

**MINUTES OF THE TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN**  
**REGULAR SESSION MEETING**  
**November 13, 2007**

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**THE BLACK MOUNTAIN BOARD OF ALDERMEN** met in regular monthly session on Monday, November 13, 2007 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 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  
Ron Sneed, Town Attorney  
David Ballard, Golf Pro/Manager  
Dan Cordell, Building Inspector/Floodplain Manager  
Pam Hoen, Public Response Clerk  
Jim Orr, Recreation Director  
Kevin Pressley, Police Chief  
Tim Rayburn, Fire Chief  
John Shaw, Golf Course Superintendent  
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. Jerry Wicker, Pastor, Faith Community Church, Black Mountain, NC.

## **II. CITIZEN COMMENTS**

Harry Hamil, 15 John Myra Avenue, said the Board has an important issue concerning the review of the Preliminary Flood Insurance Rate Maps tonight and that they are not asking for public input. He said he hopes the Board will realize the urgency to verify the accuracy of the maps and to proceed with an appeal process for those areas that are inaccurate.

## **III. ADOPTION OF THE AGENDA**

The minutes of October 2, 2007 – Joint Meeting with Planning Board, October 8, 2007 – Agenda Workshop & Regular Session, October 8, 2007 – Closed Session, October 18, 2007, October 25, 2007, and October 29, 2007 – Special Meetings were approved.

The agenda was amended with the following changes:

Under VII, New Business, added items “A” and “B”.

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

**IV. COMMUNICATIONS FROM THE MAYOR** – Mayor Bartlett congratulated Ruth Brandon on her election to the Board and also congratulated Joan Brown and Michael Sobol on their re-election.

Mayor Bartlett read the following resolution and proclamation.

- A. Resolution of Appreciation – Alderman Mary Leonard White
- B. Proclamation – November – “National Family Caregivers” Month

**V. COMMUNICATIONS FROM TOWN ATTORNEY - None**

**VI. OLD BUSINESS**

**A. PUBLIC HEARING on Request to Increase Building Height Limitation in the General Industrial District’s (I-2) Zoning District from 35 Feet to 55 Feet**

Mayor Bartlett opened the public hearing.

Mr. Ames Tryon, Chair, Planning Board, said the Planning Board has considered the request from Hammaker Company to amend the building height from 35 feet to 55 feet in the I-2 district in order for them to expand their existing operation. He said the committee feels this is well within the Town’s comprehensive plan in promoting economic development opportunities.

Brook Statler and Tony Thomas, representatives with Hammaker East, LTD, an asphalt company located in the I-2 district, explained that their company is requesting an increase in building height in order to accommodate a new storage tank. Mr. Thomas said the larger tank is necessary to store raw materials in order to competitively bid on paving projects. Mr. Thomas explained that there is no waste product. He said everything is recycled. Mr. Thomas said because of the topography of the area, the increased building height would not obstruct views of

the mountains. Alderman Brown said this district is zoned for heavy industrial use. She asked Mr. Sneed if there are other avenues to accommodate this request. Mr. Sneed replied that it is unlikely that a variance could be granted. He said the Board might consider how the height of a structure is measured.

Joe Tyson, 309 N. Dougherty Street, said he is in favor of raising the height. He said the I-2 district is supposed to be less restrictive and 55' is not an unreasonable request when it is located in an industrial zone. He hopes the Board will act favorably on this request.

Ben LaFrombois, Ingle's Markets, supports the 55' height change. He appreciates the Board accommodating the height change for Ingle's and encourages the Board to raise the height in the I-2 district to 55'.

Elaine Loutzenheiser, 410 Avena Road, former member of the Planning Board, said that APAC requested a variance for building height and it was not approved. She said you have to look at the complete area.

Bob McMurray, 127 Hilltop Road, said the request to change the building height from 35' to 55' is not a huge increase. He said we should keep the I-2 an industrial area and encourages the Board to approve the proposed amendment.

Harry Hamil, 15 John Myra Avenue, said it is not possible to grant a variance. He said the Town's ordinance is very clear.

With no further comments Mayor Bartlett closed the public hearing.

*Alderman Brown made a motion to approve a text amendment to Section 153.077(J) of the Black Mountain Code of Ordinances, changing the maximum building height for the General Industrial District (I-2) from 35 feet to 55 feet to be consistent with the long range planning documents. The motion failed with a vote of 2-3 with McKeown, Sobol, and White voting against.*

Mayor Bartlett requested that staff work with the Planning Board and revisit the process in measuring building height.

