. on Saturday, and at 8:00 p.m. on Sunday. The current meeting is shown weekly throughout the month. Citizens can also go to the Town website and click on “Town Board Video Stream” at any time and view the current Board meeting. Vice Mayor Sobol noted that beginning in the month of July, the Board of Aldermen Regular Session meeting will be held on the second Monday of each month with the Agenda meeting held the Thursday prior to the second Monday.

II. CITIZEN COMMENTS

Marilyn Sobanski, Rainbow Recycling, stated that she had concerns with Black Mountain’s representation in the Buncombe County Solid Waste Management Plan. Ms. Sobanski stated she felt that Black Mountain has taken the lead with the public recycling bins and feels that this should be included in the Solid Waste Plan along with the Computer Recycling Event, and the leaf pile. She stated that Rainbow Recycling should also be mentioned as the grassroots group which provides recycling education, since the County mentions Quality Forward.

Buzz Yeatman, 1120 Montreat Road, member of the Planning Board, stated that business within the Town of Black Mountain will not survive if the beauty of the area is degraded. Mr. Yeatman stated the public should be notified of the existing ordinance regarding dumpster screening as it stands and be given 30 days from the notice that the ordinance will be enforced. If citizens do not comply, they should be fined or penalized. Mr. Yeatman said that by taking the current ordinance away, the board would be telling the businesses that have already complied that they have wasted their money. Mr. Yeatman stated he does not feel that taking away this ordinance is in the best interest of the Town of Black Mountain. He said that one year ago the Planning Board unanimously recommended there be no change to the screening ordinance. He said at the last Planning Board meeting, this issue was discussed, and the vote was 6-1 in favor of keeping the dumpster screening ordinance as is.

Matt McMath, Swannanoa, said he feels the sign for the new Sherwin Williams store, located on U.S. 70, is too large. He requested that the sign ordinance be reviewed and the Board consider reducing the size of signs.

III. COMMUNICATIONS FROM THE MAYOR

A. Committee/Board Vacancies: Vice Mayor Sobol reminded the citizens that new appointments to the Boards and Commissions will take place at the June meeting. He said there are vacancies on the following boards: ABC Board, Zoning Board of Adjustment, Greenways Commission, Historic Preservation Commission, Housing Commission, Planning Board, Recreation Commission – to be appointed at the June meeting. Vice Mayor Sobol said those citizens who are interested in serving on any of these boards should stop by Town Hall and complete an application or download from the website.

B. Report from Town Hall Day – Raleigh – Vice Mayor Sobol reported that Mayor Bartlett and Town Manager Marcy Onieal attended Town Hall Day in Raleigh on

May 6. He said this is a yearly event when officials meet with the legislators and discuss issues of interest to local governments.

Vice Mayor Sobol invited the public to attend the Tourism Development Authority “Town Meeting” on Wednesday, May 20th at 5:00 p.m. at the Black Mountain Library.

Vice Mayor Sobol reported that Rainbow Recycling will show video presentations on “The Story of Stuff” and “Trash” on May 22 & a documentary, entitled “11th Hour”, by actor Leonardo DiCaprio, on May 30, 2009, beginning at 7 p.m. at the Library.

Vice Mayor Sobol stated that beginning in July, the Board of Aldermen meetings will return to the old schedule. The Regular Board of Aldermen meeting will be at 6:00 p.m. on the second Monday of the month with the agenda meeting on the preceding Thursday at 5:00 p.m.

Vice Mayor Sobol announced that Andy Grabel, reporter for the Black Mountain News, has announced that he has accepted a position in Washington, DC with CBS radio. Vice Mayor Sobol thanked him for the good job he has done in reporting the Town news.

IV. COMMUNICATIONS FROM THE TOWN ATTORNEY

Mr. Sneed reported that The Settings has arranged for private financing and the property taxes will be paid.

