

MINUTES OF THE TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REGULAR SESSION
November 13, 2006

THE BLACK MOUNTAIN BOARD OF ALDERMEN met in a regular monthly session on Monday, November 13, 2006 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 Pro Tem Sobol called the meeting to order at 6:00 p.m. with the following members present:

Mayor Pro Tem C. Michael Sobol
Alderman Joan Brown
Alderman Chuck McKeown
Alderman Rosalie Phillips
Alderman Mary Leonard White

The following staff members were present:

Anthony N. Caudle, Town Manager
Bo Ferguson, Assistant Town Manager
Shirley Raines, Town Clerk
Rosa Hilbert, Senior Administrative Assistant
Ronald Sneed, Town Attorney
Casey Conner, Recreation Superintendent
Kevin Pressley, Police Chief
Tim Rayburn, Fire Chief
Elizabeth Teague, Planning Director
Bob Watts, Public Works Director

Representing the media:

Gary & Sally Biggers, Black Mountain Digital Media, Inc.
Andy Grabel, Black Mountain News
Jim Genaro, Asheville Daily Planet

Mayor Pro Tem Sobol led the Pledge of Allegiance, followed with prayer led by Rev. Kevin Frederick, Associate Pastor, Black Mountain Presbyterian Church.

Mayor Pro Tem Sobol thanked everyone in attendance and expressed appreciation to all those who were attending for the first time and also the viewing audience. The meeting was duly constituted and opened for the transaction of business. The following business was transacted.

II. CITIZEN COMMENTS - None

III. ADOPTION OF THE AGENDA

Alderman White made a motion to adopt the agenda. The motion passed unanimously.

The minutes of September 20, 2006 – Special Meeting and Closed Session, October 3, 2006 – Closed Session, October 5, 2006 – Agenda Workshop, October 9, 2006 – Regular Session and Closed Session, October 13, 2006 – Regular Session Meeting Continued from October 09, 2006 were approved.

IV. COMMUNICATIONS FROM THE MAYOR PRO TEM

Mayor Pro Tem Sobol commented that the election on November 07, 2006 was a reflection of what the citizens are feeling. He said that one of the most important things citizens can do is let our legislators, both locally, statewide, and nationally, know that if we do not address the deficit, then we all will feel the severe effects. Mayor Pro Tem Sobol reported that the GAO (Government Accountability Office) Chief, David Walker, has said that this issue is about the future of our country, our children and grandchildren. Mr. Walker has toured the country addressing the causes of economic disasters and warns about more disasters if nothing is done to correct it. In his speeches to citizens across the nation, Mr. Walker said that every year that nothing is done about the deficit problem, the total debt grows by two to three trillion dollars. Mr. Walker emphasized that economics is the basis of how we keep things going.

V. COMMUNICATIONS FROM TOWN ATTORNEY - None

VI. CONSENT AGENDA

A. Adoption of the Minutes

Motion: To adopt the minutes of September 20, 2006 – Special Meeting and Closed Session, October 3, 2006 – Closed Session, October 5, 2006 Agenda Workshop, October 9, 2006 – Regular Session and Closed Session, October 13, 2006 – Regular Session Meeting Continued from October 9, 2006.

B. Adoption of Budget Amendment #03

Motion: To adopt Budget Amendment #03 as submitted

VII. COMMUNICATIONS FROM THE TOWN MANAGER

A. Review of Consent Agenda

B. Projects Update

1. Signs on the side of the Black Mountain Center for the Arts – Mr. Caudle reported that the Board discussed these signs at the Board agenda meeting and came to a consensus that the Town request that the signs be removed. Mr. Caudle said that two of the signs are not in compliance with the existing Zoning Ordinance.

2. Request to purchase property on Golf Course – Mr. Caudle reported that a property owner has requested to purchase a piece of property, about 800 square feet, that borders between the golf course and the owner’s property. The Board agreed to refer this request to the Golf Course Advisory Committee.

3. North Carolina Division of Water Quality Notices of Violation – Mr. Caudle reported that two separate notices of violation were issued to two separate developments in the area: The Settings of Black Mountain and The Goodson Cove Development. The Settings Development has arrived at a solution to the notice of violation. The Goodson Cove Development still has an open notice of violation with the Division of Water Quality.