**B. PUBLIC HEARING to Solicit Input on Proposed Projects for Inclusion in the FY 2008 – 2013 Capital Improvement Program**

Mayor Bartlett opened the public hearing to receive input on the Capital Improvement Program. No input received. Mayor Bartlett closed the public hearing. Mayor Bartlett said that staff would take input until January 14, 2008, which is the regularly scheduled meeting for January. *Alderman Brown made a motion to call for a public hearing on Monday, January 14, 2008 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 the FY 2008 – 2013. The motion passed with a vote of 5-0.* Alderman Phillips requested cost on the possibility of taking the street cleaning process in house and buying the equipment needed to provide that service. Mr. Caudle said staff would get those numbers.

**C. Presentation and Adoption of Lake Tomahawk Park Master Plan**

Mr. Caudle introduced the consultants with HadenStanziale who have been working with staff on the Lake Tomahawk Park Master Plan. Mr. Jon Wood gave a powerpoint presentation showing two concepts for the master plan. Two concepts were presented: Concept “A” at a cost of \$2,984,338 and Concept “B” at a cost of \$1,334,817. After discussion, the Board chose Concept “B” but asked staff to meet with the consultants to bring the cost under \$1,000,000 and to bring back a breakdown with new figures at the December meeting. *With no further discussion, Alderman Brown made a motion to adopt the Lake Tomahawk Park Master Plan as presented and to direct staff to prepare a PARTF application for Phase I of the Master Plan. The motion passed with a vote of 5-0.*

**D. PUBLIC HEARING to Consider Revisions to Title XV, Section 150 of the Black Mountain Code of Ordinances Concerning Building Code Regulations**

Mr. Caudle explained that revisions to the building regulations have been developed over the past year by the Planning Board, Building Inspector and other Town staff. He said the recommended text updates International and State Building Code references and includes reference to four appendices; adds a provision requiring a shut-off valve for water lines; clarifies the building permit requirements, process and penalties; restates requirements for Certificates of Occupancy; adds a requirement for construction projects to maintain public rights-of-way unless granted special permission by the Town; and provides incentives in the form of fee rebates for green building and affordable housing. Mr. Caudle said the Planning Board, at their October meeting, voted 6-1 in support of these changes.

Mayor Bartlett opened the public hearing.

Ben LaFrombois, 100 Meadowbrook Drive, asked what scope of work would these revisions apply to. He said typically building codes apply to work affecting the structure. If you are simply making repairs, it does not apply. The ordinance seems to indicate any repairs on a building permit applies. He thinks that is not the intent and thinks it could be clearer. He asked when would the penalties be appropriate. Mr. LaFrombois said there does not seem to be enough room for emergency repairs. Ms. Teague, Planning Director, noted that the questions posed by Mr. LaFrombois have been addressed in the final draft of the ordinance. Alderman White asked when you apply for a building permit, does the applicant need a topo map? Ms. Teague explained that it depends on the specifics and the size of the permit you are applying for and encouraged citizens to call the Planning and Development office for assistance.

*Alderman White made a motion to adopt the revisions to Title XV, Section 150, “Building Code” of the Black Mountain Code of Ordinances as proposed and to include a minor correction in Section 150.21(B). With no further discussion, the motion passed with a vote of 5-0.*

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

Mayor Bartlett called for public comment. None received.

## **VII. NEW BUSINESS**

### **A. Recommendation of the Planning Board Concerning Review of Preliminary Flood Insurance Rate Maps**

Mr. Ames Tryon, Planning Board Chair, reported that at the October meeting of the Planning Board, it was voted unanimously to advise the Board of Aldermen that the Planning Board does not endorse the flood maps as drawn and requests that the Board of Aldermen challenge and verify the accuracy of the maps. He said the Planning Board also recommends that the Board of Aldermen appoint a panel to assist with the review of the maps and to engage the services of a qualified engineer to work with the committee.

Ms. Teague, Planning Director, encourages the public to come forward and work with staff to verify the accuracy of the maps in regard to their property. She said the maps will be displayed in the Board room for their convenience. Vice Mayor Sobol asked that Ms. Teague send a letter to the property owners in the floodway advising them of the new maps and encourage them to talk with the staff.

Harry Hamil, 15 John Myra Avenue, made the following suggestions/comments for the Planning Board: Contact Montreat College for assistance as the College has a task force in place; Montreat College has employed Land Design Company to assist them; Ingle's also has staff working on the maps because of their projects; there are already parts of the map in force.