V. CONSENT AGENDA

A. Adoption of the Minutes

To adopt the minutes of January 8, 2009 – Board and Staff Retreat, April 6, 2009 – Special Meeting, April 6, 2009 – Closed Session, April 13, 2009 – Agenda Session, April 13, 2009 – Closed Session, April 20, 2009 - Regular Session, April 20, 2009 - Closed Session

B. Budget Amendment #13

Motion: To adopt budget amendment #13 to allocate \$500 for expenses incurred for the Mt. Mitchell Marathon and \$1,144 for receipt of insurance funds to repair the windshield on the 2004 KME Pumper

The agenda was amended at the Agenda Meeting on May 11, 2009 with the following changes:

Under VII, New Business, added the following items:

“D” - Proposed Agreement with MSD for Maintenance and Control of Sewer Line Extensions During Period of Financing;

“E” - Authorization to Re-Stripe Parking Lot at Black Mountain Methodist Church, 101 Church Street;

“F” - Resolution in support of NCDOT’s Continued Funding of the Transit Services Connecting Black Mountain with the City of Asheville.

With these changes the agenda was approved unanimously on a motion by Alderman Brown.

VI. OLD BUSINESS

A. PUBLIC HEARING for Water Shortage Response Plan

Bob Watts, Public Works Director, said the State of North Carolina requires any town providing public water services to adopt a Water Shortage Response Plan which must be revised and amended as necessary every five years. He said in March 2009 the Town was notified by NCDENR that the Town's initial Water Shortage Plan, as adopted in August 2008, did not fully comply with state requirements. Mr. Watts said the following changes were requested by the state: (1) addition of a statement of protocol which outlines the conditions under which a variance from the plan may be granted; (2) addition of a statement providing for regular review and revision of the policy as necessary; (3) addition of provision for public comment; (4) more clearly defined triggers for each stage of shortage response. He said the Plan has been approved by the state and after public comment may be adopted by the Board.

Vice Mayor Sobol opened the public hearing.

With no public comments, Vice Mayor Sobol closed the public hearing.

Alderman Brown said that she hopes the Town will not be faced with a drought like it has in the last few years and encourages the citizens to continue to conserve our water. *Alderman Brown made a motion to approve the Resolution and Water Shortage Response Plan as presented. The motion passed with a vote of 5-0.*

B. PUBLIC HEARING to Consider Text Amendment to Strike Requirement for Screening within Zoning District Regulations (Paragraph L2 of Sections 153.073 – 153.077)

Vice Mayor Sobol opened the public hearing.

Marcy Onieal, Town Manager, noted that Mike Belky, 378 North Fork Road, submitted a letter to be included in the minutes, opposing the removal of screening requirements from dumpsters.

Alderman Brown stated she received a letter from Leila Cox, 9 Silver Place, Mountain Brook Village, which was also signed by other residents in Mountain Brook Village, stating they are not in favor of removing the dumpster screening requirements.

Elaine Loutzenheiser, 410 Avena Road, said the Planning Board has reviewed the ordinance for the screening requirements for dumpsters last year and their recommendation was not to remove the screening requirements. She said she hopes the Board will not remove the screening requirements from the ordinance.

Ray Lamm, 103 Border Street, agreed that the Board should not remove the screening for the dumpsters. He said he does not understand why some people do not want the screening.

Buzz Yeatman, 1120 Montreat Road, member of the Planning Board, encouraged the Board not to remove the screening requirements for the dumpsters. He read Section 153-073, paragraph L-2 from the ordinance.

Matt McMath, Swannanoa, said a contractor should be contacted to see if he would want a job screening all the dumpsters in Black Mountain.

With no further public comments, Vice Mayor Sobol closed the public hearing.

Alderman Brown said she appreciates all the public comment tonight. She said the Town should comply with the ordinance and screen the Town dumpsters. Alderman Brown said when citizens elect officials, they are elected to serve the citizens and not promote personal agendas. She feels that sometimes the Board does not live up to its responsibilities. She said the issue with the dumpster screening needs to be resolved and leave the ordinance in place.

Alderman Brandon said she appreciates the work the Planning Board puts forth on issues. She said when the Board appoints members to the committees, the Board should listen to their recommendations.

