

MINUTES OF THE TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REGULAR SESSION MEETING
April 20, 2009

THE BLACK MOUNTAIN BOARD OF ALDERMEN met in regular monthly session on Monday, April 20, 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

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
Jim Orr, Recreation and Parks Director
Steve Padgett, Police Lieutenant
Rick Shreve, Finance Director
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 Rev. Steve Rayburn, Pastor, First Baptist 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 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.

II. CITIZEN COMMENTS

Tom Woertz, 1162 Old US 70 W, Co-Chair of the Beautification Committee, invited everyone to come to the old Town Hall site on Saturday, May 2nd to help with the Litter Sweep program that is organized by Bronte Lamm and several other volunteers from the Beautification Committee. Mr. Woertz stated that gloves, bags, vests and snacks would be provided. He also reminded the public of the Garden Show and Sale, Saturday, May 16, from 9:00 a.m. until 5:00 p.m. where plants, shrubs, and perennials will be on sale, and other activities and demonstrations will be held throughout the day. Mr. Woertz thanked the Board of Aldermen for their support of the Beautification Committee.

III. COMMUNICATIONS FROM THE MAYOR

Mayor Bartlett stated that the Land Use Code Public Hearings have been well attended and is continuing to move forward toward completion of this work. He reminded the public that the next meeting will be held Monday, April 27th in the Public Safety Building.

Mayor Bartlett stated the Board has been following several bills in the state legislature and communicating with Representative Goforth and Senator Nesbitt regarding these bills. He said one of the proposed bills involving provision of broadband service would place restrictions on cities and towns that seek to provide communications services to local residents and businesses; the other bill is the Transportation Corridor Mapping Changes. Mayor Bartlett said this bill would transfer some state roads to municipalities but with no funding to maintain these roads. He said we are opposing these bills.

Mayor Bartlett expressed congratulations to former Owen High School Basketball Coach, Roy Williams, on winning the National Basketball Championship as coach of the UNC Tarheels. Mayor Bartlett stated that planning is underway for more local recognition of Coach Williams later in the year.

Mayor Bartlett stated that Renee Brame, Director of the Swannanoa Valley Christian Ministries, has told him that requests for assistance are much greater than in previous years. He stated that Bill Murdock with the Eblen Charities said that Tuesday they assisted more families than any previous day in their 20-year history. Mayor Bartlett said Black Mountain and the Swannanoa Valley have been and continues to be a giving community.

Mayor Bartlett read the following proclamations:

- A. Proclamation for Spring Litter Sweep 2009 Roadside Cleanup – May 2, 2009
- B. Proclamation for Senior Games Week – May 12-16, 2009

Mayor Bartlett stated that the North Carolina League of Municipalities Town Hall Day is May 6, 2009 and some of the Board and staff will be attending, taking their concerns to the legislature.

IV. COMMUNICATIONS FROM THE TOWN ATTORNEY

Ron Sneed, Town Attorney, stated that he had been to several meetings and seminars in regard to policy of electronic records and wanted to remind everyone that any email that passes through Town Hall is a public record.

V. CONSENT AGENDA

A. Adoption of the Minutes

Motion: To adopt the minutes of February 23, 2009 – Joint Meeting with Planning Board, March 9, 2009 – Agenda Session, March 9, 2009 – Joint Meeting with Planning Board, March 16, 2009 - Regular Session, March 16, 2009 - Closed Session, March 23, 2009 – Special Meeting of Board of Aldermen

B. Declare Certain Property as Surplus

Motion: To approve a 1998 Ford Crown Victoria as surplus and sell on GovDeals

C. **CALL FOR PUBLIC HEARING** to Consider Text Amendment to Strike Requirement for Screening Around Dumpsters, Loading Areas, and Accessory Storage Buildings (Paragraph L2 of Sections 153.073 – 153.077)

Motion: To call for a public hearing on a text amendment request to remove requirements for screening to be held on Monday, May 18, 2009 at 6:00 p.m., or as soon thereafter as possible, in the meeting room of the Town Hall Building located at 160 Midland Avenue

D. **CALL FOR PUBLIC HEARING** on Proposed Fiscal Year 2009-2010 Annual Budget for the Town of Black Mountain

Motion: To call for a Public Hearing on the proposed FY2009-2010 annual budget for the Town of Black Mountain to be held on Monday, June 15, 2009 at 6:00 p.m., or as soon thereafter as possible, in the meeting room of the Town Hall Building located at 160 Midland Avenue, Black Mountain, NC