4. U.S. 70 Sidewalk Construction – Mr. Caudle reported that construction contracts have been signed for Phase I of the U.S. sidewalk project. Construction is set to begin no later than December 17, 2006 and completion of the project should be within 90 days. Mr. Caudle said this phase of the project will include Cragmont Road westward down on the north side of U.S. Highway 70 to West College Street. The second phase currently under negotiations with the North Carolina Department of Transportation (DOT) will run from West College Street to Blue Ridge Road.

5. FEMA Training – Mr. Caudle congratulated Craig Bannerman and staff for completion of staff training required by FEMA (Federal Emergency Management Act) to respond to disasters in the community. He said the training is designed to set up a system of operating procedures for communities in emergency management situations such as floods and hurricanes. Mr. Caudle said that completion of this training also ensures the Town of FEMA reimbursement funds.

6. Leaf Pick-up Process – Bo Ferguson, Assistant Town Manager, reported that leaf pickup will run from October 1, 2006 through January 31, 2007. The Town’s garbage contractor has flexible schedules and will pick up bagged leaves at the curb. Residents do not have to call for pickup. Mr. Ferguson said that a special Leaf Assistance Program is available for residents age 70 or over who owns a home that has been assessed by the Buncombe County Tax office at \$200,000 or less. Eligible residents may call the Town Hall offices for more information. Mayor Pro Tem Sobol asked what happens to the leaves after pickup. Mr. Ferguson said that Buncombe County has a mulching facility for yard waste and leaves for county-wide use.

7. Special Meeting Dates – Mr. Caudle asked the Board of Aldermen to schedule a meeting to discuss the Capital Improvement Project (CIP) in more detail and to review the Town Manager’s performance evaluation. After discussion, the Board agreed to meet on Wednesday, December 6, 2006 at 9:00 a.m.

8. Mr. Caudle reported that a request was received from Carl Bartlett for the grant of a sewer easement on property owned by the Black Mountain Golf Club. Mr. Caudle explained that this request was on the agenda for the November 13, 2006 meeting. He said a second request was received from Ms. Verona Koselke, who is a neighbor of Mr. Bartlett, requesting an easement due to a sewer line failure in the existing service connection that she has

across the 11th fairway. Mr. Caudle said that due to the failure of Ms. Koselke’s sewer connection, the Board considered and approved both requests at the November 9 agenda meeting with a vote of 4-0.

C. Upcoming Events

1. **Friday, November 24, 2006** – “Thankseve” (stores open late)
2. **Friday, December 1, 2006** – “Holly Jolly” (stores open late)
3. **Saturday, December 2, 2006** – Christmas Parade at 4:00 p.m.;
“Circle of Lights” at Lake Tomahawk after parade

VIII. COMMITTEE/BOARD REPORTS

Alderman White gave information from Land-of-Sky Regional Council on conservation easements. She explained that with a conservation easement property owners can sell development rights of their property and obtain a tax break from the state and federal governments. She said that the government approved an expansion of the tax incentives for 2007 conservation agreement donations. Alderman White said that the expansion included raising the deduction land owners can take for donating the property from 30% to 50%. She noted that more information can be obtained from www.lta.org or call Bill Eaker at Land-of-Sky Regional Council or any local conservation easement agency.

Alderman White announced that the Governor and President declared November as National Caregivers Month. She reviewed a list of support agencies available to caregivers of elderly people, including Land-of-Sky Regional Council. Alderman White said that brochures would be available at the next Board meeting.

IX. OLD BUSINESS

A. Appointment of Individual to Fill the Seat Left Vacant with the Retirement of Former Mayor Will Kennedy

Alderman Phillips made a motion to appoint Carl Bartlett to fill the position of the Mayor of the Town of Black Mountain effective November 15, 2006 until December 2007. Alderman Brown reported that Andy Andrews requested that his name not be considered for appointment as Mayor due to illness of his wife. With no further discussion, the motion passed with a vote of 5-0. Mr. Bartlett will be sworn in on Wednesday, November 15, 2006.

B. Presentation from Citiline Resortline Development and Construction of Proposal for Downtown Redevelopment Project

Mayor Pro Tem Sobol noted that after the presentation from Citiline Resortline Development and Construction, questions would be accepted from the audience. He explained that comments would be taken during the Citizen Comment period.

Representatives Tim Crawford and Amy Merritt from Citiline Resortline Development and Construction gave a brief presentation of the proposed Downtown Redevelopment Project.

