1. CALL TO ORDER
   - Welcome
   - Pledge of Allegiance
   - Invocation - Deacon Levon Lindsey, Mills Chapel Baptist Church
   - Announcements

2. PROCLAMATIONS, AWARDS & RECOGNITION

3. CITIZEN COMMENTS
   Individuals wishing to address the Board are asked to sign in at the entrance to the board room, indicating topic(s) or agenda item(s) you wish to discuss, so that the chair may group speakers according to topic. The chair will recognize individuals requesting to address the Board. Comments by any one speaker shall be limited to three (3) minutes.

   To send comments prior to the meeting, please call Town Hall at 828-419-9310 or email comments to Comments@townofblackmountain.org. The Clerk will compile them and present them to the Mayor for consideration.

4. COMMUNICATIONS FROM STAFF, BOARDS, COMMISSIONS & AGENCIES
   A. Black Mountain Public Works Annual Report – Jamey Matthews
   B. Black Mountain Police Department Annual Report – Chief Shawn Freeman

5. CONSENT AGENDA
   All items on the consent agenda are considered routine, to be enacted by one motion without discussion. If a member of the governing body requests discussion of an item, the item will be removed from the consent agenda and considered separately.

   A. Adoption of Minutes

   **Motion:** To adopt the minutes of February 4, 2021 Agenda Workshop, the February 8, 2021 Regular Session Meeting, the February 8, 2021 Closed Session Meeting, and the February 25, 2021 Special Call Meeting.
B. Memorandum of Understanding with Buncombe County concerning vaccine sites.

**Motion:** To approve or deny Intergovernmental Agreement for providing staffing at the COVID-19 vaccination sites

C. Call for Public Hearing to Close Portion of Unopened, Platted Portion of Right-of-Way Parallel and Between W. College Street and Goldmont Street.

**Motion:** To call for the public hearing to close an unopened, platted portion of right-of-way parallel and between W. College Street and Goldmont Street to be held on Monday, May 10, 2021 at 6:00 p.m. or as soon thereafter as possible, in the Board Room of Town Hall at 160 Midland Avenue.

D. Approve Agreement for Anna Major to Girl Scout Gold Award Project on the Oaks Trail.

**Motion:** To approve the agreement for Anna Major to complete a Gold Award Project on the Oaks Trail or Community Garden.

E. Call for Public Hearing for consideration of Charter Update.

**Motion:** To call for public hearing for consideration of Town Charter update to be held on Monday, April 12, 2021 at 6:00 p.m. or as soon thereafter as possible, in the Board Room of Town Hall at 160 Midland Avenue.

**Consent Motion:** To approve consent items A-E as presented.

6. CITIZEN COMMENTS
The chair will recognize individuals requesting to address the Board regarding the specific New Business or Unfinished Business items below. Comments by any one speaker shall be limited to three (3) minutes.

If the topic you wish to discuss pertains to a public hearing scheduled for this meeting, please reserve your comment for the applicable public hearing.

To send comments prior to the meeting, please call Town Hall at 828-419-9310 or email comments to Comments@townofblackmountain.org. The Clerk will compile and present written comments to the Mayor for consideration.

7. UNFINISHED BUSINESS

A. Riverwalk Greenway Update

8. NEW BUSINESS

A. Presentation of fiscal year 2019-2020 audit by Mauldin & Jenkins.
Motion: To approve the FY 2019-2020 audit as presented.

B. Refinancing 304 Black Mountain Avenue.

C. DWQ Grant Agreement for Swannanoa River Restoration Project.
   Motion: Approve the grant agreement as presented.

D. NC DOT Maintenance Agreement.
   Motion: To approve the agreement as presented.

E. Staffing for Adequate Fire and Emergency Response (SAFER) grant
   Motion: To approve or deny allowing the Fire Department to apply for SAFER staffing grant.

F. Ordinance to change the name of the governing body from Board of Aldermen to Town Council.
   #O-20-02
   Motion: To adopt Ordinance #O-21-02 as presented.

G. NCDEQ Division of Air Quality Volkswagen Settlement Level Rebate.
   Motion: To approve or deny acceptance of the rebate to expand electric vehicle charging infrastructure.

9. PUBLIC HEARING

   A. Text Amendments Chapter 1 – Definitions # O-21-01
      Motion:
      To open the public hearing for the proposed text amendments.

      To close the public hearing.

      To adopt Ordinance #O-21-01 as presented.

The chair will recognize individuals requesting to address the Board regarding the specific topic of the public hearing. Public hearing comments by any on speaker shall be limited to ten (10) minutes. The Mayor reserves the right to alter time limits and other rules of procedure at the beginning of each Public Hearing.

10. COMMUNICATION FROM STAFF

   A. Town Attorney – Ron Sneed

   B. Town Manager – Josh Harrold
11. COMMUNICATION FROM MAYOR AND BOARD OF ALDERMEN

12. ADJOURNMENT

[Signature]

Josh Harrold
Town Manager
In order to maintain the safety of Town residents, staff, and the Board of Aldermen, the Board of Aldermen The Agenda Work Session scheduled for Thursday, March 4th at 5:00 p.m. will be conducted electronically using YouTube Live.

The Board of Aldermen Regular Session scheduled for Monday, March 8, 2021 at 6:00 p.m., will be conducted electronically using YouTube Live. In order to comply with the State, County, and Town State of Emergency Declarations and social distancing requirements the only individuals that will be located at Town Hall will be the Mayor, Board of Aldermen, Town Manager, Town Clerk and one videographer. Other staff may participate remotely.

The meeting will be televised as normal on Charter Cable’s Buncombe County Channel 192 at 8:00 p.m. on Sundays and posted on the website: https://www.townofblackmountain.org. To comply with NC § 143-318.13, Electronic meetings; written ballots; acting by reference, the meeting will also allow live audio and video feed via Zoom.

There are three ways the public can participate in the meeting:

1. Join the meeting through YouTube Live on your computer or smart device. * Citizens will be able to comment at the appropriate time using the chat feature to enter their comments.  

   [https://www.youtube.com/channel/UCWJmKy_6LVe7VFXUrHwpESA](https://www.youtube.com/channel/UCWJmKy_6LVe7VFXUrHwpESA)

   There is no cost associated with the software or attending the meeting and there are toll free number options to dial in to listen live only.

2. Join the meeting by telephone (listen only).  

   Call toll free 877-853-5247 or 888-788-0099

   Meeting ID: 820 175 2195

   Passcode: 916686

3. Email or call in your citizen comments or questions prior to the meeting.

   Call in comments prior to meeting: Town Clerk at 828-419-9310

   Email comments to: Comments@townofblackmountain.org.

The Town is making every effort to ensure that the public is able to not only listen to the meeting, but also to participate in the public comment portion of the Board meeting, while still maintaining all of the Town’s statutory requirements and keeping the public safe. During the meeting, if at any time inappropriate content is detected the electronic meeting will be ended by the host.

Savannah M. Parrish  
Savannah M. Parrish  
Town Clerk

The Town of Black Mountain is committed to providing accessible facilities, programs and services for all people in compliance with the Americans with Disabilities Act (ADA). Should you need assistance or a particular accommodation for this meeting please contact, Savannah Parrish, Town Clerk at 419-9310 or by email at townclerk@townofblackmountain.org

Please visit [www.townofblackmountain.org](http://www.townofblackmountain.org) to obtain agenda packets and other meeting information.

*Posted to the Town Bulletin Board 2/26/21*
- **2020 Water Operations Projects**
  - Waterline replacement
  - Well pump replacement
  - Montreat water valves
  - Asheville pump station
  - Refurbish well houses
  - Phase 1 Asheville takeover
  - Automated meters/Towers

- **Work Orders Completed**

  During 2020, the Public Works Department completed a total of 3147 water operations work orders. Below is a breakdown of the work orders completed.

<table>
<thead>
<tr>
<th>Description</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Line Locates</td>
<td>1442</td>
</tr>
<tr>
<td>Cut On</td>
<td>516</td>
</tr>
<tr>
<td>Cut Off</td>
<td>507</td>
</tr>
<tr>
<td>Leaks</td>
<td>79</td>
</tr>
<tr>
<td>Leak Check</td>
<td>35</td>
</tr>
<tr>
<td>Meter Maintenance</td>
<td>178</td>
</tr>
<tr>
<td>Recheck Meter Reading</td>
<td>272</td>
</tr>
<tr>
<td>Watershed Maintenance</td>
<td>5</td>
</tr>
<tr>
<td>Well/Well house maintenance</td>
<td>10</td>
</tr>
<tr>
<td>Miscellaneous Water</td>
<td>89</td>
</tr>
<tr>
<td>Hydrant Repair/Maintenance</td>
<td>14</td>
</tr>
<tr>
<td>Total</td>
<td>3147</td>
</tr>
</tbody>
</table>
186,588,000
182,930,000
179,542,000

Pumped
Asheville

Recheck Meter Reading, 272
Meter Maintenance, 178
Leak Check, 35
Leaks, 79
Cut Off, 507
Cut On, 516
Watershed Maintenance, 5
Well/Wellhouse Maintenance, 10
Misc Water, 89
Hydrant Maint., 14
Line Locates, 1442
PUBLIC WORKS
ANNUAL WATER OPERATIONS REPORT - CALENDAR YEAR 2020
WATER OPERATIONS PROJECTS / MAINTENANCE

• WATERLINE REPLACEMENT
• WELL PUMP REPLACEMENT
• WATER VALVES
• ASHEVILLE PUMP STATION
• REFURBISHED WELL HOUSES
• PHASE 1 ASHEVILLE TAKEOVER
• AUTOMATED METERS / TOWERS
Total Work Orders

- 2018: 3197
- 2019: 3150
- 2020: 3147
Recheck Meter Reading, 272
Meter Maintenance, 178
Leak Check, 35
Leaks, 79
Cut Off, 507
Cut On, 516
Watershed Maintenance, 5
Well/Wellhouse Maintenance, 10
Misc Water, 89
Hydrant Maint., 14
Line Locates, 1442
Discuss call volumes
Discuss calls per officer
Department restructure
Discuss how we rate compared to other agencies
Discuss impact BMPD has made on drugs
Discuss BMPD’s efforts to cut cost
Discuss Department’s community outreach
Call for Service

Total Calls

Consistent with average calls over the previous 4 year period

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Calls</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>20941</td>
</tr>
<tr>
<td>2017</td>
<td>20799</td>
</tr>
<tr>
<td>2018</td>
<td>19945</td>
</tr>
<tr>
<td>2019</td>
<td>20448</td>
</tr>
<tr>
<td>2020</td>
<td>20216</td>
</tr>
</tbody>
</table>
2020 Calls
Incident Call Types

Incident Call Types

Damage to Property: 64
Narcotics Violations: 213
Drug Paraphernalia Violation: 77
DUI: 61
Calls for Service/Other: 8
Aggravated Assault: 280
Simple Assault: 10
Breaking and Entering: 86
Shoplifting: 48
Larceny: 88
Motor Vehicle Theft: 22
Counterfeiting/Forgery: 8
Trespass of Real Property: 25
Theft from a Motor Vehicle: 43
Weapon Law Violations: 27
Fraud: 34
Warrant Service: 78
<table>
<thead>
<tr>
<th>Crime Category</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Other Offenses</td>
<td>129</td>
</tr>
<tr>
<td>Trespassing</td>
<td>9</td>
</tr>
<tr>
<td>Theft</td>
<td>7</td>
</tr>
<tr>
<td>Warrant Service</td>
<td>78</td>
</tr>
<tr>
<td>Weapon Violations</td>
<td>27</td>
</tr>
<tr>
<td>Larceny</td>
<td>4</td>
</tr>
<tr>
<td>B&amp;E</td>
<td>11</td>
</tr>
<tr>
<td>Stolen Propert Offenses</td>
<td>13</td>
</tr>
<tr>
<td>Drunk &amp; Disorderly</td>
<td>3</td>
</tr>
<tr>
<td>DWI</td>
<td>58</td>
</tr>
<tr>
<td>Drug Paraphernalia</td>
<td>64</td>
</tr>
<tr>
<td>Narcotics Violations</td>
<td>186</td>
</tr>
<tr>
<td>Damage to Property</td>
<td>3</td>
</tr>
<tr>
<td>Simple Assault</td>
<td>34</td>
</tr>
<tr>
<td>Aggravated Assault</td>
<td>6</td>
</tr>
</tbody>
</table>
2020 Calls

State Citations

- Speeding: 370
- Seat Belt: 7
- Seat Belt: Juvenile: 3
- DWI: 58
- NOL: 32
- Expired Registration: 132
- Inspection: 2
- Unsafe Movement: 84
- Stop Sign: 10
- Red Light: 6
- No Insurance: 9
- Possess Open Container: 14
- Fail To Reduce Speed: 18
- All Other Infractions: 4

Total: 238
2020 Calls

Vehicle Accidents

Accident: Injury Unknown
0

Accident: Injury
12

Accident: Property Damage
132
Calls per Sworn Officer Comparison (Similar Size Agencies) 2020 Call Volume

- BMPD: 20 Sworn Officers 20,216 Calls
- Waynesville 38 Sworn Officers 24,982 Calls
- Marion: 30 Sworn Officers 21,987 Calls
- Brevard: 25 Sworn Officers 21,300 Calls
- Rockingham: 35 Sworn Officers 17,320 Calls
- Clinton: 24 Sworn Officers 15,044 Calls
- Lincolnton: 33 Sworn Officers 14,320 Calls
- Wilkesboro 23 Sworn Officers 8,800 Calls
## 2020 Calls per Sworn Officer Comparison

### Calls Per Officer

<table>
<thead>
<tr>
<th></th>
<th>Black Mountain</th>
<th>Waynesville</th>
<th>Brevard</th>
<th>Marion</th>
<th>Clinton</th>
<th>Rockingham</th>
<th>Wilkesboro</th>
<th>Lincolton</th>
</tr>
</thead>
<tbody>
<tr>
<td>Calls Per Officer</td>
<td>1011</td>
<td>657</td>
<td>852</td>
<td>733</td>
<td>557</td>
<td>495</td>
<td>382</td>
<td>415</td>
</tr>
</tbody>
</table>
Department Restructure

BLACK MOUNTAIN POLICE DEPARTMENT

Chief of Police
800

Lieutenant
803
A/B 1300-0100

Major
801

Lieutenant
802
C/D 1300-0100

ADAM
Sergeant
804
Police Officer
816
Police Officer
820
P.A.C.E. Officer
815
1400-0200

BAKER
Sergeant
808
FTO
Police Officer
818
Police Officer
821

ADMIN
Admin Asst. / T.A.C.

CID
Det. Sergeant
806
Detective
810

CHARLIE
Sergeant
805
K-9 Officer
813
Police Officer
817

DAVID
Sergeant
807
Police Officer
814
Police Officer
819

Part-Time
Detective
Vacant
15 hour per week
Police Officer
SRO/Downtown
Vacant 831
15 hour per week

Patrol Shifts rotate from dayshift to nightshift every month beginning with each 28 day pay cycle.
For comparison, crime is broken into 52 categories.

BMPD was equal to or less than other agencies in 72% of the categories.

Some of the higher categories:
- Rape: BMPD-5; Average-2 (2 under investigation, 1 arrest, 2 unfounded)
- Theft from MV: BMPD-36; Average-31 (down 28% from 2019)
- MV Theft: BMPD-21; Average-15 (16 recovered)
- Drug Violations: BMPD-140; Average-120
- Weapon Violations: BMPD-21; Average-16
Drug Seizure Totals 2020

- Over 6 pounds of marijuana
- 30,000 Methamphetamine pills
- 15,152.3 grams of methamphetamine
- 14.9 grams of cocaine
- 83.11 grams of heroin
- 85 dosage unit of Lysergic Acid Diethylamide (LSD)
- 3,430 dosage units of various opioids
2020 Drug Arrest

- 186 drug arrest resulting in 448 charges
- Two Federal cases resulting in 13 arrest
  - Numerous firearms seized including 6 firearms
BMPD Cost Cutting Efforts

- 2019-20 Governor’s Crime Commission no-match grant for $24,500: MDTs, in-car printers, vehicle computer mounts, 75” smart TV for the PD conference room.
- 2020-21 Governor’s Crime Commission no-match grant for $22,500: 2 large workstations areas, new desk top computers, smart TV and patrol rifles.
- Through a partnership with Homeland Security Investigations the Town has been reimbursed $11,900 in over-time expenditures and equipment purchases.
- Through the Governor’s Highway Safety Program, we received 4 radar units for patrol vehicles, 5 Alco-sensor’s and an in-car camera, at no cost, saving the Town approximately $13,000.
To assist with the aging patrol vehicle fleet and address safety concerns, the following actions were taken:

- During 2020, BMPD brought in well over $100,000 in drug seizure funds
- BMPD used a portion of those funds to purchase two 2020 Dodge Durango AWD and the equipment saving the Town approximately $88,000
- Using a combination of law enforcement restricted funds, purchased 10 sets of riot gear for the department saving the Town $6,800.
Through the USDOJ and the NCLM Ballistic Vest Grant Initiative (the total of these two grants reduce the cost per vest by about 80%), the Town received reimbursements for the purchase of ballistic vests saving the Town thousands of dollars.
Community Outreach

WE APPRECIATE

BMPD

In an expression of ongoing support and sincere appreciation for excellent service the Black Mountain Police Department provides to our community, the following individuals and businesses contributed to the BMPD Appreciation Luncheon on July 24, 2020, and to the raising of over $4000 toward the BMPD 2020 Christmas Fund

Francis & Joyce Ackerman | Black Mountain Savings Bank
Black Mountain Tire Connection | Ben & Shannon Cooper | Joseph Cordell
Epic Cycles | The Dancing Dragonfly | Zach & Jill Dasher | Libba Fairleigh
Bill Forstchen | John & Mary Funk | Allen Greene
Greybeard Property Mgmt. & Sales | Jay Gufey | Michael & Melissa Harrin
Daniel & Helen Hey | Hurt Architecture & Planning | The Junction | Pam King
Cheryl Milton & Terry Bullerdick | Jack Milton | Lisa Milton & Rick Spaulding
Morris & Sons Cars | Precision Graphics | The Red Radish | Gary Rupp
C. Michael Sobol | Bill & Bobbie Thiemkey | Town Hardware
Valley Trucking | Ray & Jacki Wilson
Don & Debra Wooton
Community Outreach
Thanksgiving / Christmas

- BMPD in conjunction with Deputy Chief John Wilson provided meals to 10 community members.
- BMPD provided Christmas for 14 Black Mountain children.
Community Outreach Cadet Corp

2020 saw the kick off of the Black Mountain Police Department’s Cadet Corp. This program was established to work with the area’s youth. This program not only allows the youth to see what is involved in the law enforcement profession, it is used to mentor youth; to help them be the best they can in both the community and school.
After the tragic death of George Floyd, the Black Mountain Police Department began to look for a better way to achieve unity within our community.