Alderman McKeown stated that his recommendation is to remove the screening in the commercial districts but not the historic district. Alderman McKeown showed slides of pictures he had taken of dumpsters throughout Black Mountain. He said it is impossible to screen some dumpster sites. Alderman McKeown noted problems with compliance such as gates being left open or in disrepair and trash being thrown outside the screen because the dumpsters are locked. He stated that some of the low profile dumpsters are less intrusive than some of the wooden structures. Alderman McKeown explained he felt this was an expense that is hard on business owners in Black Mountain. Alderman McKeown stated he would rather see a dumpster than 90% of the screen, mainly because he thinks the dumpsters look better than most of the screen.

Alderman Phillips asked Town Manager, Marcy Onieal the cost to screen the cardboard recycling dumpsters. Ms. Onieal replied a quick survey of four vendors yielded estimates ranging from \$2,500 to \$8,000, for a 10' x 20' gated screen, with materials ranging from chain link with privacy slats, to solid board, to brick.

Alderman Brown stated that Rebecca Eberhardt, Zoning Administrator, had inspected 315 businesses within Town limits finding 197 business without dumpsters, 50 with screened dumpsters and 68 with unscreened dumpsters and not in compliance with the current ordinance.

Vice Mayor Sobol stated that loading areas and accessory storage buildings need to be addressed as well as the dumpster issues.

Buzz Yeatman, Planning Board, addressed the loading areas and storage buildings and read paragraph one in the Zoning Ordinance which states "where a commercial use abuts a non-

commercial use, not just where a commercial use abuts a commercial use”. He said in the Industrial District, businesses do not have to screen their dumpster if one industry is next to another industry. Mr. Yeatman said the Planning Board did take up this issue with the view of the storage buildings and loading areas, but it was discussed with paragraph one in context with the whole code. He said someone remarked that some of these businesses will have to construct a 35’ high fence. The code says “to put an opaque fence or a wall 6’ high”. Mr. Yeatman said you can see through an opaque fence, but it is better than no fence. He noted that evergreen vegetation of acceptable density is acceptable. He mentioned that some businesses that were polled that do not have screening could easily not be required to have screening because of the wording of the whole code. Mr. Yeatman asks the Board not to send this request back to the Planning Board because it has been discussed at length and feels certain the Planning Board will make the same recommendation.

Elizabeth Teague, Planning Director, reviewed screening in the Light Industrial District (I-1). She said the Planning Board is reviewing this section as part of the Land Use Code update. Ms. Teague said enforcement has been a problem, and the Planning Department tries to work with the business owner to meet the screening requirements.

Ms. Brandon asked how the comprehensive plan addressed this. Ms. Teague stated there are two parts of the comprehensive plan to be considered. One is the statement for protection of gateways and creating visible entrances into Town. She said one of the ordinances discussed in the Land Use Code to address this is the US 70 overlay. Ms. Teague stated US 70 is a major thoroughfare into town, with an interstate exit on one end and connection to Swannanoa on the other. With the US 70 overlay as proposed, screening of dumpsters is included. Ms. Teague said the US 70 overlay extends the length of US 70 through town except for the C-1 business district. Ms. Teague stated the Historic Preservation Commission also reviewed the dumpster screening issue because dumpsters downtown have created a problem. With dumpsters screened in some of the small alleyways, it is very difficult for the trucks to maneuver and screening structures can cause problems with parking and safety issues. Ms. Teague stated they have tried to work with these business owners and as long as the dumpster is in a back alley and in a discreet place, they have not pushed the screening ordinance. However, when a dumpster is visible from a public right of way or adjacent property, the businesses are technically out of compliance and again, staff is trying to work with individual business owners on a case by case basis.

Ms. Teague said the Planning Board was asked to look at the ordinance to remove dumpster screening requirements in zoning districts under the current ordinance and did not talk about nuances among districts and what may be appropriate in different districts, i.e., conditional use permits. She said a majority vote by the Planning Board was not to remove screening requirements for dumpsters in the zoning districts. She said there seems to be clear support for screening at some level in key areas. Ms. Teague hopes we can find middle ground.