The agenda was amended at the Agenda Meeting on April 13, 2009 with the following changes:

Under III, Communications from the Mayor, add item “B”, Proclamation for Senior Games Week – May 12 – 16, 2009

Under VI, New Business, add item “B”, Budget Amendment to Pay for Final Document for the Certified Entrepreneurial Certification Program

Under VI, New Business, add item “C”, Request for Sewer Line Easement Over Town Property by (Golf Course) by Dwight O. Christenbury and wife, Carol D. Steele

Under VI, New Business Mayor Bartlett asked to add item “D” to discuss Board meeting times as requested by Alderman Brown.

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

VI. NEW BUSINESS

A. Identity Theft Protection Program Policy

Shirley Raines, Town Clerk, explained that the Identity Theft Protection Program Policy is a Federal requirement for all financial institutions and since the Town deals in Utility Billing, the Town is considered a creditor.

Mayor Bartlett asked why the Town asks for a social security number when taking applications for water. Ron Sneed, Town Attorney, explained that the Town is in a debt setoff program and when a customer is delinquent in payment, the Town can offset against state tax refunds.

Alderman Brown made a motion to adopt the Identity Theft Policy and Breach Response Plan and resolution. The motion passed with a vote of 5-0.

B. Budget Amendment to Pay for Final Document for the Certified Entrepreneurial Certification Program

Alderman Brown made a motion to adopt budget amendment #12 to allocate \$1,000 to pay for expenses incurred for preparation of final document for the Certified Entrepreneurial Community Program. The motion passed with a vote of 5-0.

C. Request for Sewer Line Easement Over Town Property (Golf Course) by Dwight O. Christenbury and wife, Carol D. Steele

Ron Sneed, Town Attorney, stated that the owners of the property located at 102 Fairway Drive had a failure of their sewer line and discovered that their existing sewer line fed into a line that is no longer active. He stated there is a manhole located northeast of their property, but that manhole is on property owned by the Town that is a part of the golf course property. The land between Mr. Christenbury and Ms. Steele’s property and the manhole is not in the play area of the golf course and the proposed location of a line to the manhole would not damage or interfere with the cart path. He said the owners are asking for the approval of an easement from the Town to access the manhole. The proposed motion includes the owners provide the survey and reimburse the Town for all legal costs involved that are incurred by the Town.

Vice Mayor Sobol made a motion to to approve the grant of an easement to Christenbury and Steele for the installation and maintenance of a private sewer line from their property to the manhole on Town property, with such easement to be executed by the Mayor and attested by the Town Clerk upon completion of construction of the line and a survey of the line as built. Christenbury and Steele shall provide the survey and reimburse the Town for all legal expenses and costs incurred by the Town. The motion passed with a vote of 5-0.

D. Board Meeting Times

Alderman Brown stated she would like the Board to consider going back to the original meeting schedule. She stated more people attended the meetings with the original schedule. Alderman Brown said that an email from Town Manager, Marcy Onieal, stated that staff had difficulty getting reports together.

Alderman Brandon stated that she liked the old schedule because they were able to get the packet earlier, and now they get it at the agenda meeting. She said there is not time to review the packet before the agenda meeting.

Marcy Onieal, Town Manager, stated the reason for the concern was the Planning Board meeting was held on the last Monday of the month and often when the second Monday of the month came early in the month it was difficult to track both financial information as well as Planning Board decisions to the Board meeting on the second Monday. Ms. Onieal also stated that the financial reports that are submitted to the Board may not have immediate month close information.

Vice Mayor Sobol suggested reports be submitted on a quarterly basis and, therefore, alleviate the pressure on staff.

Alderman Brown made a motion to change the Board of Aldermen regular meeting to the second Monday of each month with the agenda meeting on the Thursday preceding the regular meeting to be effective in June 2009 with staff providing reports on a quarterly basis. The motion passed with a vote of 5-0.

VII. OLD BUSINESS

A. Budget Amendment #11 to Pay for Asbestos Removal at 922 Old US Hwy. 70

Marcy Onieal, Town Manager, explained that the property at 922 Old US Hwy. 70 had been approved for demolition at the March meeting. After demolition began, it was determined that there was asbestos to be removed. She stated the cost could be up to \$5,500.00 and asked that this amount be allocated from contingency which will be returned to the Town either through reimbursement by the property owner or by attachment of lien to be called.