This was achieved through the BMPD Community Stakeholders Group

- Provides an opportunity to talk about the tough questions facing our community and society and work toward solutions in order to provide a more cohesive community.
Questions or Comments

YOU MUST
BE THE CHANGE
YOU WANT TO SEE
IN THE WORLD
1. CALL TO ORDER

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

- Mayor Larry B. Harris
- Vice Mayor Ryan Stone
- Alderman Archie Pertiller
- Alderman Ryan Stone
- Alderman Tim Raines
- Alderman Doug Hay
- Alderman Pam King

The following staff members were present:

- Josh Harrold, Town Manager
- Savannah Parrish, Town Clerk
- Ron Sneed, Town Attorney
- Fred McCormick, Reporter – The Valley Echo

Mayor Harris welcomed everyone and led the Pledge of Allegiance. Fire Chief Scottie Harris led the invocation. Mayor Harris then read the following statement from Steve Woody, CEO of Avadim Health.

“Happy New Year Guys....I would love to up-date everyone.

Obviously 2020 was a difficult year with COVID and our IPO delay. The impact to Avadim was pretty straight forward....it limited the capital that the company needed to grow and launch two of the new products we had ready to put on shelves in over 50k pharmacies as well as other expansion plans.
However, the company did pivot from a high growth focus to a profitability focus so that we reduced our need for outside capital. In doing so we had our 2nd and 3rd best quarters in the history of the company even though we couldn’t call on hospitals or long term facilities or even some pharmacies.

As we look to 2021 we still have some work to do to position the company for profitability and growth ... but we are launching some new products in the physician office space and in the pharmacy space that will allow the company to grow in the second half of the year. So our goal is to position the company by the end of the year for future growth and expansion as originally envisioned.”

2. PROCLAMATIONS, AWARDS & RECOGNITION

Mayor Harris read a statement in honor of the late Jim Levine, Owen High School Athletic Director.

3. CITIZEN COMMENTS

Town Manager Josh Harrold read the following comments

*James Full and Courtney Halcomb* - I have faith and trust in our own Leadership and support staff that they will make well informed and fair decisions going forward. My questions pertain the the Town will be thinking and doing. BC are going to do whatever they will do to balance the spending vs. revenue. Out of my control to input. As you know, they announced the huge 3-year assessment increases 2 Feb 2021. That follows the last 3-year large increases.

Does the Town have an ordinance or law which restricts the levy from being more than a certain % of the property value or assessment in any given tax year? A cap?

**IF** the Town of BM leaves their levy the same as last year, **then** tax collected will increase by ~ 55 % along with the assessment increases.

Below is spread sheet table showing sample increases in assessment. (The fair market value is highly questionable based on comp sales....I am getting that info. together as well as a current appraisal)

So, I am asking the Finance Director, Mayor, Board of Aldermen, will they **decrease the levy** such that the 2021 spending budget is essential flat vs. the prior year because revenue will increase in proportion to the tax base increase?

The Town has years of history maintaining a flat to decreasing levy as the tax base and revenue have risen.
I do understand the Town has added taxable property (new construction) year-over-year which has increased spending, but offset by increased property tax collections to achieve a balanced budget.

Capital and operating costs to take Trash / Recycle in house were a net reduction in spending vs. the WastePro contract.

**Theresa Fuller** - Good evening! My name is Theresa Fuller living at 207 Rhododendron Avenue. In March of 2020, I presented the following during my opportunity to speak for three minutes. I never got any response and am so happy to see this finally being addressed.

Before moving to North Carolina, I had never heard the term alderman. My family has lived in towns where the personnel representing the town were called council members. I looked up the term alderman. It is defined as a member of a city legislative body and literally translates as “old man” in old English. Even though many local municipalities in Western North Carolina still refer to themselves as board of aldermen, it’s considered an outdated gender-specific term that many younger people don’t recognize.

Alderman was a term made back in the 1880s when no one dreamed a woman would serve office. With more women serving on town governing boards, the word aldermen isn’t representative of the modern times. Don’t you believe we should change Black Mountain’s legislative body to use the word council and council members? The word council has a great meaning of consultation and advice, which I believe our town should convey in the spirit of becoming a progressive town with non-gender titles. Vote yes for Town Council!

4. COMMUNICATIONS FROM STAFF, BOARDS, COMMISSIONS & AGENCIES

A. **Sunrise Owen – Isabelle Hale and Elsa Quam**

   Isabella Hale and Elsa Quam addressed the Board regarding the Sunrise Owen Hub, a movement that supports The Green New Deal. The presentation covered the hub’s purpose, past actions, and goals.

B. **Fire Department Annual Report – Chief Scottie Harris**

   Fire Chief Scottie Harris presented the annual report of the Black Mountain Fire Department. The Fire Department responded 2084 calls in 2020, with 107 of those being related to COVID-19. Chief Harris is applying for a grant in hopes to replace air tanks. Chief Harris also addressed equipment, much of which is overdue to be replaced according to National Fire Protection Association. The National Fire Protection Association also recommends more staffing than the Fire Department currently employs. 160 in 2020 the Fire Department was understaffed
according to The National Fire Protection Association. The Chief also explained that the Black Mountain Fire Department also provides mutual aid to several area fire departments.

Alderman Pam King asked if the COVID-19 vaccine had been made available to the staff at Black Mountain Fire Department. Chief Harris confirmed that it had been offered and many had already been vaccinated.

In closing, there was a discussion about Fire Department staffing, with Chief Harris emphasizing the need for more fire fighters.

5. CONSENT AGENDA

All items on the consent agenda are considered routine, to be enacted by one motion without discussion. If a member of the governing body requests discussion of an item, the item will be removed from the consent agenda and considered separately.

Manager Josh Harrold presented the consent agenda to the Board of Aldermen.

A. Adoption of Minutes

Motion: To adopt the minutes of January 7, 2021 Agenda Workshop, the January 11, 2021 Regular Session Meeting and the January 14, 2021 Special Call Meeting.

B. Call for Public Hearing to Close Portion of Unopened, Platted Portion of Right-of-Way Parallel to Fairway Drive and Tomahawk Avenue. #R-21-02

Motion: To call for the public hearing to close an unopened, platted portion of right-of-way parallel and between Fairway Drive and Tomahawk Avenue to be held on Monday, April 12, 2021 at 6:00 p.m. or as soon thereafter as possible, in the Board Room of Town Hall at 160 Midland Avenue.

C. Call for Public Hearing to Close Portion of Unopened, Platted Portion of Right-of-Way Parallel and Between Hiawassee Avenue and S. Oconeechee Avenue #R-21-03

Motion: To call for the public hearing to close an unopened, platted portion of right-of-way parallel and between Hiawassee Avenue and S. Oconeechee Avenue to be held on Monday, April 12, 2021 at 6:00 p.m. or as soon thereafter as possible, in the Board Room of Town Hall at 160 Midland Avenue.

D. Call for Public Hearing for Text Amendments Chapter 1 – Definitions. #O-21-01

Motion: To call for a public hearing for text amendments to definitions to be held on Monday, March 8, 2021, at 6:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 160 Midland Avenue.

Alderman Archie Pertiller moved to approve consent items A-D as presented. The motion was approved by a vote of 5-0
6. CITIZEN COMMENTS - NONE

7. UNFINISHED BUSINESS - NONE

8. NEW BUSINESS
   A. Riverwalk Greenway Alignment

Fred Grogan presented alternatives Riverwalk Greenway alignments to the Board of Aldermen. The inability to create a no-rise scenario have temporarily frozen the project and make moving forward with the original alignment potentially impossible. Mr. Grogan outlined a route featuring Scotland Road, Center Avenue and Ridgeway Avenue and an additional route that would utilize existing infrastructure with downtown sidewalks leading west onto U.S. 70. Moving forward with an on-road plan, the town would be required to add multi-use paths, like bike lanes, and additional traffic signals. Manager Harrold added that moving forward with original planning would involve purchasing the properties impacted by the lack of no-rise. Moving forward with the plan would depend on the property owner’s willingness to sell.

The Greenways Commission has not received the presented alternatives and a meeting with the N.C. Department of Transportation will be held to see if other alternatives could be possible.

Alderman Pam King expressed her disappointment with the alternates being offered. Mayor Larry Harris noted a no-rise scenario is unlikely.

9. PUBLIC HEARING
   A. Public Hearing for Voluntary Annexation of property owned by Wm C Honeycutt, Jr. ETAL #O-20-20 (Continued from January 11, 2021)

   Alderman Doug Hay moved to open the public hearing for the proposed voluntary annexation for Buncombe County PIN #0619-88-6353.00000. The motion was approved by a vote of 5-0.

   Town Manager Josh Harrold addressed density allowances in the R-1 district by summarizing an email from the county planning director. Manager Harrold also read the public comments, which are made part of these minutes.

   Attorney Ron Sneed addressed the Board advising that it would be best to vote against the annexation if they planned to vote against the rezoning. He also clarified several questions about ingress/egress, which would require a site plan, which is not required.

   Jesse Gardner, a representative of the property owner, addressed the Board of Aldermen clarifying that the property owner planned to develop the land in Buncombe County if the Board of Aldermen chose to annex the property.

   Vice Mayor Ryan Stone addressed the Board expressing support for the annexation stating that he felt it was more beneficial for the Town if the property were developed within Town limits.

   Alderman Pam King moved to close the public hearing. The motion was approved
by a vote of 5-0.

Vice Mayor Ryan Stone moved to adopt Ordinance #O-20-20 as presented. The motion was approved by a vote of 5-0.

B. Public Hearing for Rezoning of property owned by Wm C Honeycutt, Jr. ETAL

#Z-O-20-06 (Continued from January 11, 2021)

Vice Mayor Ryan Stone moved to open the public hearing to rezone 99999 Laurel Drive from R-1 to UR-8. The motion was approved by a vote of 5-0.

There were no further public comments.

Vice Mayor Ryan Stone moved to close the public hearing. The motion was approved by a vote of 5-0.

Vice Mayor Ryan Stone moved to adopt Zoning Ordinance #Z-O-20-06 (statement of consistency included) to rezone 99999 Laurel Drive from R-1 to UR-8. The motion was approved by a vote of 5-0.

Aldermen Pertiller and Raines initially voted against the request, believing the R-1 zoning designation could remain in place after annexation. Both aldermen reversed their votes after they were advised that county zoning regulations could not apply to property within town limits.

10. COMMUNICATION FROM STAFF

A. Town Attorney – Ron Sneed – stated that the last easement has been received related to the Montreat water meter infrastructure.

B. Town Manager – Josh Harrold – reminded the Board of the Special Call meeting to be held on February 18, 2021. He also stated that he would poll the Board for a date to hold a Budget Workshop in March.

11. COMMUNICATION FROM MAYOR AND BOARD OF ALDERMEN

Alderman Archie Pertiller clarified with Attorney Ron Sneed about losing access to county zoning after being annexed.

Alderman Pam King reminded the public to support local restaurants by supporting the Chamber of Commerce’s Take Out 21 initiative.
12. CLOSED SESSION

A. Closed session to discuss personnel matters as permitted by NC G.S. 143-318.11(a)(6).

_Vice Mayor Ryan Stone moved to enter into closed session as permitted by NC G.S. 143-318.11(a)(6). The motion was approved by a vote of 5-0._

_Vice Mayor Ryan Stone moved to return to open session. The motion was approved by a vote of 5-0._

_Vice Mayor Ryan Stone moved to promote Cortney Kidd from accounting clerk to senior accountant and to raise her salary $3,569 per year. The motion was approved by a vote of 5-0._

13. ADJOURNMENT

_There being no further business Mayor Don Collins adjourned the meeting at 8:29 p.m._

ATTEST:

___________________________________  ____________________________________
Savannah M. Parrish Town Clerk          Larry B. Harris, Mayor

___________________________________
Josh Harrold, Town Manager
THE BLACK MOUNTAIN BOARD OF ALDERMEN, held a special called meeting on Thursday, February 25, 2021 at 8:30 a.m. in the board room of Town Hall, 160 Midland Avenue, Black Mountain NC. The purpose of this meeting was for the Board of Aldermen to review information regarding the proposed updates to the Town Charter.

1. CALL TO ORDER

Mayor Larry B. Harris called the special meeting to order at 8:30 a.m. with the following members present:

Mayor Larry B. Harris
Vice Mayor Ryan Stone
Alderman Archie Pertiller
Alderman Doug Hay
Alderman Pam King
Alderman Tim Raines

The following staff members were present:

Josh Harrold, Town Manager
Savannah Parrish, Assistant to Manager/Town Clerk
Ron Sneed, Town Attorney
Anna Stearns, Attorney

Attorney Ron Sneed introduced Attorney Anna Stearns and explained that she had been working on revisions to the Town Charter. Attorney Stearns explained that a Town Charter is ideally a short, straightforward document. She presented the rewritten charter to the Board by explaining changes section by section.

The proposed rewritten charter is included and made part of these minutes.

Attorney Stearns reminded the Board that should they update compensation of the mayor and councilmembers that the change could not go in effect during the current terms of office of any councilmember enacting the ordinance.

She also reviewed changing Section 2.4 to reflect the current practice of the Board to meet at 6 p.m. and to hold the organizational meeting in December following the elections.
The Board also reviewed the changes regarding the length of appointments when filling vacant seats on the board.

Section 3.1, Council-Manager Plan of Government, was updated to consistent with the General Statutes, and to make the language referring to the town manager gender neutral.

Town Clerk, Savannah Parrish, read a public comment submitted via email by Shawn Slome

“It is my understanding there is no State Statute requiring disclosure of conflicts of interest by advisory boards and elected bodies. This does not promote transparency in governance nor serve the interests of our Town. For example, the former Mayor was NOT required to disclose that he owned 8 acres adjacent to the Town Property when it was considering a lease to the Day Care despite the facts that the development would have increased the value of his property substantially. I believe there are some similar questions relating to conflicts of interest of those serving on the Planning Board. Can the Town Charter include a requirement that all those serving on Boards and Commissions disclose potential or perceived conflicts of interest?”

This comment led to a brief discussion concerning conflicts of interest and Chapter 160D- Local Planning and Development Regulation. All local governments must be in compliance with the new regulations by July 1, 2021.

Mayor Harris asked the attorneys if the board should consider adding special assessments to the charter, which Attorney Sneed did not recommend.

The Board of Aldermen will vote on an ordinance to change the name of the body to Town Council at the regular session meeting on March 8, 2021. They will also vote on a call for public hearing to consider updates to the Town Charter.

**There being no further discussion Mayor Larry Harris adjourned the meeting at 9:24 a.m.**

ATTEST:

Savannah Parrish, Assistant to Manager/Town Clerk

Larry B. Harris, Mayor

Josh Harrold, Town Manager
Mayor Larry B. Harris called the meeting to order at 5:00 p.m. with the following members present:

Mayor Larry B. Harris  
Vice Mayor Ryan Stone – absent  
Alderman Tim Raines  
Alderman Archie Pertiller  
Alderman Pam King  
Alderman Doug Hay

The following staff members were present:

Josh Harrold, Town Manager  
Savannah Parrish, Assistant to the Manager/Town Clerk  
Ron Sneed, Town Attorney  
Jessica Trotman, Planning Director

The Board of Aldermen reviewed the items proposed for the February 8, 2021 regular session meeting.

Mayor Harris opened the meeting. Town Manager Josh Harrold presented the agenda to the Board. He noted that there would be several presentations, including the Sunrise Owen Hub and the Black Mountain Fire Department Annual Report.

Manager Harrold presented the consent agenda which includes the adoption of minutes, and three calls for public hearing.
There is no unfinished business on this agenda.

Manager Harrold reminded the Board of Aldermen that the Riverwalk Greenway engineer Michael Baker would be joining the February 8, 2021 meeting to review alternate alignments.

Manager Harrold presented Items 9A and 9B, the continued public hearings from the January 11, 2021 regular schedule meeting. There was some discussion amongst the Board about providing water to the area should they choose not to annex. The Board also discussed the differences in density between Buncombe County and The Town of Black Mountain. The Board members also sought clarity from Attorney Sneed concerning conditional zoning, which is currently prohibited in town.

The Mayor recommended that the Board add Item 12A, closed session to discuss personnel matters as permitted by NC G.S. 143-318.11(a)(6), to the agenda. There was no objection.

Alderman Pam King expressed interest in passing an ordinance for the protection of the LBBTQ+ community. The Mayor recommended she work with Attorney Sneed to draft a document.

*There being no further business Mayor Larry B. Harris adjourned the meeting at 5:31 p.m.*

ATTEST:

Savannah Parrish, Assistant to Manager/Town Clerk

Larry B. Harris, Mayor
SUBJECT: MOU regarding COVID-19 vaccine sites

AGENDA INFORMATION

Agenda Location: NEW BUSINESS
Item Number: 5B
Department: Fire
Contact: Scottie Harris, Fire Chief
Presenter: Josh Harrold, Town Manager

BRIEF SUMMARY: Buncombe County has provided the attached Memorandum of Understanding (MOU) to all county fire departments for their review and signature with the recommended pay rate for reimbursement if they agree to assist in providing staffing at the COVID-19 vaccine sites.

MOTION FOR CONSIDERATION: To approve or deny Intergovernmental Agreement for providing staffing at the COVID-19 vaccination sites.

FUNDING SOURCE: General Fund

ATTACHMENTS: Intergovernmental agreement

MANAGER’S COMMENTS AND RECOMMENDATIONS: To approve as presented.
MEMORANDUM OF UNDERSTANDING

This Agreement is entered into on _____________, 2021 by and between the County of Buncombe, a body politic and corporate of the State of North Carolina (hereinafter referred to as "County") and the Town of Black Mountain, a North Carolina municipal corporation (hereinafter referred to as "Town"). Collectively hereinafter referred to as “Party” or “Parties”.

WITNESSETH:

WHEREAS, in March 2020 a State of Emergency was declared by the County and the State of North Carolina due to the COVID-19 Pandemic and this State of Emergency is still in effect;

WHEREAS, the County requests staffing assistance from the Town for operations related to the County COVID Vaccination and Testing Sites;

WHEREAS, the Town agrees to offer such assistance and agrees to assign staff for site operations as appropriate; and

WHEREAS, the County and Town desire to set forth the terms and conditions of this understanding.

NOW, THEREFORE, in consideration of the mutual promises made in this Memorandum of Understanding and the mutual reliance placed by each party on the responsibilities of the other, and such other considerations as the parties agree are good and sufficient, it is agreed as follows:

1. Description: Per approval by the Town Manager, the Town agrees to provide Town employees to serve on a temporary basis via redeployment in positions to support delivery of services at the County COVID Vaccination and Testing sites.

2. Responsibilities: The County and Town hereby agree to the following:

   The Town will:

   1. Allocate qualified Town personnel to serve at the request of the County to support delivery of services at the County COVID Vaccination and Testing Sites if the Town has the capacity to do so and chooses to in its sole discretion; such staff assigned by Town will perform duties of administering vaccines, patient observation, patient education, traffic management, resource management and logistics support.
2. Assignment of any Town staff to service the Vaccination and Testing Sites is a redeployment and such staff remain and will be considered to be employees of Town.

3. Designate a Point of Contact to work with the County Redeployment Coordinator to facilitate and track Redeployment assignments as necessary.

4. Maintain a record of all Town employees assigned to the Vaccination and Testing sites, including but not limited to: dates specific Redeployment requests are received, dates upon which employee Redeployment assignment are agreed, dates employee Redeployment assignments begin, including: shift hours and days, primary County assignment location, projected duration of the Redeployment assignment, and Redeployment assignment compensation.

5. Towns are responsible for submitting reimbursement documentation (coversheet, timesheets or reports documenting hours claimed on a Template to be provided to Town by County) to the County on the 10th of each month for the preceding month.