Mayor Bartlett asked Ms. Teague the penalty for non-compliance. Ms. Teague responded there is a requirement that the Town pursue penalties under state statutes. Under state statute the Town is granted either civil penalties or criminal penalties. She said under loading and screening ordinance requirements, it is not exactly clear whether or not the Town can just

issue fines. She said in the Land Use Codes when you talk about the importance of changing to a civil penalty option, it is clearly stated at the beginning of the zoning ordinance. Ms. Teague said the Planning Board would like to give people a thirty-day notice, and if compliance is not met, issue a fine up to \$50.00 per day, each day being a separate offense up to \$500.00, before pursuing other penalties. Ms. Teague noted that the department has currently been issuing notices of violation and trying to work with people to address the situation. She said no fines have been issued.

After discussion, the Board agreed to table consideration of the text amendment and refer the item back to the Planning Board/Planning Department for further review and to address these issues:

- Set clear civil penalties;
- Set specific areas to be screened;
- Remove the loading area provisions;
- Address grease dumpsters and be specific.

Alderman Phillips asked where the Town cardboard dumpsters will be placed and whether they will be screened. Vice Mayor Sobol suggested using the public parking lot by SunTrust Bank. Bob Watts, Public Works Director, reminded the Board that a slab would have to be poured for placement of the dumpsters and garbage trucks would damage the lot as it is only gravel and road bond. A question was raised about the deed restriction that the lot could only be used for parking. Mr. Sneed advised that as long as the parking spaces are replaced in another area, the lot could be utilized for other purposes. Ms. Onieal stated if it is the Board's desire to relocate and screen the cardboard dumpsters, staff can certainly do so. Mayor Bartlett said he hoped the placement of dumpsters is already being considered, as the public wants the cardboard dumpsters to be permanent, and asked Ms. Onieal to address this issue.

VII. NEW BUSINESS

The Board agreed that Item "F" is to be the first item under New Business.

F. Resolution in Support of NCDOT's Continued Funding of the Transit Services Connecting Black Mountain with the City of Asheville

Town Manager, Marcy Onieal, said that the Asheville Transit Route 28 and Mountain Mobility Black Mountain Trailblazer Service have provided a vital transportation alternative for Town residents and that ridership has steadily increased since the inception of the service. Ms. Onieal said the Town has been notified by Asheville Transit that these services may no longer be eligible for current funding sources after November 1, 2009. She has requested involvement by all participating partners including the French Broad MPO to work with state and federal transportation officials to see that the service is not discontinued in Black Mountain and between Asheville and Black Mountain, noting that ridership has increased to 60,000 riders per year between the two services.

Ms. Onieal then introduced Ms. Heather Strassberger with the French Broad Metropolitan Planning Organization (MPO).

Ms. Strassberger said the transit route is a great concern for the people in Black Mountain. She is asking that the Board approve the resolution to support NCDOT's continued funding of the transit services connecting Black Mountain with the City of Asheville.

Vice Mayor Sobol requested that staff at the MPO study a possible partnership between a private/public entity to provide a transportation route to Black Mountain.

Alderman Phillips asked Ms. Strassberger for an update on the funding for the park and ride lot on exit 65 and how the loss of bus service would impact that project. Ms. Strassberger said she does not think there has been discussion relating the two subjects.

After discussion, Alderman Brown made a motion to support NCDOT's continued funding of Asheville Transit Route 28 and Mountain Mobility's Black Mountain Trailblazer connecting Black Mountain with the City of Asheville; to forward a request for support to all transit partners and interested parties; and to encourage the involvement of the French Broad MPO as lead partner in efforts to retain this service by asking the MPO to adopt a similar resolution by the MPO-TCC/TAC. The motion passed with a vote of 5-0.

A. Buncombe County Solid Waste Management Plan

Marcy Onieal, Town Manager explained this is a 10-year countywide plan that requires an update every 3 years, and adoption by any participating jurisdiction which has not adopted a separate plan.

Vice Mayor Sobol stated that Marilyn Sobanski with Rainbow Recycling made some good points during the public comment time earlier in the meeting.

Ms. Sobanski stated that the intended action plan should include placement of public recycling bins in all Parks and Recreation areas. Ms. Sobanski also expressed a need for a drop-off services center on this end of the county, noting she has heard from people with limited storage, who find the bi-weekly recycling pickup in Black Mountain to be too infrequent.