At this time, questions were received from the audience.

Alderman White asked Mr. Caudle to explain the proposed financing arrangement for the project. Mr. Caudle then explained the tax increment financing (TIF) process.

After discussion, the Board agreed to call for a public hearing on December 11, 2006 during the regular December Board of Aldermen meeting.

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

Ann Lutz, 211 N. Park Lane, stated that the proposed downtown project would have a huge impact on the Town. She said the Board should consider the project very carefully.

Scott Counce, 39 Cheshire Drive, feels this project would be nothing but an improvement for Black Mountain. He thinks the retail shops would attract more shoppers to the area.

Joe Tyson, 309 N. Dougherty Street, thanked Citiline for bringing this vision to Black Mountain. He thinks the project is a good idea but answers are needed to the tough questions.

Travis Childs, 204 Pine Street, said he was a member of the Board in the 1980's. They were in a different building and made some tough decisions. He advised the Board to answer the hard questions (debt, cost, return on investment). Mr. Childs feels this presents an opportunity and said an opportunity is what we make of it.

Mark Barker, 113 Forest Hill Drive, said it is very important to consider how this property is developed. We have a unique town, and we need to be involved in the development of this property.

Charles Fitzgerald, 46 Cheshire Drive, a part-time resident in Black Mountain, said seeing this proposed project excites him to make Black Mountain his permanent home.

Bob McMurray, Director, Chamber of Commerce, said he feels people living downtown adds to the shopping. He said the Visitor Center needs to be near the interstate.

Marilyn Sobanski, 516 Laurel Avenue, asked if an auditorium is planned in the development.

Harry Hamil, 15 John Myra Avenue, announced that there is an opening on the Planning Board and encouraged interested citizens to apply. He feels the proposed downtown project is an opportunity and hopes the Board will work with the developer.

Steve Brown, 57 Fortune Street, asked if any bicycle lanes, or places to park bicycles, or green spaces are planned in the development.

Wendell Begley, Camp Branch Road, said he feels this is a tremendous opportunity for Black Mountain. He thinks the concept with retail space and condos above is a good idea.

Dodie Klein, 105 Walnut Street, asked if underground parking has been considered.

Cheryl Milton, 202 Mountain Street, said the proposal does look good, but only 1% of the citizens are represented at this Board of Aldermen meeting. She thinks the project should be voted on by the citizens.

George Williams referred to the previous comment about voting on the project. The property the Town owns is a small part of the project. He is owner of Squeaky's and said he will not wait for months.

Gay Fox, 307 Tomahawk Avenue, feels the project is too overpowering and thinks it should be smaller. She said we need to be realistic with tax dollars.

John Braden, 107 Fairway Drive, said if everyone will work together, the project will work.

IX. OLD BUSINESS (continued)

C. Request to Enforce Previously Adopted Sex Offender Ordinance

Mr. Caudle explained that the Board adopted the sex offender ordinance in July 2005 which prohibited sex offenders in public parks. He said the same type of ordinance in force in the Town of Woodfin is being appealed through the North Carolina court system. The attorney advised staff not to pursue strict enforcement of the ordinance until the Woodfin case was decided. He said the disposition of the case at trial court level was in favor of Woodfin, and Alderman Brown had requested this be placed on the agenda for possible action of enforcement. Attorney Sneed said at the agenda meeting the question arose as to whether or not we should be posting or giving any type of notice that we have this ordinance. He said the Woodfin ordinance included the posting of signs at all public parks. Mr. Sneed advised not to include posting requirements in the ordinance at this time. He said we have the ordinance on the books and Chief Pressley said he would enforce it.

Mr. Caudle reported that he met with Police Chief Pressley regarding the process used by the County. He said the Sheriff's Department will be mailing a letter to sex offenders after January 1 and Black Mountain can join in that process. Mr. Caudle suggested if the Board decides to post the ordinance, then all applicable ordinances should also be posted.

Alderman White said Police Chief Pressley also agreed to increase patrol at the public parks.

Alderman Brown said she disagrees with some of the discussion. She would like signs posted at the public parks. Alderman Brown does not think posting of signs sends a negative message. *After discussion, Alderman Brown made a motion to authorize staff to begin enforcement of the ordinance that bans registered sex offenders from being present in our public parks by placing appropriate signage at all Town parks, fields, courts, and buildings where activities involving youth and children are taking place.*

Alderman Phillips agrees with Alderman Brown to enforce the ordinance but is reluctant to put up signs.