6. Town Staff will be outside in a variety of the weather conditions. Staff provided are responsible for arriving dressed for forecast conditions.

7. Immediately notify County if an assigned Town will not be able to report to appropriate Vaccination and Testing Site.

The County will:

1. Reimburse the Town based on the Town's rate for hours paid (Regular or Overtime) plus fringe benefits. Town will be required to submit to County "Force Account Labor Record" and "Town Benefits Calculation Worksheet" for its personnel in a form and manner to be determined by Buncombe County EMS.

2. Designate a Point of Contact to work with the Town to facilitate coordinate and track Redeployment assignments as necessary.

3. Ensure that Town staff are provided Centers for Disease Control and Prevention (CDC) advised and Occupational Health and Safety Administration (OSHA) compliant personal protective equipment (PPE) and training per CDC and OSHA regulation for the job function(s) as appropriate.

4. Immediately notify Town if a Redeployed staff does not report to their Site assignment, complaints are received or sought to be reported regarding the Redeployed staff, or other personnel concerns arise.
Each party will:

Provide to the other Party the name and title of managers and/or those responsible, or their designee(s), to ensure accountability of the agreement and assignments.

Daily contact person for the County:

Daily contact person for the Town:

3. Payment: County will reimburse Town at the hourly rates set forth above. In the event of cancellation of a deployment of Town staff to a Vaccination and Testing Site without advance notice for reasons not related to an Act of God then the County will pay to Town for five (5) hours of the appropriate rate. The County will not owe any reimbursement to Town in the event County gives Town at least twelve hours (12) advance notice of staffing cancellation. County and Town each understand and agree that the aggregate of all payments to be made by County to Town pursuant to this agreement shall not exceed $440,000.

4. FEMA Reimbursement: The Town understands and agrees that the County will request FEMA Reimbursement for expenses related to these COVID-19 services. Town will not make the same request.

5. Term/Renewal/Termination: The term of this Agreement shall begin as of February 1, 2021, and shall end on June 30, 2021. The agreement may be terminated by either party for any or no reason upon ten (10) days notice.

6. Remedy to Return Agreement to Compliance: In the event that a remedy is necessary for either party to ensure that the outcomes expected are realized the Parties agree to meet and agree to an Action Plan that describes action to be taken by each party to bring the agreement into compliance.

7. Indemnification and Insurance

Indemnification: The Town agrees to indemnify and hold harmless the County and their officers, agents and employees from any third party claims arising from negligent acts or omissions of the Town or its staff in connection with the performance of this Agreement.

The County agrees, to the extent permitted by North Carolina law, to indemnify, defend, and hold harmless the Town and their officers, agents and employees from any third party claims arising from negligent acts or omissions of Town employees and/or County in connection with the performance of this Agreement. This provision shall specifically include auto liability as Town staff may be directed by the County to operate County vehicles as Permissive Users.
In the event any Town staff claims a workers’ compensation injury during a period of deployment for Vaccine and Testing Site duties, then any such workers’ compensation claim filed by Town staff shall be handled and administered by the Town and/or the Town’s third-party workers’ compensation administrator. To the extent permitted by North Carolina law, the Town will provide notice to the County of the filing of any such claims and the status of such claims during the pendency of the claim.

Insurance:

The County is self-insured for general liability and maintains excess general liability coverage up to $7,000,000 per occurrence: Including coverage for bodily injury and property damage. In addition, the County is self-insured for workers’ compensation and maintains excess workers’ compensation coverage per statutory requirement and carries $1,000,000 of employer’s liability insurance.

Town shall obtain and keep in force during the term of this agreement the following minimum insurance coverage:

a. Worker’s Compensation – at the statutory limits in compliance with applicable State and Federal laws. The Contractor shall ensure that any subcontractors also have workers compensation coverage at the statutory limits.

b. Employer’s Liability - with minimum limits of $1,000,000 each accident/$1,000,000 disease each employee/$1,000,000 disease policy limit.

c. Commercial General Liability - covering all operations performed by the Contractor with a minimum limit of $1,000,000 per occurrence with a $3,000,000 aggregate.

d. Professional Health Care Liability - covering the Contractor’s acts, errors, or omissions in the rendering of or failure to render professional health care services with a minimum limit of $1,000,000 per occurrence with a $3,000,000 aggregate

e. Business Automobile Liability - covering all owned, non-owned, and hired vehicles used in performance of the contract. The minimum combined single limit per occurrence shall be $1,000,000 and shall include uninsured/underinsured motorists coverage per NCGS 20-279.21.

f. Excess or Umbrella Liability – shall extend an additional $1,000,000 limit / $3,000,000 aggregate over the underlying commercial general liability, professional health care liability, and business auto liability insurance. Any additional insured under any policy of the underlying insurance will automatically be an additional insured under this insurance.

(a) Maintaining the types and amounts of insurance or self-insurance specified in this paragraph is a material obligation of the each party.

(b) The parties shall comply at all times with all lawful terms and conditions of each of its insurance policies and all lawful requirements of its insurer.
8. Employment Classification: Redeployed Town employees shall remain Town employees and shall not be considered employees, agents or representatives of the County. The County is not liable directly to the Redeployed Town employee for any workers’ compensation claim occurring during a period of Redeployment. In the event a Redeployed City employee files a workers’ compensation claim jointly against the Town and County the Town shall be responsible for handling and administering said claim; if workers’ compensation benefits are due to the Redeployed Town employee, the Town shall be responsible for satisfying the amounts due pursuant to the claim.

9. Required Reporting: When this agreement is fully executed each party shall ensure compliance with all applicable Federal, State, and local government regulations, respectively.

10. Damages: Each party shall be responsible for any damage, theft, and/or vandalism of their own materials, equipment and supplies.

11. Amendments: This Agreement (including Exhibit A to be executed for each City employee Redeployment assignment) constitutes the entire Agreement between the Parties. This Agreement may be amended, supplemented or modified only by duly executed written instruments as an amendment to this agreement.

12. Compliance with Laws: Each party shall comply with all state, federal, or local laws, or ordinances, codes, rules or regulations governing performance of this Agreement.

13. Assignability: This agreement is not assignable by either party without the prior written consent of the other party.

14. Budgetary Limitations: Nothing stated in this Agreement shall be construed as requiring either party to make any budgetary appropriations.

15. Non-Discrimination: In accordance with State and Federal laws, each party shall not discriminate against any person on the basis of sex, national origin, race, ethnic background, color, religion, age or disability in its program activities related to this Agreement.

16. E-Verify Employer Compliance: Employers and their subcontractors with 25 or more employees as defined in Article 2 of Chapter 64 of the NC General Statutes must comply with E-Verify requirements to contract with governmental units. E-Verify is a Federal program operated by the United States Town of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law. E-verify can be accessed via this link: http://www.uscis.gov/e-verify/employers

17. Governing Law: This Agreement is entered into in North Carolina and shall be construed under the statutes and laws of North Carolina.
18. **Severability:** Should any provision or provisions contained in this agreement be declared by a court of competent jurisdiction to be void, unenforceable or illegal, such provision or provisions shall be severable and the remaining provisions hereof shall remain in full force and effect.

19. **Notices:** In the event either party hereunder desires or is required to provide any notice to the other party, the party desiring or requiring to provide such notice shall provide it in writing, by email to the other party at the address listed below:

20. **Federal Uniform Guidance:** the Federal Uniform Guidance included and as follows the Memorandum of Understanding is incorporated herein by reference as if fully set forth herein.

21. **Electronic Signature.** This agreement may be executed in one or more counterparts by PDF or other electronic transmission, each of which shall be deemed an original and which, when taken together, shall constitute one document.

**The Town contact:**

**The County contact:**

<table>
<thead>
<tr>
<th>Town</th>
<th>Buncombe County</th>
</tr>
</thead>
<tbody>
<tr>
<td>Josh Harrold, Town Manager</td>
<td>Avril Pinder, County Manager</td>
</tr>
</tbody>
</table>

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

_________________________
Don Warn, Finance Director for Buncombe County

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

_________________________
Finance Director for the Town of Black Mountain
TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: March 8, 2021

SUBJECT: Call for Public Hearing to Close Portion of Unopened, Platted Portion of Right-of-Way Parallel and Between W. College Street and Goldmont Street

AGENDA INFORMATION

Agenda Location: CONSENT AGENDA
Item Number: 5C
Department: Planning & Development
Contact: Jessica Trotman, Planning Director
Presenter: Jessica Trotman, Planning Director

BRIEF SUMMARY: The Planning Board has submitted a petition to close a larger area of the right-of-way between Goldmont Street and W. College Street. The requested portion runs from north Goldmont Street to the intersection of Ash Street and Central Avenue. The requested closure is approximately 900 feet in the length and 15 feet wide. The right-of-way is not identified in any adopted plans nor is part of a proposed greenway or roadway system. The right-of-way is not part of a stormwater system nor is it in any drainage area. The Planning Board recommended the closure with a vote of 5-1 at the February 22, 2021 meeting.

The Town has the authority to close dedicated but unopened streets within its jurisdiction on its own motion.

MOTION FOR CONSIDERATION: To call for the public hearing to close an unopened, platted portion of right-of-way parallel and between W. College Street and Goldmont Street to be held on Monday, May 10, 2021 at 6:00 p.m. or as soon thereafter as possible, in the Board Room of Town Hall at 160 Midland Avenue.

FUNDING SOURCE: N/A

ATTACHMENTS: Resolution of Intent #R-21-04, Map

MANAGER’S COMMENTS AND RECOMMENDATIONS: To call for the public hearing to be held at the next regularly scheduled meeting or as soon thereafter as possible.
LEGAL NOTICE

BLACK MOUNTAIN BOARD OF ALDERMEN

PUBLIC HEARING

Monday, May 10, 2021 at 6:00 p.m.

The Black Mountain Board of Aldermen will meet on **Monday, May 10, 2021 at 6:00 p.m.** in the Board Room in the Town Hall Building, 160 Midland Avenue, Black Mountain, NC. The purpose of this meeting is to hold a public hearing for a right-of-way closure parallel and between W. College Street and Goldmont Street.

The meeting is open to the public.

_________________________
Savannah Parrish
Town Clerk

The Town of Black Mountain is committed to providing accessible facilities, programs and services for all people in compliance with the Americans with Disabilities Act (ADA). Should you need assistance or a particular accommodation for this meeting please contact, Savannah Parrish, Town Clerk at 419-9310 or by email at savannah.parrish@townofblackmountain.org.

*Posted to the Town Bulletin Board 04/01/2021*
*Published in the Black Mountain News 04/01/2021, 04/08/2021, 04/15/2021, and 04/22/2021*

www.townofblackmountain.org
RESOLUTION OF INTENT # R-21-04

RESOLUTION DECLARING THE INTENT OF THE BOARD OF ALDERMEN OF THE TOWN OF BLACK MOUNTAIN TO CONSIDER THE CLOSING OF AN UNOPENED, PLATTED PORTION OF RIGHT-OF-WAY PARALLEL AND BETWEEN W. COLLEGE STREET AND GOLDMONT STREET AND TO HOLD A PUBLIC HEARING ON THIS ISSUE MAY 10, 2021

WHEREAS, G.S. 160A-299 authorizes the Board of Aldermen of the Town of Black Mountain to permanently close public streets or alleys; and

WHEREAS, The Town of Black Mountain Planning Board has initiated a petition to close that unopened, platted portion of right-of-way parallel and between W. College Street and Goldmont Street; and

WHEREAS, the Planning Board for the Town of Black Mountain did recommend that the unopened, platted portion of right-way parallel and between W. College Street and Goldmont Street be closed; and

WHEREAS, the Board of Aldermen of the Town of Black Mountain must set a public hearing to consider any comments concerning the above referenced request before taking any action; and

WHEREAS, in accordance therewith, the Board of Aldermen of the Town of Black Mountain desires to take the following actions:

DESCRIPTION:

LYING AND BEING in the Town of Black Mountain, Black Mountain Township, Buncombe County, North Carolina and being more particularly described as follows:

BEING all of that fifteen-foot wide alley located in that portion of Block G as shown on a plat of the Methodist Colony Company recorded in Plat Book 198 at Page 20, Buncombe County Registry, bounded on the North by Chicago Avenue, on the East by Goldmont Street, on the South by Central Avenue, and on the West by West College Street, said alley having as its eastern boundary the following described line:

BEGINNING at a point located in the northeastern corner of lot 95, Block G, as laid down and shown on that Plat recorded in Plat Book 198 at Page 20, Buncombe County Registry, and running thence along and with the eastern boundary of Lots 95 thru 106, Block G, as shown on said plat, South 2° 30’ West 600 feet to a point in the northern boundary of Lot 82, Block G, as shown on said plat; thence continuing South through said Lot 82 along and with the southeastern boundary of those properties described in Deed Book 1135 at Page 755, Deed Book
NOW, THEREFORE, BE IT RESOLVED by the Board of Aldermen of the Town of Black Mountain:

Section 1. Pursuant to G.S. 160A-299, the Board of Aldermen declares its intent to close the unopened, platted portion of right-of-way parallel and between W. College Street and Goldmont Street.

Section 2. A public hearing on the question of closing said street is hereby called at Town Hall, 160 Midland Avenue, Black Mountain, N.C. 28711 on Monday, May 10, 2021 at 6:00 p.m.

Section 3. Following the public hearing called hereby, the Board of Aldermen shall consider the passage of an order closing the street identified above.

Section 4. The Town of Black Mountain Town Clerk is hereby directed to publish this Resolution once a week for four successive weeks in the Black Mountain News, or other newspaper of general circulation in the area.

Section 5. The Town of Black Mountain Zoning Administrator is hereby directed to transmit by registered or certified mail to each owner of property abutting upon that portion of said street a copy of this Resolution.

Section 6. The Town of Black Mountain Zoning Administrator is further directed to cause adequate notices of the proposed closing and of the public hearing to be posted as required by G.S. 160A-299.

I move the adoption of the foregoing resolution:

__________________________________
Alderman

READ, APPROVED AND ADOPTED, by a vote of ____ to ____ this the 8th day of March, 2021.

ATTEST:

__________________________________
Larry Harris, Mayor
SUBJECT: Approve Agreement for Anna Major to Girl Scout Gold Award Project on the Oaks Trail

AGENDA INFORMATION

Agenda Location: CONSENT AGENDA
Item Number: 5D
Department: Planning & Development
Contact: Jessica Trotman, Planning Director
Presenter: Jessica Trotman, Planning Director

BRIEF SUMMARY: Ann Major is an Owen High School Senior and Girl Scout Ambassador. Ms. Major would like to partner with the Town of Black Mountain to paint an interactive path along the Oaks Tail or Community Garden to encourage children to exercise through creative play. A Gold Award is the highest level of award that a Girl Scout can achieve.

MOTION FOR CONSIDERATION: To approve the agreement for Anna Major to complete a Gold Award Project on the Oaks Trail or Community Garden.

FUNDING SOURCE: N/A

ATTACHMENTS: Interactive Path Agreement, Letter from Anna Major

MANAGER’S COMMENTS AND RECOMMENDATIONS: To approve the agreement as written.
INTERACTIVE PATH AGREEMENT

THIS AGREEMENT, made and entered into by and between the TOWN OF BLACK MOUNTAIN ("Town") and ANNA FAITH MAJOR ("Major").

WITNESSETH:

THAT WHEREAS, Major desires to paint an interactive path along the Oaks Trail or the pathways serving the community garden to encourage children to exercise through creative play as her Girl Scout Gold Award project; and

WHEREAS, the Oaks Trail and the pathways serving the community garden under the control of the Town and use of that property requires the consent and permission of the Town; and

WHEREAS, the existence of an interactive trail as described by Major to help kids with autism and other mental and developmental differences is in the public interest as it will provide an opportunity for exercise and encourage exercise, in keeping with the town’s objective of encouraging healthy lifestyles and activities.

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter set out, the parties agree as follows:

1. Major may paint an interactive path along the Oaks Trail and/or the walkways providing access to and around the community garden.

2. Before the painting is done, a drawing or other representation of the paintings and their locations shall be approved by Josh Henderson.

3. Major will use materials for painting that are as environmentally safe as practical, while using materials that will be durable and not require constant repainting, as this will become the expense of the Town once Major is no longer
around to maintain the paintings, and it is in the best interest of Major and the
Town for the paintings to remain in good condition and clearly legible so that the
purpose of the paintings can continue to be fulfilled.

4. The Town will be under no obligation to maintain the paintings, and
may remove them if they are not used for the purposes intended, become faded and
require maintenance beyond the Town’s budget and ability to maintain or repaint
them, or if the Oaks Trail or the pathways around the community garden have to
be resurfaced and the Town chooses not to have the paintings replaced.

This the _____ day of _______________________, 2021.

THE TOWN OF BLACK MOUNTAIN

By:_____________________________________
Josh Harrold, Town Manager

_______________________________________
Anna Faith Major

_______________________________________
Girl Scout Troop leader or representative
Anna Faith Major  
9 Wolfpit Br  
Black Mountain, NC  
annafath2022@gmail.com  
(828)664-9222  

January 27th 2021  

Mr Henderson  
Director of Recreation & Parks  
828-419-9300, ext. 302  

Dear Mr. Henderson  

Hi, My name is Anna Faith Major. I am an 11th grader at Owen High School and I’m also a Girl Scout Ambassador. I was hoping that I could partner with you for my Gold Award project. A Gold Award is the highest level award that a girl scout can achieve.  

For this project I would like to paint an interactive path along the Oaks Trail or community gardens to encourage children to exercise through creative play.  

Through this project I hope to help kids with autism and other mental and developmental differences because a pathway like this can build and strengthen children’s sensory pathways and connections in the brain. This project will also create a good way for families to bond together and give young children something to do while their siblings play soccer or baseball or parents work in the community garden. It encourages kids to move a little more than just walking the trail and have fun playing outdoors. It will also create a unique spot for tourists to visit and highlight greenways.  

To accomplish this I would research and design elements that best meet these goals and are aesthetically pleasing while consulting with professionals to develop an overall layout. Then I would create stencils and oversee a painting team of volunteers from the community to paint elements on the paved walkway. Finally, I would host a town dedication and publicize information about this path. So that there is no cost for the town, I will fundraise and use my Girl Scout cookie earnings.  

I hope that you will consider this project and be willing to partner with me to make our town a unique and fun place for children. Please let me know what you think.  

Thank you for your consideration,  

Anna Faith Major
SUBJECT: Call for Public Hearing for consideration of Charter Update

AGENDA INFORMATION

Agenda Location: CONSENT AGENDA
Item Number: 5E
Department: Town Attorney
Contact: Anna Stearns
Presenter: Anna Stearns

BRIEF SUMMARY: The town charter has not been updated for several decades, although there have been amendments. A proposed updated town charter is to be considered, modified as deemed appropriate by the town council, and, if approved, submitted to our delegation in the state legislature for approval and adoption.

MOTION FOR CONSIDERATION: To call for a public hearing to be held on April 12, 2021, to consider the proposed updated town charter for approval.