Vice Mayor Sobol asked when the lien would be called. Ron Sneed, Town Attorney, stated a few minutes after the lien is filed. Aldermen McKeown stated concerns over the Town being in the demolition business. Ron Sneed, Town Attorney, stated that the Mayor had asked

him at the agenda meeting if there was another way to have the owner take care of unsafe buildings, like a fine. Mr. Sneed stated that once the issue is raised, the building inspector has no choice but to take steps in accordance with the state statutes, i.e., the building inspector shall condemn, shall have a hearing, and if the property owner requests they can appeal to the Board of Aldermen. Several opportunities have been given to the property owner. Once in motion there is no other remedy except to follow through on the statutory steps. Mr. Sneed said once condemnation notice is given, property owners usually take the steps to make the structure safe.

Alderman Phillips asked Mr. Sneed to explain the upset bid process. Mr. Sneed stated that once the property goes up for sale and someone makes a bid for the amount the Town is owed, for ten days someone can bid higher and this can drag out the process. Mr. Sneed stated there would be no big benefit for the Town because any bid above the cost to be recovered, including legal fees, would go to the property owner.

Alderman Brown made a motion to adopt budget amendment #11 to allocate \$5,500 for the purpose of asbestos removal in accordance with state and federal guidelines as part of the demolition and cleanup of the property known as 922 Old US Hwy. 70. The motion passed unanimously.

VIII. COMMUNICATIONS FROM THE TOWN MANAGER

Recreation and Parks - Jim Orr, Recreation and Parks Director, gave an update on the Community Garden Expansion. Vice Mayor Sobol asked that an article be placed in the Black Mountain News to get an idea of how many people in the public would be interested in garden plots.

Mr. Orr also stated a four hour lecture will be offered by the Cooperative Extension at Lakeview Community Center on July 25th to introduce into the community about canning and how to preserve food, with the first workshop to be held on August 1st.

Mr. Orr stated that the Welcome Table has temporarily moved to Saint James Episcopal Church for the next three Wednesdays due to renovations at Lakeview Senior Center. Mr. Orr stated that the Welcome Table is open to the public.

Mr. Orr stated that due to funds coming in to the Salvation Army, the Boys and Girls Club will no longer be using the Carver Facility on a monthly basis starting May 1st. He stated he will be meeting with staff and bringing back options and recommendations of what staff would like to see in this space and invited the general public's opinion on ideas they would have for the space.

Mayor Bartlett asked when the first day for Park Rhythms will be. Mr. Orr replied Thursday, June 18th.

Vice Mayor Sobol asked for an update on the pool project. Mr. Orr stated that as of last Friday all of the unsuitable soil for the pool construction has been replaced with good packable soil. He stated they are awaiting Health Department approval. Mr. Orr said that renovations

have started inside Lakeview Center, the bath house, and also the pump house. Mr. Orr stated they are still looking at a completion date of June 1. Mr. Orr stated that Buncombe County Schools will not be out until around June 10th so they have a few days if not completed by June 1st. Mr. Orr stated the latest acceptable date will be the first day that schools are out in Buncombe County.

Public Works – Bob Watts, Public Works Director, reported that the Water Loss Report for March showed a loss of approximately 35%. He noted that March was a short read month.

Mr. Watts stated that there is no evidence of any utilities being constructed in Phase III at The Settings. He said he had talked with Wendell Howard with T&K Utilities and that Mr. Howard assured him The Settings is still trying to work on financing to get roads and utilities into that area. Vice Mayor Sobol asked for some type of estimate of what the cost would be for completion of Phase III.

Mr. Watts stated that he had been in contact with Datamatic representatives in regards to the problems they are having with the fireflies. Mr. Watts stated he had expressed concern that they either need to get them fixed or the Town needs to return them and get a refund. Vice Mayor Sobol asked if all of the fireflies have been paid for. Ms. Onieal responded that they have not. She said about 2/3 have been paid for and the Town is holding the balance.

Planning and Development – Elizabeth Teague, Planning Director, gave an update on the Land Use Code Draft. Ms. Teague stated the last joint meeting with the Board of Aldermen and the Planning Board will be held Monday, April 27th at 6:00 p.m. at the Public Safety Building. She stated chapters 1 and 2 will be covered. She said this will include the discussion on minimum housing code as well as discussion on the proposed updates to the Flood Plain Ordinance that will be coming from the state when the new maps are approved. Ms. Teague stated they will be taking all the comments from these joint meetings back to the Planning Board for discussion/revsions and bring back to the Board of Aldermen sometime this summer.