Vice Mayor Sobol asked about the deadline for adopting the plan. Ms. Onieal said that Buncombe County has held a series of public hearings throughout the county on this issue starting in March and that the deadline for adoption was in June. She stated the town has staff representation on the plan revision task force and agreed that Ms. Sobanski had made excellent points.

Vice Mayor Sobol stated he would like to see this tabled and brought back with the suggested changes.

Aldermen McKeown asked if Buncombe County has already passed this plan. Pam Hoen, Customer Service Representative, explained that she is unsure if Buncombe County had actually passed the plan at this time. Ms. Hoen stated that she was unsure of the deadline for adoption of the plan but would call and see if these proposed changes could be added. Vice

Mayor Sobol stated the Board would be meeting several times in the next few weeks on budget and if the revisions can be made, the Board could approve the plan at their next meeting.

Mayor Bartlett clarified with Ms. Sobanski what items should be included in the plan. Ms. Sobanski stated the Computer Recycling Event with funding possible, and public recycling bins in the Parks and Recreation areas, a drop-off center in the area. Ms. Sobanski stated that with the expense of a drop-off center, there is an alternative to have a one-day drop-off once or twice a month. She stated this would be more economically feasible for the county. She stated her point in bringing up Rainbow Recycling was not to pat themselves on the back but feels they do an incredible amount of education and outreach that town staff does not have time to do.

Elaine Loutzenheiser asked who sponsored the paper shredding that was held recently. Ms. Sobanski responded that it was sponsored by the UPS store.

Mayor Bartlett asked Ms. Sobanski if what she wanted was that we support public recycling bins in our parks, a computer recycling event, a desire for a drop-off center on a monthly or bi-monthly basis, and a local grassroots group helping to educate residents. He said this could be added to the resolution and the Board could make a motion to approve it as presented.

Vice Mayor Sobol made a motion to approve the Resolution as presented and to amend the plan as noted. The motion passed with a vote of 5-0.

B. ABC Commission Member Request for Free Golf Privileges for ABC Store Employees at Black Mountain Golf Course

The Board removed this item from the agenda.

C. Fiscal Year 2009-2010 Budget Presentation

Town Manager Marcy Onieal introduced the proposed budget, noting that staff is recommending a balanced budget, based on the parameters and directives provided by the Board of Aldermen during their January retreat and in subsequent communications with the Manager over the past several months as follows:

- no increase in the property tax rate
- maintain same level of services
- balance budget without eliminating employee positions

She stated that revenues have been projected conservatively using the best available information to date, but warned that the current economic crisis and continued uncertainty about the state's budget situation and its potential impact on local governments make planning for FY09-10 far more unpredictable and precarious than usual. Staff has proposed balancing this budget with \$300,000 in fund balance as a one-time emergency approach but acknowledged the potential need for more sweeping adjustments should current conditions fail to rebound within 6-12 months.

Rick Shreve, Finance Director, presented an overview of the FY 2009-2010 budget and reviewed highlights of each fund. He announced the first budget workshop is scheduled for Monday, June 1, 2009 at 8:30 a.m. in the Public Safety Building and is open to the public.

Marcy Onieal, Town Manager, recognized the Rick Shreve and Sherry Williams, and the entire leadership team for their long and diligent work on the budget preparations.

Mayor Bartlett asked Rick Shreve what the projected return to the fund balance would be in the current year, after all estimated revenues and expenditures had been accounted for. Mr. Shreve stated that figure would be about \$55,000. Mayor Bartlett responded that is a considerable difference from prior years.

Mayor Bartlett stated that Ms. Onieal has previously stated that department heads were looking at reducing expenses and asked how that had worked out. Ms. Onieal stated reductions were occurring in every department. She stated the personnel and operating expenditures were being held in every department to the same level as the current year. She said capital expenditures on facilities and equipment have been reduced across the board. Ms. Onieal stated it is difficult to find significant cuts in a budget that is so labor intensive without also affecting the level of services being provided.

D. Proposed Agreement with Metropolitan Sewerage District (MSD) for Maintenance and Control of Sewer Line Extensions During Period of Financing

Town Attorney, Ron Sneed, said that if the Town chooses to finance the construction of sewer line extensions, generally referred to as the Blue Ridge Road project, the Cragmont Road project, the McCoy Cove Road project and the Avena Road project, the Town must retain ownership of the lines through the term of financing. He said MSD has agreed to take over maintenance, control, and service of such lines until the loans for their construction are paid off. Mr. Sneed asked that the Board approve the agreement with MSD.