FUNDING SOURCE: N/A

ATTACHMENTS: Draft of proposed updated charter

MANAGER'S COMMENTS AND RECOMMENDATIONS:
CHARTER
BLACK MOUNTAIN, NORTH CAROLINA

Table of Contents
ARTICLE I. – CORPORATE POWERS ........................................................................................................... 1
Section 1.1. Incorporation and corporate powers ................................................................................................. 1
Section 1.2. Exercise of powers ............................................................................................................................. 1
Section 1.3. Corporate limits ...................................................................................................................................... 1
ARTICLE II. – TOWN COUNCIL ............................................................................................................................ 1
Section 2.1. Creation .................................................................................................................................................. 1
Section 2.2. Filling of vacancies ................................................................................................................................... 2
Section 2.3. Compensation of mayor and councilmembers ...................................................................................... 2
Section 2.4. Meetings of the town council .............................................................................................................. 2
Section 2.5. Mayor and mayor pro tem .................................................................................................................. 3
Section 2.6. Rules of the town council ................................................................................................................... 3
Section 2.7. Quorum .................................................................................................................................................. 3
Section 2.8. Ordinances and resolutions ................................................................................................................ 3
ARTICLE III. – COUNCIL-MANAGER PLAN OF GOVERNMENT ............................................................................. 4
Section 3.1. Council-manager plan of government .................................................................................................. 4
Section 3.2. Departments and department heads .................................................................................................. 5
Section 3.3. Compensation of personnel ................................................................................................................. 5
Section 3.4. Town clerk .............................................................................................................................................. 6
Section 3.5. Duties of town attorney ....................................................................................................................... 6
Section 3.6. Bonds required ...................................................................................................................................... 6
Section 3.7. Boards and commission ...................................................................................................................... 6
Section 3.8. Issuance of bonds ................................................................................................................................... 6
Section 3.9. Rules governing town finances ........................................................................................................... 6
Section 3.10. Independent audit .............................................................................................................................. 6
ARTICLE IV. – MISCELLANOUS PROVISIONS ......................................................................................................... 7
Section 4.1. Oath of office ......................................................................................................................................... 7
Section 4.2. Severability .......................................................................................................................................... 7
ARTICLE I. – CORPORATE POWERS

SECTION 1.1. INCORPORATION AND CORPORATE POWERS

The inhabitants of the Town of Black Mountain, North Carolina, shall continue to be a body politic and corporate under the name of the “Town of Black Mountain” and under that name shall have perpetual succession; may use a corporate seal; may sue and be sued; may acquire property, real and personal, within or without its boundaries for any municipal purpose, in fee simple or lesser interest or estate, by purchase, gift, devise, lease or condemnation, and may sell, lease, hold, manage and control such property as its interests may require; and, except as prohibited by the Constitution of North Carolina or restricted by this Charter, shall have and may exercise all municipal powers, functions, rights, privileges and immunities conferred upon municipal corporations by general law of this state.

SECTION 1.2. EXERCISE OF POWERS

The corporate powers of the Town of Black Mountain shall be vested in and exercised by a mayor, town council and town manager as hereinafter provided, subject to such limitations as may be hereinafter imposed. All powers of the town, whether expressed or implied, shall be exercised in the manner prescribed by this charter, or, if not prescribed therein, then in the manner provided by ordinance or resolution of the town council.

SECTION 1.3. CORPORATE LIMITS

The boundaries of the Town of Black Mountain shall be those existing at the time of the passage of this act [Charter], with such alterations as may be made from time to time in the manner provided by law.

ARTICLE II. – TOWN COUNCIL

SECTION 2.1. CREATION

(A) Except as otherwise provided in this charter all powers of the town shall be vested in a town council comprised of (5) members and a mayor nominated and elected from the town at large in the manner hereinafter provided. The mayor and members of the council shall be qualified voters and residents of the town.

(B) Elections for mayor and councilmembers shall be held on a nonpartisan basis in even-numbered years on the Tuesday after the first Monday in November. The names of the candidates shall be printed on the ballots without reference to any party affiliation, and any qualified voter residing in the town shall be entitled to vote on such ballots. Results shall be determined using the plurality election method in accordance with N.C.G.S. § 163-292, as the same may be amended or renumbered from time to time. Elections shall be held and conducted in accordance with the general laws governing elections for county municipalities.
(C) The term of office of the mayor and councilmembers shall be four years and until
their successors are elected and qualified and shall begin on the first Tuesday of December next
following their election. Terms of office for councilmembers shall be staggered in accordance with

(D) The mayor or any councilmember ceasing to possess any of the qualifications
specified in this section, or convicted of crime while in office, shall immediately forfeit office.

SECTION 2.2. FILLING OF VACANCIES

If the elected mayor or an elected councilmember shall fail or refuse to be qualified, or if
the holder of any elective office is unable to discharge the duties of such office, or if a vacancy
shall otherwise occur in any elective office, such vacancy shall be filled by the remaining members
of the council. In the event such vacancy occurs within 135 days of the next general election, the
person appointed by the council to fill the vacancy shall serve the remainder of the unexpired term.
Otherwise, a successor shall be elected at the next general election and the person appointed to fill
the vacancy shall serve only until the elected successor takes office. The elected successor shall
then serve the remainder of the unexpired term.

SECTION 2.3. COMPENSATION OF MAYOR AND COUNCILMEMBERS

The mayor and each councilmember shall receive a salary, the amount of which shall be
prescribed by ordinance. No ordinance fixing or changing the salary of the mayor or any
councilmember shall become effective during the current term of office of the councilmembers
enacting such ordinance.

SECTION 2.4. MEETINGS OF THE TOWN COUNCIL

At 6:00 p.m. o'clock on the first Tuesday of December following a regular municipal
election, the town council shall meet at the usual place for holding its meetings and the newly
elected members shall assume the duties of office. Before entering upon the duties of their offices,
the newly elected mayor and/or councilmembers shall severally make oath before the town clerk
or some other person authorized by law to administer oaths to perform faithfully the duties of their
respective offices. Thereafter the council shall meet at such times as may be prescribed by
ordinance or resolution, but not less frequently than once each month. Special meetings shall be
called by the clerk upon the written request of the mayor or two members of the council. Any such
notice shall state the subject to be considered at the special meeting and no other subject shall be
there considered. All meetings of the council shall be open to the public and the rules of the council
shall provide that citizens of the town shall have a reasonable opportunity to be heard at any such
meetings in regard to any matter considered thereat; provided, however, that the council may, by
a two-thirds vote of all the members, authorize an executive meeting, which may be closed to the
public as authorized by law.
SECTION 2.5. MAYOR AND MAYOR PRO TEM.

(A) The mayor shall preside at meetings of the council and shall exercise such other powers and perform such other duties as are or may be conferred and imposed upon him by the general laws of North Carolina, by this charter and the ordinances of the town. The mayor shall be recognized as the head of the town government for all ceremonial purposes, by the courts for serving civil processes, and by the Governor for the purposes of military law. In time of public danger or emergency the mayor shall, if so authorized and directed by vote of the council, take command of the police, maintain order and enforce the law.

(B) At its first meeting in the month of December following a regular municipal election, the council shall choose one of its members as vice mayor, who shall act as mayor pro tem. In case of the absence or disability of the mayor, the mayor pro tem shall act as mayor during the continuance of the absence or disability of the mayor.

SECTION 2.6. RULES OF THE TOWN COUNCIL

The council shall determine its own rules and order of business and keep a journal of its proceedings.

SECTION 2.7. QUORUM

A majority of the members elected to the council shall constitute a quorum to conduct business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The affirmative vote of a majority of the members elected to the council shall be necessary to adopt any ordinances, resolutions, order or vote; except that a vote to adjourn, or regarding the attendance of absent members, may be adopted by a majority of the members present. No member, including the mayor, shall be disqualified from voting except on matters involving the consideration of his or her own official conduct or when his or her financial interests are involved.

SECTION 2.8. ORDINANCES AND RESOLUTIONS

(A) Ordinances and resolutions shall be introduced to the council in writing.

(B) All ordinances, except ordinances making appropriations and ordinances codifying or rearranging existing ordinances or enacting a code of ordinances, shall be confined to one subject, and the subject, or subjects of all ordinances shall be clearly expressed in the title.

(C) Ordinances making appropriations shall be confined to the subject of appropriations.

(D) The yeas and nays shall be taken upon the passage of all ordinances and resolutions and entered upon the journal of the proceedings of the council. The enacting clause of all ordinances shall be: "Be it ordained by the Town of Black Mountain."

(E) Ordinances making the annual tax levy, appropriation ordinances, ordinances and resolutions pertaining to local improvements and assessments, ordinances and resolutions providing for or directing any investigation of town affairs, resolutions requesting information from administrative offices or directing administrative action shall take effect at the time indicated therein. Except as
otherwise prescribed in this charter, all other ordinances and resolutions passed by the council shall take
effect at the time indicated therein, but not less than ten days from the date of their passage.

(F) Upon final passage, each ordinance or resolution shall be authenticated by the signature of
the mayor and the town clerk and shall be recorded in a book kept for that purpose. Within ten days after
final passage, a notice setting forth in brief the substance of each ordinance shall be published or posted at
least once in such manner as the council may prescribe.

ARTICLE III. – COUNCIL-MANAGER PLAN OF GOVERNMENT

SECTION 3.1. COUNCIL-MANAGER PLAN OF GOVERNMENT

(A) The plan of government shall be the council-manager plan, with all administrative
responsibility and authority vested in a town manager and all legislative and policy making decisions vested
in the town council, with the responsibilities and duties of each to be as hereinafter set out.

(B) The council shall appoint a town manager to serve at its pleasure. The town manager shall
be appointed solely on the basis of executive and administrative qualifications and need not be a resident
of the town or state at the time of appointment. The office of town manager may be held concurrently
with other appointive (but not elective) offices pursuant to Article VI, Section 9, of the Constitution of the
state of North Carolina.

(C) The town manager shall be the chief administrator of the Town of Black Mountain and
shall be responsible to the council for the proper administration of all municipal affairs placed in the
manager’s charge by the council and shall:

1. shall, in accordance with such general personnel rules, regulations, policies
   or ordinances as the council may adopt, appoint, suspend or remove all town officers, department
   heads, and employees whose appointment or removal is not otherwise provided for by law, provided
   that the manager shall report each appointment or removal to the council at its next
   meeting unless the council has provided otherwise by resolution;

2. direct and supervise the administration of all departments, offices and
   agencies of the town, subject to the general direction and control of the council, except as otherwise
   provided by law;

3. attend all meetings of the council and recommend measures to be acted upon
   by the council;

4. ensure that all laws of the state, the town charter, and the ordinances,
   resolutions and regulations of the council are faithfully executed;

5. prepare and submit the annual budget and capital program to the council;

6. annually submit to the council and make available to the public a complete
   report on the finances and administrative activities of the town as of the end of the fiscal year.
7. make any other reports that the council may require concerning the operations of town departments, offices and agencies subject to his or her direction and control.

8. perform any other duties that may be required or authorized by the council.

(D) The manager may, by letter filed with the town clerk, designate a qualified person to exercise the powers and perform the duties of manager during the temporary absence or disability of the manager. Designation of such acting manager shall be subject to the approval of the council and the council may, during the absence or disability of the manager, revoke that designation at any time and appoint another person to serve until the manager returns or the manager’s disability ceases.

(E) When the position of town manager is vacant, the council shall designate a qualified person to exercise the powers and perform the duties of manager until the vacancy is filled.

(F) Neither the mayor or any member of the council shall be eligible for appointment as manager or as acting or interim manager.

(G) The town manager shall be allowed to perform the duties of the office without interference from the mayor, the council, or individual members of the council.

(Amendment adopted by electorate 4-14-86)

SECTION 3.2. DEPARTMENTS AND DEPARTMENT HEADS

(A) The council shall by resolution establish and designate departments of the city and may, from time to time, upon recommendation of the town manager, abolish, restructure, reestablish and otherwise change such departments to promote efficiency in the administration of the town government.

(B) The head of each department shall be known as the director thereof and shall have supervision and control of such department and the activities thereof.

SECTION 3.3. COMPENSATION OF PERSONNEL

(A) The council shall fix or approve the schedule of pay, expense allowances, and other compensation of all personnel, and may adopt position classification plans; any compensation or pay plan may include provisions for payments to personnel on account of sickness or disability.

(B) The town manager shall be responsible for preparing position classification and pay plans for submission to and adoption by the council and for administration of adopted plans.

(C) The council may purchase life, health, and any other forms of insurance for the benefit of all or any class of employees, including employees’ spouses and dependents, and may provide other fringe benefits for town personnel.

(D) The council may provide for enrolling town personnel in the Local Government Employees’ Retirement System, the Law-Enforcement Officers’ Benefit and Relief Fund, or the Firemen’s Pension Fund, and may supplement from local funds the benefits provided by such plans.
SECTION 3.4.  TOWN CLERK

There shall be a town clerk, selected by the town manager, who shall keep the records of
the council, give notice of meetings of the council, keep a journal of the proceedings of the council,
and perform such other duties as may be required by law or by the council.

SECTION 3.5.  DUTIES OF TOWN ATTORNEY

The council shall appoint a town attorney to serve at its pleasure who shall be its chief legal
adviser. The attorney so appointed must be licensed to practice law in the state of North Carolina.
The attorney shall attend meetings of the council when requested; give advice in writing, when so
requested, to the council, the manager or the director of any department; prosecute or defend all
suits or cases to which the town may be a party; prepare all contracts, bonds and other instruments
in writing in which the town is concerned and endorse approval of the form and correctness thereof;
and perform such other duties of a legal nature as the council may require.

SECTION 3.6.  BONDS REQUIRED

Officers and employees of the Town of Black Mountain shall give bonds for the faithful
performance of their duties as the council shall by resolution require in amounts adequate to protect
the town from loss. The premiums of such bonds shall be paid by the town.

SECTION 3.7.  BOARDS AND COMMISSION

The council may by resolution establish, designate, abolish, restructure, reestablish and otherwise
change boards and commissions to carry out such duties or functions as the council may require
and, unless otherwise provided by general law, shall appoint, suspend and remove members of
such boards and commission.

SECTION 3.8.  ISSUANCE OF BONDS

The town may issue bonds for the purpose and in the manner prescribed by the general
laws of North Carolina for the issuance of bonds by municipalities.

SECTION 3.9.  RULES GOVERNING TOWN FINANCES

The council shall, by ordinance or resolution, make rules and regulations governing the
receipt and handling of moneys payable to the Town of Black Mountain from all sources and the
deposit of such moneys in designated depositories.

SECTION 3.10.  INDEPENDENT AUDIT
As soon as practicable after the close of each fiscal year, an independent audit shall be
made of all accounts of the town government by qualified public accountants, selected by the
council, who have no personal interest directly or indirectly in the financial affairs of the town
government or of any of its officers. The results of this audit shall be published immediately upon
completion.

ARTICLE IV. – MISCELLANOUS PROVISIONS

SECTION 4.1. OATH OF OFFICE

Every officer of the town shall, before entering upon the duties of his office, take and
subscribe to the following oath or affirmation, to be filed and kept in the office of the town clerk.

"I, ____________, do solemnly swear (or affirm) that I will support and maintain the
Constitution and laws of the United States, and the Constitution and laws of North Carolina not
inconsistent therewith, and that I will faithfully discharge the duties of my office as
______________, so help me God."

SECTION 4.2. SEVERABILITY

Determination by a court of competent jurisdiction that a provision of this charter is
unconstitutional or otherwise invalid shall apply only to such provision and the remaining
provisions of this charter shall remain in effect.
Meeting Agenda

- Engagement Team
- Results of the 2020 Audit
- Financial Trends
- Comments, Recommendations, and Other Issues
- Questions
Engagement Team

Engagement Team Leaders

- Tim Lyons, CPA, CGMA – Engagement Lead Partner
- Kyle Slovick, CPA – Senior Associate (In-Charge)
- James Bence, CPA – Engagement Quality Control Review Partner
Results of 2020 Audit

- Our Responsibility Under Auditing Standards Generally Accepted in the United States of America (GAAS) and Government Auditing Standards (GAS)
  - Our audit was performed in accordance with GAAS and GAS.
  - We considered the internal control structure for the purpose of expressing our opinion on the Town’s basic financial statements and not for the purpose of providing assurance on the internal control structure.
  - Our objective is to provide reasonable—not absolute—assurance that the basic financial statements are free from material misstatement.
  - The basic financial statements are the responsibility of the Town’s management.

- Report on 2020 Basic Financial Statements
  - Unmodified (“clean”) opinion on basic financial statements.
  - Presented fairly in accordance with accounting principles generally accepted in the United States of America (GAAP).
  - Our responsibility does not extend beyond financial information contained in our report.

- Report on Internal Controls Over Financial Reporting and on Compliance in Accordance with GAS
  - One (1) material weakness in the Town’s internal control over financial reporting.
  - No instances of noncompliance reported.
Results of 2020 Audit (Continued)

Finding 2020-001: Segregation of Duties

- Segregation of duties is an important concept in a sound internal control environment. Although the size of the Town’s staff is an impediment, it is important that certain incompatible duties be assigned to different individuals and/or compensating controls be implemented. The following are areas where we noted a lack of segregation of duties in the Town’s financial operations:

  • The accounts payable position has access and authority over all stages of the disbursement process. This position has the ability to create purchase orders, is responsible for reconciling the purchase orders to the incoming invoices, is responsible for generating and printing the checks, and is responsible for reconciling the cleared checks from the bank statements each month.

  • Manual journal entries can be initiated, approved, and posted by the same individual.

  • The monthly bank reconciliations can be performed and reviewed by the same individual.

- Failure to properly segregate duties or implement compensating controls can lead to misappropriation of funds or abuse of the system that could go undetected. We recommend the Town segregate duties and/or implement compensating controls in the key areas noted above.
Required Communications

- Significant Accounting Policies
  - The significant accounting policies used by the Town are described in Note 1 to the basic financial statements.
  - The Town was not required to implement any new accounting standards in the current year’s report.
  - In considering the policies used by the Town, we noted they are in accordance with generally accepted accounting principles and similar government organizations with no significant new policies or qualitative aspects of its policies. The Town is not involved in any controversial or emerging issues for which guidance is not available.

- Management Judgment/Accounting Estimates
  - The Town uses various estimates as part of its financial reporting process – including the useful lives of the Town’s capital assets and actuarial assumptions related to its pension (LGERS and LEOSSA) and other postemployment benefit (OPEB) obligations.
  - Management’s estimates used in preparation of the financial statements were deemed reasonable in relation to the financial statements taken as a whole. We considered this information and the qualitative aspects of management’s calculations in evaluating the Town’s significant accounting estimates.
Required Communications (Continued)

- Financial Statement Disclosures
  - The footnote disclosures to the financial statements are also an integral part of the financial statements and the process used by management to accumulate the information included in the disclosures was the same process used in accumulating the statements. The overall neutrality, consistency, and clarity of the disclosures was considered as part of our audit.

- Relationship with Management
  - We received full cooperation from the Town’s management and staff.
  - There were no disagreements with management on accounting issues or financial reporting matters.

- Audit Adjustments
  - There were several adjustments posted to the trial balances provided to us by the Town for audit; however, the majority of these entries were provided to us by the Town and were not considered audit adjustments.
  - There were no passed audit adjustments.

- Representation from Management
  - We requested written representations from management relating to the accuracy of information included in the financial statements and the completeness and accuracy of various information requested by us, during the audit. Management provided those written representations without a problem.
Required Communications (Continued)

- Consultation with Other Accountants
  - To the best of our knowledge, management has not consulted with, or obtained opinions from, other independent accountants during the year, nor did we face any issues requiring outside consultation.