Alderman McKeown said he agrees we should enforce the ordinance, but it would be difficult to put signs everywhere.

Mayor Pro Tem Sobol feels that sending out letters to the sex offenders will be more effective than posting signs. He thinks posting signs would send a negative message to the public.

With no further discussion the motion failed with a vote of 4-1 with Mayor Pro Tem Sobol and Aldermen McKeown, Phillips, and White voting against.

D. PUBLIC HEARING to Solicit Input on Potential Projects for Inclusion in the FY 2007-2012 Capital Improvement Program

Bo Ferguson, Assistant Town Manager, gave a presentation on potential projects for inclusion in the FY 2007-2012 Capital Improvement Program (CIP). He explained that this hearing is to receive ideas from the public and the Board of Aldermen on projects.

Mayor Pro Tem Sobol opened the public hearing at 8:45 p.m.

Harry Hamil, 15 John Myra Avenue, asked if there would be two hearings. Mr. Ferguson said the Board is calling for a public hearing at the December 11, 2006 meeting. Mr. Hamil said there has been previous discussion on changes in water fees and additional wells. He said he asked that the Board of Aldermen direct staff to report how this will be taken care of in the CIP.

Mayor Pro Tem Sobol closed the public hearing at 8:50 p.m.

Alderman Brown asked if pool negotiations with Montreat do not happen, will the existing pool be renovated? Mr. Caudle said staff is working with Montreat and a report is expected at the December meeting.

With no further discussion Alderman Brown made a motion to seek input on the development of the FY 2007-2012 Capital Improvement Program and to call for a public hearing on Monday, December 11, 2006 to be held in the meeting room of the Public Safety Building, located at 106 Montreat Road, at 6:00 p.m., or as soon thereafter as possible, for the purpose of receiving comment on the proposed Black Mountain Capital Improvement Plan for FY 2007 – 2012. The motion passed unanimously.

X. NEW BUSINESS

A. Legislative Changes to Video Franchising

Bo Ferguson, Assistant Town Manager, explained that this is an update for the public on legislative changes on video franchising that were passed recently by the North Carolina General

Assembly. Mr. Ferguson said at the request of video service providers who would like to provide cable television services, they pursued and won the option that takes franchising authority away from local government and centralizes it with the state government. He said effective January 2007 the Town will no longer have the authority to regulate cable television. Mr. Ferguson said that when a person is awarded a franchise by the state, the holder is authorized to construct and operate a cable system over public rights-of-way. The holder has 120 days to provide cable service. The service begins when it passes one or more households in the described service area. Mr. Ferguson noted that under the Video Service Competition Act, percentages of the sales tax collections on telecommunications, sales tax collections on cable service and sales tax collections on home satellite television service will be distributed to North Carolina cities and counties on a proportional basis. Cities and counties will share portions of these three state taxes to replace lost revenue from the local cable franchise fee. Projections indicate that cities and counties will be kept whole and may show a net gain in revenue under this plan. Mr. Ferguson said in subsequent years, the proportionate share for each municipality will be recalculated to reflect per capita growth.

B. Request to Use Drug Forfeiture Funds to Purchase Equipment for Black Mountain Police Department

Alderman White made a motion to approve Budget Amendment #04 in the amount of \$33,846.15 with the exception of the Taser guns. Alderman White presented information on the negative effects of the usage of Taser guns. Police Chief Pressley said in the deaths he has looked into, there have been mitigating circumstances. He said that all officers will undergo training in the use of the Taser guns. After discussion, the motion to approve Budget Amendment #04 without the Taser guns was defeated by a vote of 1-4 with Mayor Pro Tem Sobol and Aldermen Brown, McKeown, Phillips voting against. Alderman Brown made a motion to approve Budget Amendment #04 in the amount of \$33,846.15 (with the Taser guns included). The motion passed with a vote of 4-1 with Alderman White opposed.

XII. ADJOURNMENT

With no further business Alderman McKeown made a motion to adjourn at 9:25 p.m. The motion passed unanimously.

C. Michael Sobol, Mayor Pro Tem

Anthony N. Caudle, Town Manager

ATTEST

Shirley J. Raines, CMC, Town Clerk

Rosa Hilbert, Sr., Administrative Assistant