Fire – Craig Bannerman, Deputy Fire Chief, presented the March 2009 report for the Fire Department.

Police – Steve Padgett, Lieutenant, presented the March 2009 report for the Police Department. Lt. Padgett stated that three arrests have been made in the crime involving vandalism to Town property and the investigation continues to see if more are involved in this crime. Lt. Padgett spoke briefly on “Operation Pill Crusher” that was held at Ingle’s in conjunction with the Buncombe County Sheriff’s Department and other agencies within the county. He stated this was a very successful event and that more details along with numbers will be provided in the April report.

Finance - Rick Shreve, Finance Director, reviewed the financial summary report.

Ms. Onieal gave updates on the Town Hall Renovation. Ms. Onieal stated that the remaining balance is primarily reserved for paving and striping the parking lot, signage both inside and outside, and a few minor upgrades such as furnishings. Vice Mayor Sobol asked if

Ms. Onieal had any idea when signage would be complete so that when people come in, they would know where to go. Ms. Onieal stated she is working with several vendors looking at competitive packages both for internal and external signs. Ms. Onieal stated that the volunteer design committee has worked with Dan Howachyn, Black Mountain Iron Works, to complete the main sign out front and that he expects to install that sign sometime this week. Ms. Onieal stated she is waiting on signage to make sure the paving is paid for but will put up temporary signage until permanent ones are in place.

Ms. Onieal stated that the Town still has not received notice of awards on Economic Stimulus approval at this time. Ms. Onieal stated that Dempsey Benton, head of the stimulus program for North Carolina, is holding a series of workshops across the state in May, with Asheville being one of those sites.

Ms. Onieal stated the Board had asked for the value of staff and equipment hours for special events. Ms. Onieal said these are all wonderful community events and provide a great value to the community. Mayor Bartlett questioned the cost under police staffing cost for the Christmas Parade. Ms. Onieal stated that this number is based on officer pay of \$15.25 an hour and vehicle cost of \$5.00 per hour, with 22 staff members at a total of 88 hours, 15 patrol cars, the Gem Car, and four bikes. Mayor Bartlett stated he thought a lot of reserve officers were used for this and they are not paid. Ms. Onieal stated she will have these numbers checked. Mayor Bartlett asked her to look at the Sourwood Festival numbers also as he thought the Chamber paid a lot of those fees. Alderman McKeown asked Lt. Padgett if these were hours but not necessarily paid. Lt. Padgett responded that it was based on what it would cost the Town for having an officer there whether they were paid or not as the total cost. Ms. Onieal explained this is more of a value of service projection as opposed to actual cost. Vice Mayor Sobol said if this report is presented again we should show volunteer hours versus what we actually have to pay out in cash.

IX. COMMITTEE/BOARD REPORTS - None

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

Marilyn Sobanski, Rainbow Recycling, invited the community to two recycling programs. The first one is a Styrofoam and Bubble Wrap Collection at the Local Job, Business, Health Fair at Owen Middle School on Saturday, May 16th from 9:00 a.m. until 2:00 p.m. There is also a Plastic Plant Pot Collection and Swap at the Black Mountain Garden Show and Sale across from the Old Depot on Saturday, May 16th from 9:00 a.m. until 5:00 p.m. Ms. Sobanski also stated that Rainbow Recycling will be offering a series of free Sustainability Films held at the Black Mountain Library Public Education Room on Friday nights for 6 weeks at 7:00 p.m. starting April 24th.

Bob McMurray, 127 Hilltop Road, announced the Local Job, Business, Health Fair will be held at Owen Middle School on Saturday, May 16th from 9:00 a.m. until 2:00 p.m. Mr. McMurray stated a number of local employers would be at the Fair, including Kearfott, Highland Farms, and some of the conference centers in the community. Mr. McMurray invited everyone to attend.

Elaine Loutzenheiser, 410 Avena Road, stated that Pack' N Send at River Ridge will accept bubble wrap and any package filler, and they recycle all the time.

XI. CLOSED SESSION – *Vice Mayor Sobol made a motion to go into Closed Session at 7:35 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 8:46 p.m. The motion passed unanimously.

Carl R. Bartlett, Mayor

ATTEST

Marcia D. Onieal, Town Manager

Shirley J. Raines, CMC, Town Clerk