- Significant Issues Discussed with Management
  - There were no significant issues discussed with management related to business conditions, plans, or strategies that may have affected the risk of material misstatement of the financial statements.

- Information in Documents Containing Audited Financial Statements
  - Our responsibility for other information in documents containing the Town’s basic financial statements and our report thereon does not extend beyond the information identified in our report. If the Town intends to publish or otherwise reproduce the financial statements and make reference to our firm, we must be provided with printers’ proof for our review and approval before printing. The Town must also provide us with a copy of the final reproduced material for our approval before it is distributed.

- Auditor Independence
  - In accordance with AICPA professional standards, M&J is independent with regard to the Town and its financial reporting process.
  - There were no fees paid to M&J for management advisory services during fiscal year 2020 that might effect our independence as auditors.
Financial Trends –
General Fund Revenues and Expenditures

Major Trends

- Significant proceeds from sale of land (approx. $560,000).
- Expenditures largely flat from fiscal year 2019 to fiscal year 2020.
Presentation of Annual Audit Results
March 8, 2021

Financial Trends – Fund Balance (General Fund)

Fund Balance - Last 4 Years

Fund Balance / Expenditures

- 2020: 63% (39% unassigned)
- 2019: 69% (32% unassigned)
- 2018: 69% (31% unassigned)
- 2017: 65% (35% unassigned)
- 2016: 61% (39% unassigned)
Financial Trends – Proprietary Fund Operations

Water Fund Performance

Golf Fund Performance

Presentation of Annual Audit Results
March 8, 2021
# Financial Trends – Proprietary Fund Cash Flows

## Financial Trends – Proprietary Fund Cash Flows

<table>
<thead>
<tr>
<th>Water Fund</th>
<th>Golf Course Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>Receipts from customers and users</td>
<td>$ 1,516,946</td>
</tr>
<tr>
<td>Payments to suppliers</td>
<td>(551,318)</td>
</tr>
<tr>
<td>Payments to employees</td>
<td>(436,242)</td>
</tr>
<tr>
<td>Net cash provided by operating activities</td>
<td>529,386</td>
</tr>
</tbody>
</table>

### CASH FLOWS FROM NON-CAPITAL FINANCING ACTIVITIES

<table>
<thead>
<tr>
<th>Water Fund</th>
<th>Golf Course Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transfers to other funds</td>
<td>(618,668)</td>
</tr>
<tr>
<td>Repayment of interfund loans from other funds</td>
<td>377,542</td>
</tr>
<tr>
<td>Other receipts</td>
<td>1,551</td>
</tr>
<tr>
<td>Net cash used in non-capital financing activities</td>
<td>(239,575)</td>
</tr>
</tbody>
</table>

### CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES

<table>
<thead>
<tr>
<th>Water Fund</th>
<th>Golf Course Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purchase of capital assets</td>
<td>(188,842)</td>
</tr>
<tr>
<td>Principal and interest payments on long-term debt</td>
<td>(250,411)</td>
</tr>
<tr>
<td>Other</td>
<td>33,524</td>
</tr>
<tr>
<td>Net cash used in capital and related financing activities</td>
<td>(405,729)</td>
</tr>
</tbody>
</table>

Net increase (decrease) in cash for period $ (115,918) $ (9,487)

## Net Position as of June 30, 2020

<table>
<thead>
<tr>
<th>Water Fund</th>
<th>Golf Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net investment in capital assets</td>
<td>$ 5,036,110</td>
</tr>
<tr>
<td>Unrestricted</td>
<td>182,725</td>
</tr>
<tr>
<td>Total net position</td>
<td>$ 5,218,835</td>
</tr>
</tbody>
</table>

## Net Position as of June 30, 2019

<table>
<thead>
<tr>
<th>Water Fund</th>
<th>Golf Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net investment in capital assets</td>
<td>$ 4,963,574</td>
</tr>
<tr>
<td>Unrestricted</td>
<td>748,964</td>
</tr>
<tr>
<td>Total net position</td>
<td>$ 5,712,538</td>
</tr>
</tbody>
</table>
Comments & Other Matters

- Recommendations in Management Letter

**Purchasing Manual**

During our documentation of the controls surrounding the accounts payable and expenditures, the Town does not have a current purchasing manual that defines restrictions on purchasing of goods or services from governing body members, employees, or other suppliers that would create a conflict of interest. As a recipient of Federal funding, the Town should have a formal policy in place that addresses such items and we recommend the Town updates or amends its current purchasing policy to ensure that these items are addressed.

**Vendor Master File Reviews**

The Town does not currently review or actively maintain the Town’s vendor master file. In accordance with a sound internal control environment and as a mitigating internal control due to the small size of the Town’s staff, we recommend the Town periodically review the master file for any unusual or suspicious vendors, as well as to remove any authorized vendors which the Town no longer wishes to do business.
Comments & Other Matters (Continued)

- Recommendations in Management Letter (Continued)

**Information Technology Monitoring Controls**

In today’s Information Technology environment entities can outsource many areas of its operations, including all or part of any service, process or system operation. Outsourcing of technology-related services may improve quality, reduce costs, and strengthen controls. The decision to outsource should fit into an entity’s overall strategic plan and the Town’s objectives, and the degree of oversight and review of outsourced activities should depend on the criticality of the service, process or system to the entity’s operation. We recommend that the Town develop a comprehensive vendor risk management process to govern their third party service provider relationships. This process should include risk assessment, selection of service providers, contract review, and regular monitoring of service providers. Outsourced relationships should be subject to the same risk management, security, privacy, and other policies that would be expected if the entity were conducting these activities in-house. At least annually, the Board of Aldermen should ensure an independent review of the entity’s vendor risk management process occurs.
Comments & Other Matters (Continued)

- **New GASB Pronouncements for Future Years**
  - GASB Statement No. 84, *Fiduciary Activities*, is applicable for the Town’s fiscal year ended June 30, 2021. The Town currently reports one (1) agency fund that will need to be re-examined under the new standard and determinations will need to be made whether this fund can remain an agency fund (renamed a “custodial fund” under the new standard) or if the activity of the fund needs to be brought into the Town’s other governmental funds. The focus will be on (1) whether the Town is controlling the assets of the fiduciary activity and (2) the beneficiaries with whom the fiduciary relationship exists. All fiduciary funds will require a statement of changes in fiduciary net position.
  - GASB Statement No. 87, *Leases*, will require all lease agreements to be recorded as a liability under full accrual accounting. Many of these leases were previously considered operating leases and payments were expensed as incurred with no liability accrued. Applicable for June 30, 2022.
  - GASB Statement No. 96, *Subscription Based Information Technology Arrangements*, or “SBITAs”, incorporates much of the guidance contained in Statement No. 87 and applies that guidance to arrangements where the Town is, in essence, leasing IT assets. This Statement will require all SBITAs to be recorded as a liability under full accrual accounting with an offsetting right-to-use asset. Applicable for June 30, 2023.

- **Other Matters Currently Being Considered by GASB**
  - Financial reporting model (Changes in accounting for governmental funds)
  - Revenue and Expense Recognition
  - Other Footnote Disclosures
Comments & Other Matters (Continued)

- Federal Actions Related to COVID-19
  - CARES Act Passed in Spring 2020
    - Coronavirus Relief Funds (CRF)
    - Compliance Supplement Addendum released by OMB in late December 2020
  - Consolidated Appropriations Act, 2021
    - Includes year-long extension of the December 30 deadline to spend the $150 billion provided under the CARES Act CRF for state and local governments
  - Compliance Considerations
    - Lots of FAQs issued by all Federal department / agencies
    - Additional guidance from the State of North Carolina
    - Significant FFATA reporting requirements
Free Client CPE!

FREE QUARTERLY CONTINUING EDUCATION AND NEWSLETTERS
FOR GOVERNMENTAL CLIENTS

**Free Continuing Education.** We provide free quarterly continuing education for all of our governmental clients. Each quarter we pick a couple of significant topics tailored to be of interest to governmental entities. In an effort to accommodate our entire governmental client base, we offer the sessions several times per quarter at a variety of client provided locations resulting in greater networking among our governmental clients. Examples of subjects addressed in the past few quarters include:

- CAFR Preparation - GASB Updates - Grant Accounting Processes and Controls - GASB 68 (Pensions) – GASB 75 (OPEB)
- Internal controls over revenue and cash receipting and accounts payable, payroll, and cash disbursements
- CARES Act (ARRA) information, issues and updates - Single audits for auditees
- Collateralization of Deposits and Investments - Internal Controls over Accounts Payable, Payroll and Controls
- Policies and Procedures Manuals - Segregation of Duties – GASB 87 (Leases)
- Data Security and General Information Technology Controls and Best Practices

**Communication.** In an effort to better communicate our free continuing education plans and newsletters, please email Paige Vercoe at pvercoe@mjcpa.com (send corresponding copy to tlyons@mjcpa.com), and provide to her individual names, mailing addresses, email addresses and phone numbers of anyone you wish to participate and be included in our database.
Conclusion

Comments and Questions?

We appreciate the opportunity to serve the Town of Black Mountain and look forward to continuing to work with the Town in upcoming years!
SUBJECT:  Refinancing debt on 304 Black Mountain Ave

AGENDA INFORMATION

Agenda Location:  NEW BUSINESS
Item Number:  8B
Department:  Administration
Contact:  Josh Harrold, Town Manager
Presenter:  Josh Harrold, Town Manager

BRIEF SUMMARY:  With interest rates being considerably low, refinancing our debt for the land and building located at 304 Black Mountain Ave will save the town money. The current interest rate is 3.49% and the new rate will be 2.03%. The new term will be for 11 years with a total amount refinanced of $700,000. This includes paying down $500,000 of the current $1,300,000 loan.

MOTION FOR CONSIDERATION:  To approve or deny refinancing for debt on 304 Black Mountain Ave

FUNDING SOURCE:  General Fund

ATTACHMENTS:  Resolution to approve financing terms

MANAGER’S COMMENTS AND RECOMMENDATIONS:  To approve as presented.
SUBJECT: DWQ Grant Agreement for Swannanoa River Restoration Project

AGENDA INFORMATION

Agenda Location: NEW BUSINESS
Item Number: 7C
Department: Planning and Development Department
Contact: Jessica Trotman, Planning Director
Presenter: Jessica Trotman, Planning Director

BRIEF SUMMARY: The Town applied and received $77,000 in funding from DWQ to go towards restoration of the Swannanoa River in Veteran’s Park. This grant is matched 50% with private foundation grants previously secured. The project is mobilizing now and will be completed in late July or early August. Total project, with in-kind support included is approximately $200,000.

MOTION FOR CONSIDERATION:

Approve the grant agreement as presented.

FUNDING SOURCE:

Match funding is provided by Pigeon River and Duke Energy Foundation.

ATTACHMENTS:

Grant agreement

MANAGER’S COMMENTS AND RECOMMENDATIONS:

To approve the grant agreement as presented.
North Carolina Department of Environmental Quality  
Financial Assistance Agreement  

This financial assistance agreement is hereby made and entered into, by and between the NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL QUALITY (the "Department") and TOWN OF BLACK MOUNTAIN (the "Grantee").

1. Audit and Other Reporting Requirements of the Local Government Commission. If subject to the audit and other reporting requirements of the Local Government Commission pursuant to Article 3 of Chapter 159 of the North Carolina General Statutes (Local Government Budget and Fiscal Control Act), the Grantee understands and agrees that the terms, conditions, restrictions and requirements hereinafter set forth shall only apply to the extent not inconsistent with, or superseded by, the audit and other reporting requirements of the Local Government Commission.

2. Contract Documents. The agreement between the parties consists of this document (the "Contract Cover") and its attachments, which are identified by name as follows:

   a. State’s General Terms and Conditions (Attachment A)
   b. Department’s Request for Proposal ("RFP") (Attachment B)
   c. Grantee’s Response to RFP, including scope of work, line item budget, budget narrative and, if applicable, indirect cost documentation (hereinafter referred to generally as the "Award Proposal") (Attachment C)
   d. Grantee’s Award Letter (Attachment D)
   e. Notice of Certain Reporting and Audit Requirements (Attachment E)
   f. Grantee’s No Conflict-of-Interest Certification (Attachment F)

Together, these documents (the “Contract Documents”) constitute the entire agreement between the parties (the "Agreement"), superseding all prior oral or written statements or agreements. Modifications to this Contract Cover or to any other Contract Document may only be made through written amendments processed by the Department’s Financial Services Division. Any such written amendment must be duly executed by an authorized representative of each party prior to the contract expiration date.

3. Precedence Among Contract Documents. In the event of a conflict or inconsistency between or among the Contract Documents, the document with the highest relative precedence shall prevail. This Contract Cover shall have the highest precedence. The order of precedence thereafter shall be determined by the order of documents listed in § 2 above, with the first-listed document having the second-highest precedence and the last-listed document having the lowest precedence. If there are multiple contract amendments, the most recent amendment has the highest precedence and the oldest amendment has the lowest precedence.

4. Contract Period. This Agreement shall be effective from the date upon which all parties have signed this Agreement to 02/18/2023, inclusive of those dates.

5. Grantee’s Duties. As a condition of the grant award, the Grantee agrees to:

   a. Undertake and deliver the grant award project, plan or services as described in the Award Proposal (Attachment C), adhering to all budgetary provisions set out therein throughout the course of performance.

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1 The contract documents attached hereto may at times use alternative terms to describe the Grantee. Such terms might include, but are not necessarily limited to, the following (in common or proper form): "recipient," "applicant," or "participant."
b. Ensure that all award funds are expended in a manner consistent with the purposes for which they were awarded, as described more fully in the attached Contract Documents.

c. Comply with the requirements of 09 NCAC 03M .0101, et seq. (Uniform Administration of State Awards of Financial Assistance), including, but not limited to, those provisions relating to audit oversight, access to records, and availability of audit work papers in the possession of any auditor of any recipient of State funding.

d. Comply with the applicable provisions of Attachment E, Notice of Certain Reporting and Audit Requirements.

e. Maintain all records related to this Agreement (i) for a period of six (6) years following the date on which this Agreement expires or terminates, or (ii) until all audit exceptions have been resolved, whichever is longer.

f. Comply with all laws, ordinances, codes, rules, regulations, and licensing requirements applicable to its performance hereunder and/or the conduct of its business generally, including those of Federal, State, and local agencies having jurisdiction and/or authority.

g. Obtain written approval from the Department’s Contract Administrator (see § 14 below) prior to making any subaward or subgrant not already described in the Award Proposal.

h. Ensure that the terms, conditions, restrictions and requirements of this Contract Cover, including those incorporated by reference to other Contract Documents and/or applicable law, are made applicable to, and binding upon, any subgrantee who receives as a subaward or subgrant any portion of the award funds made available to the Grantee hereunder.

i. Take reasonable measures to ensure that any subgrantee (i) complies with the terms, conditions, restrictions and requirements set forth in this Contract Cover, including those incorporated by reference to other Contract Documents and/or applicable law, and (ii) provides such information in its possession as may be necessary for the Grantee to comply with such terms, conditions, restrictions and requirements.

6. Historically Underutilized Businesses. Historically Underutilized Businesses (HUBs) consist of minority, women and disabled business firms that are at least fifty-one percent owned and operated by an individual(s) of the categories. Also included in this category are disabled business enterprises and non-profit work centers for the blind and severely disabled.

Pursuant to G.S. 143B-1361(a), 143-48 and 143-128.4, the Department invites and encourages participation in this procurement process by businesses owned by minorities, women, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled. This includes utilizing subcontractors to perform the required functions in this contract. Any questions concerning NC HUB certification, contact the North Carolina Office of Historically Underutilized Businesses at (919) 807-2330.

7. Department’s Duties. The Department shall pay the Grantee in the manner and amounts specified below and in accordance with the approved budget set forth in the Award Proposal.

8. Total Award Amount. The total amount of award funds paid by the Department to the Grantee under this Agreement shall not exceed SEVENTY-FOUR THOUSAND DOLLARS ($74,000.00) (the “Total Award Amount”). This amount consists of:

<table>
<thead>
<tr>
<th>Funding:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type of Funds</td>
</tr>
<tr>
<td>Appropriations</td>
</tr>
</tbody>
</table>
Account Coding Information:

<table>
<thead>
<tr>
<th>Dollars</th>
<th>GL Company</th>
<th>GL Account</th>
<th>GL Center</th>
</tr>
</thead>
<tbody>
<tr>
<td>$74,000.00</td>
<td>1604</td>
<td>536990</td>
<td>4018</td>
</tr>
</tbody>
</table>

Grantee Matching Information:

[ ] a. There are no matching requirements from the Grantee.

[ ] b. There are no matching requirements from the Grantee; however, the Grantee has committed the following match to this project:

<table>
<thead>
<tr>
<th>In-Kind</th>
<th>$</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash</td>
<td>$</td>
</tr>
<tr>
<td>Cash and In-Kind</td>
<td>$</td>
</tr>
<tr>
<td>Other / Specify:</td>
<td>$</td>
</tr>
</tbody>
</table>

[ X ] c. The Grantee’s matching requirement is $74,000.00, which shall consist of:

<table>
<thead>
<tr>
<th></th>
<th>In-Kind</th>
<th>$ 2,500.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>X</td>
<td>Cash</td>
<td>$13,000.00</td>
</tr>
<tr>
<td></td>
<td>Cash and In-Kind</td>
<td>$</td>
</tr>
<tr>
<td>X</td>
<td>Other / Specify: Other Non-Federal</td>
<td>$58,500.00</td>
</tr>
</tbody>
</table>

[ X ] d. The Grantee is committing to an additional $22,500.00 to complete the project or services described in the Award Proposal.

Based on the figures above, the total contract amount is $170,500.00.

9. Invoice and Payment. The award funds shall be disbursed to the Grantee in accordance with the following provisions:

a. The Grantee shall submit invoices to the Department’s Contract Administrator at least quarterly. The final invoice must be received by the Department thirty (30) days prior to the date on which termination or expiration of this Agreement becomes effective. Amended or corrected invoices must be received by the Department’s Financial Services Division prior to the date on which the termination or expiration of this Agreement becomes effective. Any invoice received thereafter shall be returned without action.

b. The Department shall reimburse the Grantee for actual allowable expenditures, with the Department retaining a minimum of ten percent (10%) of the Total Award Amount until all grant-related activities are completed and all reports/deliverables are received and accepted by the Department. As used herein, “allowable expenditures” are expenditures associated with work conducted to meet performance obligations under this Agreement, provided such work is carried out in a manner consistent with the Award Proposal. The Department may withhold payment on invoices when performance goals and expectations have not been met or when the manner of performance is inconsistent with Attachment C.

10. Grantee’s Fiscal Year. The Grantee represents that its fiscal year is from July 1 to June 30.

11. Availability of Funds. The Grantee understands and agrees that payment of the sums specified herein shall be subject to, and contingent upon, the allocation and appropriation of funds to the Department for the purposes described in this Agreement.

12. Reversion of Unexpended Funds. The Grantee understands and agrees that any unexpended grant funds shall revert to the Department upon termination of this Agreement.
13. **Supplantation of Expenditure of Public Funds.** The Grantee understands and agrees that funds received pursuant to this Agreement shall be used only to supplement, not to supplant, the total amount of Federal, State and local public funding that the Grantee would otherwise expend to carry out the project or services described in the Award Proposal.