Vice Mayor Sobol made a motion to approve the agreement with MSD for MSD to maintain and control the sewer lines and easements to be constructed, with conveyance of such lines and easements to MSD to occur when all debt for the construction of such lines is paid in full. The motion passed with a vote of 5-0.

E. Authorization to Re-Stripe Parking Lot at Black Mountain Methodist Church, 101 Church Street

Alderman Brown made a motion to approve payment of \$350 for the striping of the Black Mountain United Methodist Church parking lot in return for use of the lot for municipal parking; and to authorize the town manager to negotiate and enter into a lease agreement with the church to formalize this agreement as a demonstration of public purpose.

VIII. COMMUNICATIONS FROM THE TOWN MANAGER

Ms. Onieal gave an update on stimulus funding. She stated a total of fifteen applications have been submitted by the town with none of the applications funded during round one of the American Recovery Reinvestment Act. Ms. Onieal stated all of the applications are being considered in round two.

Ms. Onieal recognized and commended Steve Jones, Fire Chief, upon his completion of the year-long City County Administration Certification Course through the School of Government at UNC-Chapel Hill.

Alderman Phillips stated there is a problem with visibility and lack of a stop sign at Rhododendron Avenue and Ninth Street. Bob Watts, Public Works Director, stated that Rhododendron Avenue is a state road but he would address the issue.

Alderman Phillips stated there is a property owner who has not mowed his yard and it was also a problem last year. She asked how this was addressed last year. Elizabeth Teague, Planning Director, responded that she would check into it if Ms. Phillips would give her the address.

Alderman Phillips asked if smoking is allowed at Lake Tomahawk Park. Jim Orr, Recreation and Parks Director, stated that there is no restriction because it is outside and the only outside restriction they have is the playing surface at the Little League ball fields. He stated this does not cover the bleacher areas. Mr. Orr stated he would talk to the town attorney, Ron Sneed to see if there is some way to ban smoking in certain areas at outside facilities.

Mayor Bartlett offered condolences to the family of Bernie Stines, former employee at Lakeview Center. Mr. Stines passed away last week. Mayor Bartlett also reported that Detective Lee Ribley's mother passed away recently. He asked that those families be remembered in prayer.

Mayor Bartlett reported that Detective David McDonald, a 15-year employee of the Town, retired in March. He wished David good luck in his retirement.

IX. COMMITTEE/BOARD REPORTS

A. MSD Capital Projects Report - Vice Mayor Sobol said he would give the MSD report next month due to the lateness of the meeting.

B. Alderman Brown reported that the "Litter Sweep" day held on Saturday, May 2nd was a huge success. She stated 37 participants worked a total of 406 hours picking up 252 bags of trash.

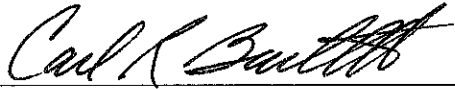
X. CITIZEN COMMENTS – (at 8:00 p.m. if all preceding items on the agenda have not been finished by then)

Phil Bisesi, 15 Hi View Drive, would like to see the parks segregated for smokers and non-smokers. Mr. Bisesi announced a symposium on global warming would be held on Wednesday, May 20th in downtown Asheville and is open to the public.

XI. CLOSED SESSION – *Vice Mayor Sobol made a motion to go into Closed Session at 8:45 p.m. to discuss personnel as permitted in NCGS 143-318.11(a)(6). Motion approved unanimously.*

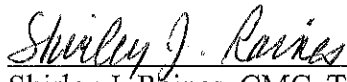
XII. ADJOURNMENT

With no further business, Alderman McKeown made a motion to adjourn at 9:15 p.m. The motion passed unanimously.



Carl R. Bartlett, Mayor

ATTEST



Shirley J. Raines, CMC, Town Clerk



Marcia D. Onieal, Town Manager

5.18.09

To whom it may concern,

I am unable to be available to be at the town review meeting on May 18, 2009 regarding the dumpster enclosure ordinance, however I would like to have my opinion entered into the meeting minutes.