*Vice Mayor Sobol made a motion to appoint a panel to review the Preliminary FIRM Maps and to seek the services of a qualified engineer to assist in the verification of the accuracy of the Preliminary FIRM Maps and to allocate \$1,000 for this effort. The motion passed unanimously.*

### **B. Approval of Clean Water Management Trust Fund Mini Grant Application for Stream Bank Restoration and Stormwater Planning**

*Vice Mayor Sobol made a motion to approve Clean Water Management Trust Fund Mini Grant Application for Stream Bank Restoration and Stormwater Planning. The motion passed unanimously.*

## **VIII. CONSENT AGENDA**

### **A. Adoption of the Minutes**

*Motion: To adopt the minutes of the meetings of October 2, 2007 – Joint Meeting with Planning Board, October 8, 2007 – Agenda Workshop & Regular Session, October 8, 2007 – Closed Session, October 18, 2007, October 25, 2007, and October 29, 2007 – Special Meetings*

### **B. Budget Amendment #11**

*Motion: To adopt Budget Amendment #11 as submitted authorizing the allocation of forfeiture funds, grant funds, and donations*

### **C. Budget Amendment #12**

*Motion: To adopt Budget Amendment #12*

D. Budget Amendment #13

*Motion: To adopt Budget Amendment #13 as submitted authorizing the allocation of fund balance and donations for the development of the Skate Park*

**IX. COMMUNICATIONS FROM THE TOWN MANAGER**

**A. Review of Consent Agenda**

**B. Projects Update**

**1. Water Leak Detection/Meter Replacement Report** – Bob Watts, Public Works Director, gave an update on the water leak detection/meter replacement. Mr. Caudle asked that the public begin to reduce and eliminate outside water usage in an effort to conserve water. He has also directed staff to curtail washing of all vehicles.

**2. Bus Shelter Construction** – Bo Ferguson, Assistant Town Manager, reported that both bus shelters have been completed.

**3. Skateboard Park Update** – Jim Orr, Recreation Director, reported that some of the skateboarders and the parents visited two similar skate parks. He said after meeting with the Skateboard Committee, they agreed to accept the quotation from Leisure Lines, Inc. for a cost of \$25,000. He said the project should be completed in December. Mr. Caudle presented Budget Amendment #13 to authorize the allocation of fund balance and donations for the development of the Skate Park contingent upon receipt of the remaining donations from an anonymous donor. *Alderman White made a motion to adopt Budget Amendment #13 as submitted authorizing the allocation of fund balance and donations for the development of the Skate Park. The motion passed unanimously.*

**4. U.S. Highway 70 Sidewalk Project** – Mr. Caudle reported that the U.S. Highway 70 Sidewalk Project is complete. He said staff is working with Public Service Gas to obtain a letter of permission to go across their property so that the public can walk from Walker Street across old U.S. 70 and connect with U.S. 70.

**5. Leaf Pile** – Bo Ferguson reported that the pilot program established with GDS to have one truckload of leaves deposited at White Pine Drive near the Community Garden for pickup by residents is now available.

**6. Department of Transportation Plan** – Mr. Caudle reported that the Blue Ridge Road Interchange language is still listed in the Transportation Plan. He said a Resolution from the French Broad River MPO is on the way to the State to remove this from the plan.

**7.** Mr. Caudle reported that Fire Chief, Tim Rayburn, is retiring effective January 1, 2008.

**C. Fire Department Report** – Chief Rayburn gave the October 2007 report for the Fire Department. Mr. Caudle announced that Steve Jones, Deputy Fire Chief, has been appointed to fill the position of Fire Chief.

**D. Police Department Report** – Chief Kevin Pressley presented the October 2007 report for the Police Department.

**E. Upcoming Events**

1. Friday, November 23, 2007 – “Thankseve” (Stores open late)
2. Friday, November 30, 2007 – “Holly Jolly” (Stores open late)
3. Saturday, December 1, 2007 – Christmas Parade at 4:00 p.m.; “Circle of Lights” at Lake Tomahawk after parade

**X. COMMITTEE/BOARD REPORTS**

**A. Appointment to Fill One Vacancy on Housing Commission** – *Alderman White nominated Ruth Gleeson to fill a vacancy on the Housing Commission. The motion passed unanimously.*

**XII. CLOSED SESSION – To Discuss:**

- A. Consultation with Attorney – as permitted in NCGS 143-318.11(a)(3) and
- B. Property Acquisition – as permitted in NCGS 143-318.11(a)(5)

**XIII. ADJOURNMENT** - *With no further business, Alderman McKeown made a motion to adjourn the meeting at 10:15 p.m. The motion passed with a vote of 5-0.*

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Carl R. Bartlett, Mayor

ATTEST

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Anthony N. Caudle, Town Manager

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Shirley J. Raines, CMC, Town Clerk