14. **Contract Administrators.** Each party shall submit notices, questions and correspondence related to this Agreement to the other party’s Contract Administrator. The contact information for each party’s Contract Administrator is set out below. Either party may change its Contract Administrator and/or the associated contact information by giving timely written notice to the other party.

<table>
<thead>
<tr>
<th>Grantee Contract Administrator</th>
<th>Department’s Contract Administrator</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jessica Trotman, Planning Director</td>
<td>Amin Davis, State and Local Projects Manager</td>
</tr>
<tr>
<td>Town of Black Mountain</td>
<td>NC DEQ Division of Water Resources</td>
</tr>
<tr>
<td>160 Midland Avenue</td>
<td>1617 Mail Service Center</td>
</tr>
<tr>
<td>Black Mountain, NC 28711</td>
<td>Raleigh, NC 27699-1617</td>
</tr>
<tr>
<td>Telephone: 828-419-9300</td>
<td>Telephone: 919-707-9132</td>
</tr>
<tr>
<td>Email: <a href="mailto:jessica.trotman@townofblackmountain.org">jessica.trotman@townofblackmountain.org</a></td>
<td>Email: <a href="mailto:amin.davis@ncdenr.gov">amin.davis@ncdenr.gov</a></td>
</tr>
</tbody>
</table>

15. **Assignment.** The Grantee may not assign its obligations or its rights to receive payment hereunder.

16. **Procurement.** The Grantee understands and agrees that all procurement activities undertaken in connection with this Agreement shall be subject to the following provisions:

a. None of the work or services to be performed under this Agreement involving the specialized skill or expertise of the Grantee shall be contracted without prior written approval from the Department.

b. In the event the Grantee or any subrecipient of the Grantee contracts for any of the work to be performed hereunder, the Grantee shall not be relieved of any duties or responsibilities herein set forth.

c. The Grantee shall not contract with any vendor who is restricted from contracting with the State of North Carolina pursuant to N.C.G.S. §§ 143-133.3, 143-59.1, 143-59.2 or 147.86.60.

17. **Subawards.** The Grantee understands and agrees that any subaward or subgrant of any portion of the financial assistance provided hereunder shall not relieve the Grantee of any duties or responsibilities herein set forth.

18. **Title VI and Other Nondiscrimination Requirements.** Throughout the course of its performance hereunder, the Grantee shall comply with all applicable State and Federal laws, regulations, executive orders and policies relating to nondiscrimination, including, but not limited to:

- Title VI of the Civil Rights Act of 1964, as amended;
- Civil Rights Restoration Act of 1987, as amended;
- Section 504 of the Rehabilitation Act of 1973, as amended;
- Age Discrimination Act of 1975, as amended;
- Titles II and III of the Americans with Disabilities Act of 1990, as amended;
Title IX of the Education Amendments of 1972, as amended;

Part III of Executive Order No. 11246 (September 24, 1965), as amended; and

Section 13 of the Federal Water Pollution Control Act Amendments of 1972.

In accordance with the above laws and their implementing regulations, the Grantee agrees to ensure that no person in the United States is, on the basis of race, color, national origin, sex, age or disability, excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity for which the Grantee receives Federal assistance. For purposes of this provision, “program or activity” shall have the meaning ascribed to that term under Federal law (see 42 U.S.C.S. § 2000d-4a).

The Grantee understands and acknowledges that, in addition to itself, any lower-tier recipient of the financial assistance provided hereunder must also comply with the requirements of this section. Accordingly, the Grantee agrees to include a similar provision in any financial assistance agreement made with any lower-tier recipient of such assistance.

19. E-Verify. To the extent applicable, the Grantee represents that it and each of its subgrantees, contractors and/or subcontractors performing work pursuant to, or in association with, this Agreement are in compliance with Article 2 of Chapter 64 of the North Carolina General Statutes, including, in particular, the requirement that certain employers verify the work authorization of newly hired employees using the Federal E-Verify system.

20. Termination by Mutual Consent. This Agreement may be terminated by mutual consent of the parties, provided the consent is documented in writing and duly executed by an authorized representative of each party.

21. Survival. Any provision contained in this or any other Contract Document that contemplates performance or observance subsequent to the termination or expiration of this Agreement shall survive the termination or expiration hereof and continue in full force and effect.

22. Signature Warranty. The undersigned represent and warrant that they are authorized to bind their principals to the terms and conditions of this Contract Cover and the Agreement generally, including those incorporated by reference to applicable law.

IN WITNESS WHEREOF, each party has caused this Agreement to be executed by the duly authorized representative in duplicate originals, one of which is retained by each of the Parties.
DEFINITIONS

Unless indicated otherwise from the context, the following terms shall have the following meanings in this Contract. All definitions are from 9 NCAC 3M.0102 unless otherwise noted. If the rule or statute that is the source of the definition is changed by the adopting authority, the change shall be incorporated herein.

1. “Agency” (as used in the context of the definitions below) means and includes every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority or other unit of government of the State or of any county, unit, special district or other political sub-agency of government. For other purposes in this Contract, “Agency” means the entity identified as one of the parties hereto.

2. “Audit” means an examination of records or financial accounts to verify their accuracy.

3. “Certification of Compliance” means a report provided by the Agency to the Office of the State Auditor that states that the Grantee has met the reporting requirements established by this Subchapter and included a statement of certification by the Agency and copies of the submitted grantee reporting package.

4. “Compliance Supplement” refers to the North Carolina State Compliance Supplement, maintained by the State and Local Government Finance Agency within the North Carolina Department of State Treasurer that has been developed in cooperation with agencies to assist the local auditor in identifying program compliance requirements and audit procedures for testing those requirements.

5. “Contract” means a legal instrument that is used to reflect a relationship between the agency, grantee, and sub-grantee.

6. “Fiscal Year” means the annual operating year of the non-State entity.

7. “Financial Assistance” means assistance that non-State entities receive or administer in the form of grants, loans, loan guarantees, property (including donated surplus property), cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations, and other assistance. Financial assistance does not include amounts received as reimbursement for services rendered to individuals for Medicare and Medicaid patient services.

8. “Financial Statement” means a report providing financial statistics relative to a given part of an organization’s operations or status.

9. “Grant” means financial assistance provided by an agency, grantee, or sub-grantee to carry out activities whereby the grantor anticipates no programmatic involvement with the grantee or sub-grantee during the performance of the grant.

10. “Grantee” has the meaning in G.S. 143C-6-23(a)(2): a non-State entity that receives a grant of State funds from a State agency, department, or institution but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission. For other purposes in this Contract, “Grantee” shall mean the entity identified as one of the parties hereto. For purposes of this contract, Grantee also includes other State agencies such as universities.

11. “Grantor” means an entity that provides resources, generally financial, to another entity in order to achieve a specified goal or objective.

12. “Non-State Entity” has the meaning in N.C.G.S. 143C-1-1(d)(18): A firm, corporation, partnership, association, county, unit of local government, public authority, or any other person, organization, group, or governmental entity that is not a State agency, department, or institution.

13. “Public Authority” has the meaning in N.C.G.S. 159-7(10): A municipal corporation that is not a unit of local government or a local governmental authority, board, commission, council, or agency that (i) is not a municipal corporation, (ii) is not subject of the State Budget Act, and (iii) operates on an area, regional, or multiunit basis, and the budgeting and accounting systems of which are not fully a part of the budgeting and accounting systems of a unit of local government.

14. “Single Audit” means an audit that includes an examination of an organization’s financial statements, internal controls, and compliance with the requirements of Federal or State awards.

15. “Special Appropriation” means a legislative act authorizing the expenditure of a designated amount of public funds for a specific purpose.

16. “State Funds” means any funds appropriated by the North Carolina General Assembly or collected by the State of North Carolina. State funds include federal financial assistance received by the State and transferred or disbursed to non-State entities. Both Federal and State funds maintain their identity as they are sub-granted to other organizations. Pursuant to N.C.G.S. 143C-6-23(a)(1), the terms “State grant funds” and “State grants” do not include any payment made by the Medicaid program, the Teachers’ and State Employees’ Comprehensive Major Medical Plan, or other similar medical programs.

17. “Sub-grantee” has the meaning in G.S. 143C-6-23(a)(4): a non-State entity that receives a grant of State funds from a grantee or from another sub-grantee but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission.
(18) "Unit of Local Government has the meaning in G.S. 159-7(b)(15): A municipal corporation that has the power to levy taxes, including a consolidated city-county as defined by G.S. 160B-2(1), and all boards, agencies, commissions, authorities, and institutions thereof that are not municipal corporations.

Relationships of the Parties

Independent Contractor: The Grantee is and shall be deemed to be an independent contractor in the performance of this Contract and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. The Grantee represents that it has, or shall secure at its own expense, all personnel required in performing the services under this agreement. Such employees shall not be employees of, or have any individual contractual relationship with, the Agency.

Subcontracting: To subcontract work to be performed under this contract which involves the specialized skill or expertise of the Grantee or his employees, the Grantee first obtains prior approval of the Agency Contract Administrator. In the event the Grantee subcontracts for any or all of the services or activities covered by this contract: (a) the Grantee is not relieved of any of the duties and responsibilities provided in this contract; (b) the subcontractor agrees to abide by the standards contained herein or to provide such information as to allow the Grantee to comply with these standards, and; (c) the subcontractor agrees to allow state and federal authorized representatives access to any records pertinent to its role as a subcontractor.

Sub-grantees: The Grantee has the responsibility to ensure that all sub-grantees, if any, provide all information necessary to permit the Grantee to comply with the standards set forth in this Contract.

Assignment: The Grantee may not assign the Grantee’s obligations or the Grantee’s right to receive payment hereunder. However, upon Grantee’s written request approved by the issuing purchasing authority, the Agency may:

(a) Forward the Grantee’s payment check(s) directly to any person or entity designated by the Grantee,

(b) Include any person or entity designated by Grantee as a joint payee on the Grantee’s payment check(s).

Such approval and action does not obligate the State to anyone other than the Grantee and the Grantee remains responsible for fulfillment of all contract obligations.

Beneficiaries: Except as herein specifically provided otherwise, this Contract inures to the benefit of and is binding upon the parties hereto and their respective successors. It is expressly understood and agreed that the enforcement of the terms and conditions of this Contract, and all rights of action relating to such enforcement, are strictly reserved to the Agency and the named Grantee. Nothing contained in this document shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the Agency and Grantee that any third person receiving services or benefits under this Contract is an incidental beneficiary only.

Indemnity

Indemnification: In the event of a claim against either party by a third party arising out of this contract, the party whose actions gave rise to the claim is responsible for the defense of the claim and any resulting liability, provided that a party may not waive the other party’s sovereign immunity or similar defenses. The parties agree to consult with each other over the appropriate handling of a claim and, in the event they cannot agree, to consult with the Office of the Attorney General.

Insurance: During the term of the contract, the Grantee at its sole cost and expense provides commercial insurance of such type and with such terms and limits as may be reasonably associated with the contract. As a minimum, the Grantee provides and maintains the following coverage and limits:

(a) Worker's Compensation: The Grantee provides and maintains Worker’s Compensation insurance as required by the laws of North Carolina, as well as employer’s liability coverage with minimum limits of $500,000.00, covering all of Grantee’s employees who are engaged in any work under this contract. If any work is sublet, the Grantee requires the subgrantee to provide the same coverage for any of his employees engaged in any work under this contract.

(b) Commercial General Liability: General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of $1,000,000.00 Combined Single Limit. (Defense cost shall be in excess of the limit of liability.)

(c) Automobile: Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles used in performance of the contract. The minimum combined single limit is $500,000.00 bodily injury and property damage; $500,000.00 uninsured/under insured motorist; and $25,000.00 medical payment.

Providing and maintaining adequate insurance coverage is a material obligation of the Grantee and is of the essence of this contract. The Grantee may meet its requirements of maintaining specified coverage and limits by demonstrating to the Agency that there is in force insurance with equivalent coverage and limits that will offer at least the same protection to the Agency. Grantee obtains insurance that meets all laws of the State of North Carolina. Grantee obtains coverage from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. The Grantee comply at
all times with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or this contract. The limits of coverage under each insurance policy maintained by the Grantee do not limit the Grantee’s liability and obligations under the contract.

Default and Termination

Termination by Mutual Consent: Either party may terminate this agreement upon sixty (60) days notice in writing from the other party. In that event, all finished or unfinished documents and other materials, at the option of the Agency, be submitted to the Agency. If the contract is terminated as provided herein, the Grantee is paid in an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Grantee covered by this agreement; for costs of work performed by subcontractors for the Grantee provided that such subcontracts have been approved as provided herein; or for each full day of services performed where compensation is based on each full day of services performed, less payment of compensation previously made. The Grantee repays to the Agency any compensation the Grantee has received which is in excess of the payment to which he is entitled herein.

Termination for Cause: If, through any cause, the Grantee fails to fulfill in timely and proper manner the obligations under this agreement, the Agency thereupon has the right to terminate this contract by giving written notice to the Grantee of such termination and specifying the reason thereof and the effective date thereof. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the Grantee, at the option of the Agency, be submitted to the Agency, and the Grantee is entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials. The Grantee is not relieved of liability to the Agency for damages sustained by the Agency by virtue of any breach of this agreement, and the Agency may withhold payment to the Grantee for the purpose of set off until such time as the exact amount of damages due the Agency from such breach can be determined.

Waiver of Default: Waiver by the Agency of any default or breach in compliance with the terms of this Contract by the Grantee is not a waiver of any subsequent default or breach and is not a modification of the terms of this Contract unless stated to be such in writing, signed by an authorized representative of the Agency and the Grantee and attached to the contract.

Availability of Funds: The parties to this Contract agree and understand that the payment of the sums specified in this Contract is dependent and contingent upon and subject to the appropriation, allocation, and availability of funds for this purpose to the Agency.

Force Majeure: Neither party is in default of its obligations hereunder if it is prevented from performing such obligations by any act of war, hostile foreign action, nuclear explosion, riot, strikes, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

Survival of Promises: All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable Federal or State statutes of limitation.

Intellectual Property Rights

Copyrights and Ownership of Deliverables: Any and all copyrights resulting from work under this agreement shall belong to the Grantee. The Grantee hereby grants to the North Carolina Department of Environmental Quality a royalty-free, non-exclusive, paid-up license to use, publish and distribute results of work under this agreement for North Carolina State Government purposes only.

Compliance with Applicable Laws

Compliance with Laws: The Grantee understands and agrees that it is subject to compliance with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.

Equal Employment Opportunity: The Grantee understands and agrees that it is subject to compliance with all Federal and State laws relating to equal employment opportunity.

Confidentiality

Confidentiality: As authorized by law, the Grantee keeps confidential any information, data, instruments, documents, studies or reports given to or prepared or assembled by the Grantee under this agreement and does not divulge or make them available to any individual or organization without the prior written approval of the Agency. The Grantee acknowledges that in receiving, storing, processing or otherwise dealing with any confidential information it will safeguard and not further disclose the information except as otherwise provided in this Contract or without the prior written approval of the Agency.

Oversight

Access to Persons and Records: The State Auditor and the using agency’s internal auditors shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions in accordance with General Statute 147-64.7 and Session Law 2010-194, Section 21 (i.e., the State Auditors and internal auditors may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees or performance). The Contractor shall retain all records for a period of six (6) years
following completion of the contract or until any audits begun during this period are completed and findings resolved, whichever is later.

Record Retention: The Grantee may not destroy, purge or dispose of records without the express written consent of the Agency. State basic records retention policy requires all grant records to be retained for a minimum of six (6) years or until all audit exceptions have been resolved, whichever is longer. If the contract is subject to Federal policy and regulations, record retention may be longer than six (6) years since records must be retained for a period of three years following submission of the final Federal Financial Status Report, if applicable, or three years following the submission of a revised final Federal Financial Status Report. Also, if any litigation, claim, negotiation, audit, disallowance action, or other action involving this Contract has started before expiration of the six (6) year retention period described above, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular six (6) year period described above, whichever is later.

Time Records: The GRANTEE will maintain records of the time and effort of each employee receiving compensation from this contract, in accordance with the appropriate OMB circular.

Miscellaneous

Choice of Law: The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties to this Contract, are governed by the laws of North Carolina. The Grantee, by signing this Contract, agrees and submits, solely for matters concerning this Contract, to the exclusive jurisdiction of the courts of North Carolina and agrees, solely for such purpose, that the exclusive venue for any legal proceedings shall be Wake County, North Carolina. The place of this Contract and all transactions and agreements relating to it, and their situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract or tort, relating to the validity, construction, interpretation, and enforcement shall be determined.

Amendment: This Contract may not be amended orally or by performance. Any amendment must be made in written form and executed by duly authorized representatives of the Agency and the Grantee.

Severability: In the event that a court of competent jurisdiction holds that a provision or requirement of this Contract violates any applicable law, each such provision or requirement shall continue to be enforced to the extent it is not in violation of law or is not otherwise unenforceable and all other provisions and requirements of this Contract shall remain in full force and effect.

Headings: The Section and Paragraph headings in these General Terms and Conditions are not material parts of the agreement and should not be used to construe the meaning thereof.

Time of the Essence: Time is of the essence in the performance of this Contract.

Care of Property: The Grantee agrees that it is responsible for the proper custody and care of any State owned property furnished him for use in connection with the performance of his contract and will reimburse the State for its loss or damage.

Ownership of equipment purchased under this contract rests with the Grantee. Upon approval of the Agency Contract Administrator, such equipment may be retained by the Grantee for the time the Grantee continues to provide services begun under this contract.

Travel Expenses: All travel, lodging, and subsistence costs are included in the contract total and no additional payments will be made in excess of the contract amount indicated in above. Contractor must adhere to the travel, lodging and subsistence rates established in the Budget Manual for the State of North Carolina.

Sales/Use Tax Refunds: If eligible, the Grantee and all sub-grantees shall: (a) ask the North Carolina Department of Revenue for a refund of all sales and use taxes paid by them in the performance of this Contract, pursuant to G.S. 105-164.14; and (b) exclude all refundable sales and use taxes from all reportable expenditures before the expenses are entered in their reimbursement reports.

Advertising: The Grantee may not use the award of this Contract as a part of any news release or commercial advertising.

Recycled Paper: The Grantee ensures that all publications produced as a result of this contract are printed double-sided on recycled paper.

Sovereign Immunity: The Agency does not waive its sovereign immunity by entering into this contract and fully retains all immunities and defenses provided by law with respect to any action based on this contract.

Gratuities, Kickbacks or Contingency Fee(s): The parties certify and warrant that no gratuities, kickbacks or contingency fee(s) are paid in connection with this contract, nor are any fees, commissions, gifts or other considerations made contingent upon the award of this contract.

Lobbying: The Grantee certifies that it (a) has neither used nor will use any appropriated funds for payments to lobbyist; (b) will disclose the name, address, payment details, and purpose of any agreement with lobbyists whom the Grantee or its sub-tier contractor(s) or sub-grantee(s) will pay with profits or non-appropriated funds on or after December 22, 1989; and (c) will file quarterly updates about the use of lobbyists if material changes occur in their use.
By Executive Order 24, issued by Governor Perdue, and N.C. G.S.§ 133-32: It is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor’s Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Natural and Cultural Resources, Environmental Quality, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor). This prohibition covers those vendors and contractors who:

1. have a contract with a governmental agency; or
2. have performed under such a contract within the past year; or
3. anticipate bidding on such a contract in the future.