At the property line of my backyard there is an unsightly dumpster located in front of the #12 unit at the Kent Street apartments in Black Mountain. The attached photo is my typical weekly view of it from my back yard. Due to this visual blight I would like to go on record as wanting to keep the existing ordinance as it is, and that the ordinance begin to be enforced.

The Town obviously felt the need to create the ordinance as it presently reads, so regardless of the fact that the ordinance is now considered an annoyance and that the Town itself has been out of compliance on it, and regardless of the fact that some businesses have complained about the cost of compliance for them, the ordinance was obviously created after the Pro's and Con's were discussed and now the compliance issues associated with it must be adhered to by everyone affected, including the Town itself.

The Town needs to get into compliance with its own ordinance and enforce it relative to residences and businesses (it's called a cost-of-doing-business). The statement by Alderman Sobol that "the lack of ordinance enforcement doesn't look good, and the ordinance did not accomplish what the Town thought it would" is using a verbal smokescreen to mask the real issue: the ordinance did not accomplish much because no one enforced it. The failure is with the enforcement aspect of it, and the Town is obligated to the taxpayers to begin to enforce it, rather than consigning the ordinance to the nearest dumpster.

The FDA has a useful method that allows for a case-by-case resolution for non-compliance to regulations.

When the FDA cites a medical device company for non-compliance to regulations, the company has 30 days to present its own timeline plan for compliance. This allows for a case-by-case resolution to correct the deficiencies since the company cited creates its own compliance timeline. Each company is then held accountable to the terms of its own compliance plan and is required to submit monthly progress reports to the FDA. Failure to achieve the submitted plan by the due date committed to is then dealt with by daily FDA fines until the plan is achieved. The company's cost and grief associated with the failure to achieve its own plan is always much more than achieving it according to plan to comply with the ordinance.

Thank you,


Mike Velky
378 North Fork Road



March 5, 2008

ATTENTION: BLACK MOUNTAIN BOARD OF ALDERMEN

Joan Brown, Mike Sobel, Rosalee Phillips, Ruth Brandon, Chuck McKeown, Carl Bartlett

Dear Aldermen:

I was distressed to learn from today's paper that the Black Mountain Board of Aldermen is considering a change to the text amendment that would allow non-screening of dumpsters in the industrial and commercial district. It concerns me that enough laws are not enforced to prevent more trash from being visible to the public. The dumpsters often are overflowing and not only visible at the site but wind blows it away from the dumpster site and it goes off into a ditch or into the streets or into residents homes. Also, it allows birds to come to the sites and scatters the trash. Rather than relaxing the law about screening, I think tougher laws need to be passed about trash and the cleanup of our city. The Zoning and Planning Director need to see that these laws are enforced.

I often walk in our city and am distressed over and over again about the amount of trash cluttering the streets, alleyways and ditches. Trash is often tucked behind fences and visible to the public.

The Beautification Committee occasionally tries to pick up litter but it cannot do it alone. We need laws to be enforced to try to protect the city from litter. This committee seeks to make the town beautiful by planting flowers in public access areas and the town needs to help keep it beautiful by keeping litter out of the beds and other public places.

Black Mountain is a beautiful town and can only be improved by assisting to keep the litter contained. Please do all you can to assist in keeping the town as clean as possible.

I will be out of the city at the next Board of Aldermen meeting, and want you to know of my concern. Thank you for your attention to these concerns.

Sincerely,

Leila Cox

Leila Cox
9 Silver Place
Black Mountain, NC 28711
Phone: 669-2755

We, listed below, join Leila in requesting attention to these concerns:

Name	Address
<i>Margaret Neville</i>	<i>8 Silver Place</i>
<i>James M Nobles</i>	<i>1 Silver Place</i>
<i>Virginia R. Noble</i>	<i>1 Silver Place</i>

Miller

Joyce Fong 13 Silver Place
Fraggy Woods 6 Silver Pl.
Betty Lee 7 Silver Place
Peter Lee 7 Silver Place -
Zean Gettys 28 Cotton Creek Circle

3-5-08
Leila Cox
letter