For additional information regarding the specific requirements and exemptions, vendors and contractors are encouraged to review Executive Order 24 and G.S. Sec. 133-32.

Executive Order 24 also encouraged and invited other State Agencies to implement the requirements and prohibitions of the Executive Order to their agencies. Vendors and contractors should contact other State Agencies to determine if those agencies have adopted Executive Order 24.
administered by: Division of Water Resources (DWR), N.C. Department of Environmental Quality (DEQ), 1611 Mail Service Center, Raleigh, N.C., 27699-1611. Contact Amin Davis at amin.davis@ncdenr.gov or (919) 707-9132.

Authority: DWR is authorized to provide grants to local governments for water resources development projects by General Statutes 143-215.70-.73 and 15A NCAC 02G .0100. These statutes can be viewed online at the following web addresses:
http://www.ncleg.net/gascripts/Statutes/StatutesTOC.pl?Chapter=0143
http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2002%20-%20environmental%20management/subchapter%20g/subchapter%20g%20rules.pdf

Who is Eligible: Units of local government and local political subdivisions.

Application Deadlines: Applications are received throughout the year for two standard grant cycles for all non-navigation projects listed below. The spring 2019 grant cycle began January 1 and will end at the close of business on June 30. The fall 2019 grant cycle will begin July 1 and will end at the close of business on December 31. Any complete application submittals that are not received by these dates will not be eligible for review and funding for this application review cycle.

Eligible Purposes and Cost-Share Percentages: The department may provide state funds in amounts not to exceed the percentages stated in G.S. 143-215.71 of either the non-federal costs (in the case of a federal agency project) or the total costs (in the case of a project not receiving federal funds). The General Assembly placed a 50% cost-share maximum on Water Resources Development Grant awards during their 2011 session. This limit will remain in place until rescinded by the General Assembly. Navigation and Natural Resources Conservation Service’s Environmental Quality Incentives Program (NRCS-EQIP) stream restoration projects may be funded at a different percentage depending on the funding source. DWR can issue grants for the non-federal share of water resources development projects for the following purposes: Based on limited annual funding received for grant awards statewide, Applicants are generally encouraged to not exceed a $200,000 funding request; however larger awards are allowed. Additionally, it is recommended that administrative costs not exceed 10% of the total project budget. Grants may be made for the nonfederal share of water resources development projects for the following purposes:

- **Stream Restoration:** Restoration or stabilization of degraded streams & shorelines, aquatic barrier removals, etc.
- **Water Management:** Stormwater control measures, drainage, flood control, hydrologic restoration, etc.
- **Water-based Recreation Sites:** Greenways/Boardwalks, Paddle Access, Fishing Docks/Piers; land acquisition for water based recreation sites operated by local governments.
- **Preliminary Feasibility or Engineering Study:** towards implementation of one of the four eligible categories listed here.
- **NRCS Environmental Quality Incentives Program (EQIP) Stream Restoration Projects**
  - See NRCS EQIP Grant Guidelines document on grant’s website below for details.
Please contact Amin Davis (amin.davis@ncdenr.gov) for questions regarding projects listed above. Funding is also available through Water Resources Development Grant awards for dredging projects associated with General and Recreational Navigation. Applicants should contact Coley Cordeiro (Coley.Cordeiro@ncdenr.gov) for more information about the guidelines, eligibility and application process for these projects.

**Project Eligibility:** Projects planned and constructed by a federal agency with a local cost-share and projects without federal assistance are both eligible for state financial assistance provided that the applicant is a unit of local government. Non-eligible purposes include projects directly associated with meeting an existing permit requirement (i.e., NPDES Phase I and Phase II Stormwater), generating nutrient credits, environmental regulatory enforcement actions and small watershed projects of the NRCS (reviewed by the N.C. Soil and Water Conservation Commission). Compensatory mitigation projects and the generation of compensatory mitigation credits for impacts to aquatic resources per the Federal Mitigation Rule (33 CFR Part 332) are non-eligible purposes. Compensatory mitigation projects can be located directly adjacent to an eligible project for the purposes of achieving maximum ecological benefit. Should a compensatory mitigation project be conducted on land previously acquired using DWR grant funds the mitigation project sponsor shall reimburse either DWR or its grantee for the full value, plus appreciation, of the DWR investment in that portion of the land to be used for compensatory mitigation to ensure that DWR does not directly or indirectly subsidize the mitigation project.

**Pre-Application Site Visit:** A pre-application site visit shall be scheduled with the DWR Grant Administrator (or designee) to gather additional information regarding a proposed project to assist DWR in determining if the project meets the applicable review criteria listed in GS §143-215.72. This site visit shall be scheduled with DWR prior to the end of the grant application cycle if possible. A scaled conceptual project plan map and brief project narrative shall be provided to the DWR Grant Administrator prior to this site visit. For greenway/trail projects, applicants are encouraged to flag proposed alignments if not in obvious rights-of-ways prior to a site visit.

The primary objectives of this site visit are: 1.) for the DWR Grant Administrator (or designee) to address any questions or concerns the project team may have about this grant program; 2) for the project team to share with the DWR Grant Administrator (or designee) information about the conceptual restoration plans associated with a proposed project, and 3.) for the DWR Grant Administrator (or designee) to photo-document the project area to facilitate the application review process.

**Application Submittal**

An application for Water Resources Development Grant funding shall include information about the five items listed below to be considered complete. Additional supplementary documentation (reports, photos, etc.) are not required but can be provided as separate attachments via email. The most recent versions of all required forms and grant information shall be used and can be found at the following website: https://deq.nc.gov/about/divisions/water-resources/water-resources-grants/financial-assistance. Please check this website frequently for updates.

I. **Application Spreadsheet (MS Excel)** – The most recent version of the application spreadsheet shall be used. All applications should include the appropriate project information in the designated sheets including contacts, general information, narratives, treatment amounts, benefits, budget, and budget in-kind notes. Detailed instructions about how to complete this application are provided on the *Instructions* sheet of this spreadsheet.
The project narrative shall begin with a statement outlining the overall project scope (what is being proposed), followed by the project justification (why it is being proposed). For stream restoration projects, a brief description of how the proposed stream treatments will mitigate the documented stream impairments shall be included. Information about proposed riparian buffers (minimum/maximum or average proposed widths) and stream crossings shall also be provided. For Preliminary Feasibility or Engineering Studies, a brief letter on the Applicant’s official letterhead shall be provided that clearly states: 1.) the primary purpose and objective(s) of this Study, 2.) the Applicant’s intention to implement an associated WRDG-eligible project resulting from this Study, and 3.) the estimated project implementation timeline after completion of this Study. Studies may be used to more accurately determine project costs, benefits and/or scale of development.

The application budget will serve as the basis for the financial administration of the grant contract and reimbursement requests for projects that are awarded funding. Applicants shall list all sources of Non-Federal funding contributions on the application’s Budget Sheet to minimize the potential for duplicative funding for identical work activities associated with a single project. Costs associated with land acquisition are only reimbursable for eligible Water-Based Recreation projects. The costs associated with land acquisition or donation for non-Water-Based Recreation projects can designated as In-kind match for the project. The complete application will be included in the DEQ contract documentation; therefore it is very important that its contents are accurate and complete.

II. **Project Plan and Location Maps** – A minimum of two scaled maps is required. The first map shall include the project footprint delineated on a USGS topographic quadrangle map or overlain on recent aerial photography. This map shall be at a small scale (zoomed out) to show the project area within the context of a watershed, county or region. The second map shall be a conceptual plan that describes the location of project elements listed in the project narrative. This map shall be larger scale (zoomed in) to show greater detail within the immediate project area. 30% project design drawings shall also be provided if available.

III. **Official Resolution** - The Applicant shall include a resolution adopted by the governing board stating the amount of state aid requested and accepting the applicant's responsibilities. A representative of the Project Sponsor with signatory authority shall sign this resolution. An Official Resolution template is available for download from our grant website. In most circumstances the responsibilities listed below shall be included in the Official Resolution. However, this resolution template can be adapted to fit the unique circumstances of a specific project. Written justification shall be provided to DWR for any responsibilities listed below that are not included in the Official Resolution.

1. Assume full obligation for payment of the balance of project costs.
2. Obtain all necessary state and federal environmental permits.
3. Comply with all applicable laws governing the award of contracts and the expenditure of public funds by local governments.
4. Supervise construction of the project to assure compliance with permit conditions and to assure safe and proper construction in accordance with approved plans and specifications.
5. Obtain appropriate easements, rights-of-way or suitable spoil disposal areas that may be necessary for the construction and operation of the project without cost or obligation to the State.
6. Assure that the project is open for use by the public on an equal basis with limited restrictions (if on public property).
7. Hold the state harmless for any damages that may result from the construction, operation, and maintenance of the project.
8. Accept responsibility for operation and long-term maintenance of the completed project.
* For “Feasibility / Engineering Study Grants” only Items 1 and 3 are required in the Resolution. See Study Resolution Template located on our [website](#).

IV. **No Conflict of Interest Certification** – Applicants must provide certification that the applicant, applicant’s subordinates and any person or persons designated to act on behalf of the applicant do not have an actual or apparent conflict of interest with respect to the project. A representative of the Project Sponsor with signatory authority shall sign this certification.

V. **Supplementary Documentation** – Additional supplementary documentation (reports, photos, letters of support, etc.) is not required but can be provided as separate attachments via email as part of the application submittal.

Application submittal documents shall be emailed to amin.davis@ncdenr.gov by the close of business of the last day of the application cycle. If an application is submitted by a non-governmental organization (non-profit, consultant, etc.) on behalf of an eligible unit of local government, a staff person of that eligible unit of local government must be copied on the email submittal and all subsequent application-related correspondence.

**Note:** It is the Applicant’s responsibility to ensure their application is accurate and complete at the time of submission to DWR. Any application errors or modifications must be submitted by the Applicant to DWR within 30 calendar days of the end of the Application Cycle in which the application was submitted. Erroneous or incomplete application information can also lead to significant delays with the issuance of a DEQ Contract should the project be recommended for grant funding.

DWR may not be able to grant requests for additional funding caused by inaccurate or incomplete information provided in the application or project budget. Any changes to the original project budget and/or project scope submitted with the application will require the prior written approval of DWR. Unapproved changes to the project scope or budget throughout the course of a project will not be eligible for cost-share funding or reimbursement.

**Grant Application Review and Approval**

The following criteria will be used to approve, approve in part, or disapprove grant applications:

1. The economic, social, and environmental benefits to be provided by the projects;
2. Regional benefits of projects to an area greater than the area under the jurisdiction of the local sponsoring entity;
3. The financial resources of the local sponsoring entity;
4. The environmental impact of the project;
5. Any direct benefit to State-owned lands and properties.

**Applicant Obligation – Environmental Permitting**

All proposed projects are subject to environmental review and permitting under applicable federal and state laws. It is the applicant’s responsibility to prepare, provide and remain in compliance with all applicable environmental permitting requirements associated with project implementation.
**Review Decisions**

This is a competitive grant program due to limited funding availability. The grant’s review criteria is contained within the Benefits & Evaluation Criteria sheet of the application form. A multi-agency review team comprised of various subject-matter experts reviews each application to assist the DWR Grant Administrator and Division Director with establish funding priorities. Applications that receive a total cumulative review team score of less than 50% will not be recommended for funding. Review decisions and notifications for applications received during the spring application cycle are generally made in October. Review decisions and award notifications for applications received during the fall application cycle are generally made in April of the next calendar year. However, unforeseen circumstances such as legislative, policy or funding allocation changes may delay award notifications.

**Projects Not Awarded Funding**

Applicants who are not awarded funding within one calendar year from the end date of the grant cycle in which their application was originally submitted must complete and submit a new application to DWR if they wish to re-apply for funding consideration. A new application submittal will also be required if there have been changes to the project scope or budget. The spring grant cycle ends on June 30th and the fall cycle ends on December 31st of each year.

**Post Grant Funding Award**

Acceptance of a grant award will require the applicant to enter into a grant contract with DEQ. A DEQ grant contract is considered ‘fully-executed’ once it has been signed by both a signatory authority of the Grantee and DEQ Financial Services. A copy of the fully-executed contract shall be provided to the Grantee after being signed by DEQ. No portion of work or expenditure of funds for the project, plan or services shall begin prior to receiving a fully-executed contract from DEQ. Contracts are valid for two years from the date the contract document is sent to grant recipient for contract execution.

**Contract Modifications**

Any changes to the project’s scope, budget or duration after a contract has been fully-executed will require the written approval from the DWR Grant Administrator and may also require a DEQ contract amendment. Typical changes that require a contract modification are listed below.

**Project Scope/Budget Changes:** The minimum information that shall be supplied to the Grant Administrator for consideration includes a brief written narrative containing the justification for any proposed changes and revised scope of work; revised budget sheet and revised project plan/map to scale (if applicable). Unapproved changes to the project scope or budget shall not be eligible for, and may result in additional reductions to, cost-share funding or reimbursement.

**Extension Requests:** Grant recipients can submit an extension request for one additional year beyond the grant expiration date if progress toward project completion can be sufficiently documented. An extension request shall be submitted at least 45 days prior to the DEQ contract expiration date by the project sponsor or primary contact via email in a cover letter on official agency letterhead. This request shall include a justification statement, current project status update and anticipated project schedule moving forward.

Any documentation associated with a contract modification should be submitted electronically to Amin.Davis@ncdenr.gov.

**Grant Reimbursements**

The grant award amount is the maximum possible reimbursement amount. Only expenditures incurred after a fully-executed contract has been issued that are detailed in the contract budget and are considered eligible...
Reimbursable expenses in our *Reimbursement Instructions* document are eligible for reimbursement. Allowable expenditures are expenditures associated with the work performed for a specific invoicing cycle that are in accordance with the DWR-approved application budget sheet for the project. **Reimbursement requests can be submitted no more frequently than monthly but must be submitted at least quarterly.** DWR will normally pay the Grantee by check or electronically within 30 days of receipt of a complete reimbursement payment request, provided the expenses are in accordance with the budget/contract, or as amended. If the Grantee decides that significant changes to a project’s scope from that in the original application are necessary, the Grantee must send a request in writing to the DWR Grant Administrator and receive approval of those changes. Unapproved changes will not be eligible for state cost-sharing. **Grantees shall submit reimbursement requests in accordance with their fully-executed DEQ Contract and the Reimbursement Instructions document on our website.**

**Reimbursement requests shall include:**

1. A Cover Memo/Letter signed and dated on the Grantee’s official letterhead that lists:
   a) DEQ Contract Number
   b) total amount of the reimbursement request
   c) actual cost (expenses) by approved budget categories
   d) total amount spent on the project to date

2. Copies of subcontractor invoices or other documentation of materials, services and other project costs listed on the subcontractor’s letterhead.

3. A completed *Reimbursement Tracking Summary* spreadsheet.

The reimbursement request and supporting documentation should be submitted electronically to Amin.Davis@ncdenr.gov. DWR will retain 10% of the total grant award amount until after the final project has been inspected and accepted by DWR staff.

** An example reimbursement summary table is provided as Attachment 1 at the end of this document.**

**Requests For Additional Funding**

Grant recipients can submit a request for additional funding consideration to DWR for a maximum of 25% of the maximum grant award, not to exceed $100,000. This request shall be submitted by the project sponsor or primary contact on a cover letter with official agency letterhead via email. The following information shall be submitted by the Grantee to DWR for additional funding consideration:

- a narrative describing the circumstances/need for an increased funding award, summary of current project status and anticipated project implementation schedule.
- copies of all subcontractor invoices for design, permitting, surveying, construction, construction oversight and project administration.

DWR will review this information and respond to the Grantee with a decision regarding increased funding within 30 calendar days. Funding increases are subject to the availability of funds and to DWR’s actual cost reimbursement policy. **DWR may not be able to grant requests for additional funding caused by inaccurate or incomplete information in the application or project budget provided by the Applicant or Co-Applicant.**
Project Close-Out

The Grantee shall notify the DWR Grant Administrator upon project completion and provide DWR with a scaled version of the most recent set of permit, as-built/record or construction drawings electronically in an Adobe PDF format prior to the close-out site visit. Applicants who are awarded funding for Feasibility/Engineering Studies shall provide DWR with the associated summary report(s) and deliverables in an electronic format.

The DWR Grant Administrator may schedule a close-out inspection of the completed project with a representative of the Grantee. However, DWR may also substitute its personnel with that of other state or federal agencies that are located closer to the project to minimize the state’s costs. This inspection will verify that the project was implemented in accordance with the information provided in the grant application, DEQ contract (including amendments, if applicable) and approved plans/specifications.

The Grantee shall address any remedial or compliance actions identified during this close out inspection prior to DWR project acceptance. After the project is inspected and accepted, DWR will review the accounting statements and request DEQ to reimburse the Grantee for the remaining 10% of the department’s share of the non-federal cost.
Attachment 1 – Grant Reimbursement Example for 50/50 Match

Project Cost: $100,000  
Federal Cost Share: $50,000  
Non-Federal Cost Share: $25,000  
DWR Grant Award: $25,000

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Total Expenditure $7,000.00

50% Reimbursement $3,500.00

Payment Amount $3,500.00

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Total Expenditure $30,000.00

50% Reimbursement $15,000.00

Payment Amount $15,000.00

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Total Expenditure $48,250.00

Remaining DWR Grant Amount $6,500.00

10% Withholding $2,500.00

Payment Amount $4,000.00

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<td>Project Involves Complex Coordination</td>
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<td>Project Involves Significant Public Engagement</td>
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<td>Project Involves Innovative Technology</td>
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**MEASURABLE RESULTS**

Please check all relevant boxes above to indicate items included:

- [ ] Implementation (Level of services and duration of service) included
- [ ] Experimental (Level of resources and duration of project) included
- [ ] Innovation (Level of resources and duration of project) included
- [ ] Sustainability (Level of resources and duration of project) included
- [ ] Equitable (Level of resources and duration of project) included

**STATE & LOCAL PROJECTS**

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DEQ Contract CW18533
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1. Erosion control practices and silt barriers shall be installed during the dormant season, typically December through April.

2. Excavation for the new channel shall be completed prior to line in the dry with flow being maintained in the existing channel until the new channel is stabilized with seed, mulch, and mats.

3. All excavated materials must be disposed of in approved upland areas off-site.

4. Fueling shall be performed in a contained area at least 20 feet from flowing water.

5. Trees beyond the grading limits shall be protected. Trees and logs removed during grading shall be salvaged for on-site use as in the project unless directed otherwise. Logs and clearing debris not used shall be disposed of off-site.

6. Trees within 100 feet of bank shall be protected.

7. The project shall be disposed of off-site.

NOTES

1. Work shall be stacked such that no more river bank is disturbed than can be stabilized at the end of the project.
December 10, 2019

To whom it Concerns with North Carolina Department of Water Quality:

I am writing to express my support for the Swannanoa River Restoration Project. The Town of Black Mountain is committed to being a responsible citizen in improving and protecting the water quality in the region. Starting the restoration of the Swannanoa River is a strategy included in the Town’s adopted watershed restoration plan.

As a former Alderman, and now Mayor of Black Mountain, I am familiar with the successful completion of the Tomahawk Branch Stream Restoration Project, which was also made possible through DWQ. The Town approved the necessary matching funds at our December 9, 2019 Board of Aldermen meeting. I am appreciative of the support DWQ has provided to the Town and look forward to working together on the Swannanoa River Restoration Project.

Sincerely,

Don Collins
Town of Black Mountain, Mayor
July 30, 2019

To Whom It May Concern:

Montreat College supports the proposed Swannanoa River project adjacent to our Black Mountain property. Specifically, the Environmental Science faculty at Montreat College support this project. We would commit to assessing and monitoring the aquatic fauna of the Swannanoa River associated with this project. This project would provide an important and interesting experience for education and engagement of environmental science and biology college students, as well as high school students enrolled in Montreat College’s summer Compass environmental science program.

Sincerely,

[Signature]

Jack Heinen
Vice President Finance & Administration
RESOLUTION #R-19-22

RESOLUTION OF THE BOARD OF ALDERMEN OF THE TOWN OF BLACK MOUNTAIN SUPPORTING MATCHING FUNDS FOR SWANNANOA RIVER RESTORATION PROJECT

WHEREAS, the Town of Black Mountain Board of Alderman desires to sponsor of the Swannanoa River Restoration Project. This project will restore approximately 2,000 linear feet of stream and provide the following benefits: First, it allows the continued use of the area for recreation purpose in a responsible and sustainable practice. Second, it restores the stream to a functioning state and allows waters to subside at a more natural rate to reduce the potential for damage. Last, it helps to control sediment pollution downstream, reducing stress on the watershed; and

NOW THEREFORE, BE IT RESOLVED by the Board of Aldermen of the Town of Black Mountain, that

1) The Board requests the State of North Carolina to provide financial assistance to Town of Black Mountain for Swannanoa River Restoration Project in the amount of $77,000 or 50% percent of project construction cost, whichever is the lesser amount;

2) The Black Mountain Board of Alderman assumes full obligation for payment of the balance of project costs;

3) The Black Mountain Board of Alderman will obtain all necessary State and Federal permits;

4) The Black Mountain Board of Alderman will comply with all applicable laws governing the award of contracts and the expenditure of public funds by local governments.

5) The Black Mountain Board of Alderman will supervise construction of the project to assure compliance with permit conditions and to assure safe and proper construction according to approved plans and specifications;

6) The Black Mountain Board of Alderman will obtain suitable soil disposal areas as needed and all other easements or rights-of-way that may be necessary for the construction and operation of the project without cost or obligation to the State;

7) The Black Mountain Board of Alderman will assure that the project is open for use by the public on an equal basis with no restrictions.
8) The Black Mountain Board of Alderman will hold the State harmless from any damages that may result from the construction, operation and maintenance of the project;

9) The Black Mountain Board of Alderman accepts responsibility for the operation and maintenance of the completed project.

READ, APPROVED AND ADOPTED by a vote of 4 to 0 this 9th day of December, 2019.

I move the adoption of the foregoing resolution:

[Signature]
Alderman

[Signature]
Don Collins, Mayor

ATTEST:

[Signature]
Angela Reece, Assistant to Manager/Town Clerk
No Conflict of Interest Certification

Town of Black Mountain hereby certifies that, to the best of its knowledge and belief, there are no present or currently planned interests (financial, contractual, organizational, or otherwise) relating to the work to be performed as part of the Swannanoa River Restoration project that would create any actual or potential conflicts of interest (or apparent conflicts of interest) for any of its employees, contractors, subcontractors, designees or other entities or individuals involved in the Swannanoa River Restoration project (including conflicts of interest for immediate family members: spouses, parents, or children) that would impinge on its ability to render impartial, technically sound, and objective assistance or advice or result in it being given an unfair competitive advantage.

In this certification, the term "potential conflict" means reasonably foreseeable conflicts of interest. Town of Black Mountain further certifies that it has and will continue to exercise due diligence in identifying and removing or mitigating, to the NC Department of Environmental Quality's satisfaction, any such conflict of interest (or apparent conflict of interest).

Print Name: Josh Harrold
Signature: [Signature]
Title: Town Manager
Date: 12/5/19
CONFLICT OF INTEREST POLICY

Conflict of Interest Defined:
A conflict of interest is defined as an actual or perceived interest by a (Staff Member/Board Member) in an action that results in, or has the appearance of resulting in, personal, organizational, or professional gain. A conflict of interest occurs when an Employee/Board Member has a direct or fiduciary interest in another relationship. A conflict of interest could include:

- Ownership with a member of the Board of Directors/Trustees or an Employee where one or the other has supervisory authority over the other or with a client who receives services.
- Employment of or by a member of the Board of Directors/Trustees or an Employee where one or the other has supervisory authority over the other or with a client who receives services.
- Contractual relationship with a member of the Board of Directors/Trustees or an Employee where one or the other has supervisory authority over the other or with a client who receives services.
- Creditor or debtor to a member of the Board of Directors/Trustees or an Employee where one or the other has supervisory authority over the other or with a client who receives services.
- Consultative or consumer relationship with a member of the Board of Directors/Trustees or an Employee where one or the other has supervisory authority over the other or with a client who receives services.

The definition of conflict of interest includes any bias or the appearance of bias in a decision making process that would reflect a dual role played by a member of the organization or group. An example, for instance, might involve a person who is an Employee and a Board Member, or a person who is an employee and who hires family members as consultants.

Employee Responsibilities:
It is in the interest of the organization, individual staff, and Board Members to strengthen trust and confidence in each other, to expedite resolution of problems, to mitigate the effect and to minimize organizational and individual stress that can be caused by a conflict of interest.

Employees are to avoid any conflict of interest, even the appearance of a conflict of interest. This organization serves the community as a whole rather that only serving a special interest group. The appearance of a conflict of interest can cause embarrassment to the organization and jeopardize the credibility of the organization. Any conflict of interest, potential conflict of interest or the appearance of a conflict of interest is to be reported to your supervisor immediately. Employees are to maintain
independence and objectivity with clients, the community, and organization. Employees are called on to maintain a sense of fairness, civility, ethics, and personal integrity even though law, regulation, or custom does not require them.

Acceptance of Gifts:
Employees, members of employee’s immediate family, and members of the Board are prohibited from accepting gifts, money, or gratuities from the following:

- a. Persons receiving benefits or services from the organization;
- b. Any person or organization performing or seeking to perform services under contract with the organization;
- c. Persons who are otherwise in a position to benefit from the actions of any employee of the organization.

Employees may, with the prior written approval of their supervisor, receive honoraria for lectures and other such activities while on personal days, compensatory time, annual leave, or leave without pay. If the employee is acting in any official capacity, honoraria received by an employee in connection with activities relating to employment with the organization are to be paid to the organization.
September 22, 2020

Don Collins, Mayor  
Town of Black Mountain  
160 Midland Avenue  
Black Mountain, NC 28711

Dear Mayor Collins,

The Division of Water Resources (DWR) of the North Carolina Department of Environmental Quality (NCDEQ) is pleased to announce that $74,000 in financial assistance for a project located in your jurisdiction has been approved by the State of North Carolina.

We congratulate the Town of Black Mountain on its sponsorship of the Swannanoa River Restoration Project. This grant will provide financial assistance to restore approximately 2,000 linear feet of degraded stream and 2 acres of riparian buffer in Veteran's Park. Your ongoing efforts to improve the condition of water resources in your town are to be commended.

DWR will be contacting Town staff soon concerning the administrative requirements, including the signing of a grant contract with the State, for the use of state funds for this project. This award letter is not a guarantee of funding due to the COVID-19 pandemic or other unanticipated events that could reduce current appropriated state funding, any contracts shall be subject to availability of funding.

We look forward to working with you on this project. If you have questions, please contact Amin Davis at 919-707-9132 or via email at: amin.davis@ncdenr.gov.

Sincerely,

Danny Smith  
Director, Division of Water Resources

ECc: Jessica Trotman, Town of Black Mountain  
Amin Davis, Division of Water Resources  
Andrew Moore, Division of Water Resources
Notice of Certain Reporting and Audit Requirements

A recipient or subrecipient shall comply with the all rules and reporting requirements established by statute or administrative rules found in 09 NCAC Subchapter 3M. For convenience, the requirements of 09 NCAC Subchapter 3M.0205 are set forth in this Attachment.

Reporting Thresholds.
There are three reporting thresholds established for recipients and subrecipients receiving State awards of financial assistance. The reporting thresholds are:

1. Less than $25,000 – A recipient or subrecipient that receives, hold, uses, or expends State financial assistance in an amount less than twenty-five thousand dollars ($25,000) within its fiscal year must comply with the reporting requirements established by this Subchapter including:
   (A) A certification that State financial assistance received or held was used for the purposes for which it was awarded; and
   (B) An accounting of all State financial assistance received, held, used, or expended.

2. $25,000 up to $500,000 - A recipient or subrecipient that receives, holds uses, or expends State financial assistance in an amount of at least twenty-five thousand ($25,000) but less than five hundred thousand dollars ($500,000) within its fiscal year must comply with the reporting requirements established by this Subchapter including:
   (A) A certification that State financial assistance received or held was used for the purposes for which it was awarded; and
   (B) An accounting of all State financial assistance received, held, used, or expended.
   (C) A description of activities and accomplishments undertaken by the recipient, including reporting on any performance measures established in the contract.

3. Greater than $500,000 – A recipient or subrecipient that receives, holds, uses, or expends State financial assistance in the amount equal to or greater than five hundred thousand dollars ($500,000) within its fiscal year must comply with the reporting requirements established by this Subchapter including:
   (A) A certification that State financial assistance received or held was used for the purposes for which it was awarded; and
   (B) An accounting of all State financial assistance received, held, used, or expended.
   (C) A description of activities and accomplishments undertaken by the recipient, including reporting on any performance measures established in the contract.
   (D) A single or program-specific audit prepared and completed in accordance with Generally Accepted Government Auditing Standards, also known as the Yellow Book.

Other Provisions:
1. All reports shall be filed with the disbursing agency in the format and method specified by the agency no later than three (3) months after the end of the recipient's fiscal year, unless the same information is already required through more frequent reporting. Audits must be provided to the funding agency no later than nine (9) months after the end of the recipient’s fiscal year.

2. Unless prohibited by law, the costs of audits made in accordance with the provisions of 09 NCAC 03M.0205 shall be allowable charges to State and Federal awards. The charges may be considered a direct cost or an allocated indirect cost, as determined in accordance with cost principles outlined in the Code of Federal Regulations, 2CFR Part 200. The cost of any audit not conducted in accordance with this Subchapter shall not be charged to State awards.

3. Notwithstanding the provisions of 09 NCAC 03M.0205, a recipient may satisfy the reporting requirements of Part (3)(D) of this Rule by submitting a copy of the report required under the federal law with respect to the same funds.

4. Agency-established reporting requirements to meet the standards set forth in this Subchapter shall be specified in each recipient's contract.
CONFLICT OF INTEREST POLICY

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- Ownership with a member of the Board of Directors/Trustees or an Employee where one or the other has supervisory authority over the other or with a client who receives services.
- Employment of or by a member of the Board of Directors/Trustees or an Employee where one or the other has supervisory authority over the other or with a client who receives services.
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The definition of conflict of interest includes any bias or the appearance of bias in a decision making process that would reflect a dual role played by a member of the organization or group. An example, for instance, might involve a person who is an Employee and a Board Member, or a person who is an employee and who hires family members as consultants.

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Employees are to avoid any conflict of interest, even the appearance of a conflict of interest. This organization serves the community as a whole rather than only serving a special interest group. The appearance of a conflict of interest can cause embarrassment to the organization and jeopardize the credibility of the organization. Any conflict of interest, potential conflict of interest or the appearance of a conflict of interest is to be reported to your supervisor immediately. Employees are to maintain
independence and objectivity with clients, the community, and organization. Employees are called to maintain a sense of fairness, civility, ethics, ethics and personal integrity even though law, regulation, or custom does not require them.

**Acceptance of Gifts:**
Employees, members of employee’s immediate family, and members of the Board are prohibited from accepting gifts, money or gratuities from the following:

a. Persons receiving benefits or services from the organization;
b. Any person or organization performing or seeking to perform services under contract with the organization;
c. Persons who are otherwise in a position to benefit from the actions of any employee of the organization.

Employees may, with the prior written approval of their supervisor, receive honoraria for lectures and other such activities while on personal days, compensatory time, annual leave, or leave without pay. If the employee is acting in any official capacity, honoraria received by an employee in connection with activities relating to employment with the organization are to be paid to the organization.
SUBJECT: NC DOT Maintenance Agreement

AGENDA INFORMATION

Agenda Location: NEW BUSINESS
Item Number: 7D
Department: Planning and Development Department
Contact: Jessica Trotman, Planning Director
Presenter: Jessica Trotman, Planning Director

BRIEF SUMMARY: The town has requested permission to use an existing box culvert for a bike/ped connection under I-40. In order to do this, the Town is required to execute a maintenance agreement with NC DOT. The terms include removal of sediment and debris from barrel #1, which is the barrel used for the at-grade connection. The culvert will be kept free of obstruction. The main approaches to the trail through the culvert must be ADA compliant. Any damage done by the town during maintenance activities must be repaired. The town must remove any graffiti that occurs. No attachments made be made without first securing an encroachment approval. NC DOT may close the connection periodically for inspections, repairs or maintenance purposes.

MOTION FOR CONSIDERATION:

Approve the agreement as presented.

FUNDING SOURCE: N/A

ATTACHMENTS:

Maintenance agreement

MANAGER’S COMMENTS AND RECOMMENDATIONS:

To approve the grant agreement as presented.
NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

AND

WBS Elements: N/A

TOWN OF BLACK MOUNTAIN

THIS AGREEMENT is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the “Department” and the Town of Black Mountain, hereinafter referred to as the “Municipality”.

W I T N E S S E T H:

WHEREAS, the Municipality has requested that the Department grant permission to the Municipality to utilize an existing box culvert structure for use as a pedestrian trail connection in the Town of Black Mountain; Buncombe County; and

WHEREAS, the Department has agreed to allow the Municipality to utilize said structure as a pedestrian trail connection; and

WHEREAS, the Municipality has agreed to maintain said structure subject to the conditions hereinafter set forth.

NOW, THEREFORE, the parties hereto, each in consideration of the promises and undertakings of the other as herein provided, do hereby covenant and agree, each with the other, as follows:

SCOPE OF THE AGREEMENT

1. This Agreement is to allow the Municipality to utilize an existing box culvert (NCDOT Structure #100490) under I-40 for use as a pedestrian trail connection.

RESPONSIBILITIES

2. The Municipality, at no expense to the Department, shall be responsible for maintenance of the trail and culvert, which includes, but is not limited to the following:

   • Removal of any sediment or other debris in Barrel #1 of the box culvert
• Culvert shall be kept free of any obstruction that would prevent water from flowing as designed

• Maintain the approaches and trail through the culvert and ensure ADA compliance to all aspects of the trail

• Repair any damages or defacement to the culvert during pedestrian usage and/or town maintenance activities

• Removal of graffiti

• No attachment shall be made to the culvert without an encroachment approval

• It is understood by the Municipality that the culvert may be periodically closed for structural maintenance, bi-annual inspections, and/or construction repairs by the Department

3. The Municipality binds and obligates itself to improve and maintain the structure in such safe and proper condition that it will not interfere with or endanger travel upon the highway, nor obstruct nor interfere with the proper maintenance thereof, to reimburse the Department for the cost incurred for any repairs or maintenance to its roadways and structures necessary due to Municipality’s actions with regard to the structure, and if at any time the Department shall require the removal of or changes in the location of the said facilities, that Municipality itself, its successors and assigns, to promptly remove or alter the said facilities, in order to conform to the said requirement, without any cost to the Department.

4. The Municipality agrees to provide during construction and any subsequent maintenance proper signs, signal lights, flagmen and other warning devices for the protection of traffic in conformance with the latest Manual on Uniform Traffic Control Devices for Streets and Highways and Amendments or Supplements thereto. The information as to the above rules and regulations may be obtained from the Department’s Division Engineer.

5. It is clearly understood by the Municipality that the Department will assume no responsibility for any damage that may be caused to the structure, within highway rights of way limits, in carrying out its construction and maintenance operations.

6. The Municipality agrees to restore all areas disturbed during any improvements and maintenance to the satisfaction of the Department’s Division Engineer. The Municipality agrees to exercise every reasonable precaution at all times to prevent eroding of soil; silting or pollution of rivers, streams, lakes, reservoirs, other water impoundments, ground surfaces or other property; or pollution of the air. The Municipality shall comply and cause its contractors to comply with applicable rules and regulations of the North Carolina Division of Environmental Management,
North Carolina Sedimentation Control Commission, and with ordinances and regulations of various counties, municipalities and other official agencies relating to pollution prevention and control. When any installation or maintenance operation disturbs the ground surface and existing ground cover, the Municipality agrees to remove and replace the sod or otherwise reestablish the grass cover to meet the satisfaction of the Department’s Division Engineer.

7. The Municipality agrees to assume the actual cost of any inspection of the work considered to be necessary by the Department’s Division Engineer.

ADDITIONAL PROVISIONS

8. This Agreement shall remain in effect for as long as the Municipality maintains the trail. If the Municipality fails to maintain the trail, the Department shall have the right to terminate this agreement and not allow the Municipality to use the box culvert structure any further as a pedestrian trail connection.

9. Upon a thirty (30) day written notification to the other party, either the Municipality or the Department shall have the right to terminate this Agreement.

10. The Municipality will indemnify and hold harmless the Department and the State of North Carolina, their respective officers, directors, principals, employees, agents, successors, and assigns from and against any and all claims for damage and/or liability in connection with the activities performed pursuant to this Agreement and for any such claims during the course of the use of the structure as described in this Agreement. The Department shall not be responsible for any damages claims, which may be initiated by third parties.

11. It is the policy of the Department not to enter into any agreement with another party that has been debarred by any government agency (Federal or State). The Municipality certifies, by signature of this agreement, that neither it nor its agents or contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by a Federal or State Department or Agency.

12. The other party to this Agreement shall comply with Title VI of the Civil Rights Act of 1964 (Title 49 CFR, Subtitle A, Part 21) and related nondiscrimination authorities. Title VI and related authorities prohibit discrimination on the basis of race, color, national origin, disability, gender, and age in all programs or activities of any recipient of Federal assistance.

13. This Agreement does not imply any conveyance of property from the Department to the Municipality.
14. The Department shall have the right to abandon the project at any time before the Municipality has been called upon to perform any part of its agreement. This Agreement is solely for the benefit of the identified parties to the Agreement and is not intended to give any rights, claims, or benefits to third parties or any person or to the public at large.

15. A copy or facsimile copy of the signature of any party shall be deemed an original with each fully executed copy of the Agreement as binding as an original, and the parties agree that this Agreement can be executed in counterparts, as duplicate originals, with facsimile signatures sufficient to evidence an agreement to be bound by the terms of the Agreement.

16. By Executive Order 24, issued by Governor Perdue, and N.C. G.S.§ 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor’s Cabinet Agencies (i.e., Administration, Commerce, Environmental Quality, Health and Human Services, Information Technology, Military and Veterans Affairs, Natural and Cultural Resources, Public Safety, Revenue, Transportation, and the Office of the Governor).

IT IS UNDERSTOOD AND AGREED that the approval of the project by the Department is subject to the conditions of this Agreement.
IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Municipality by authority duly given.

ATTEST: TOWN OF BLACK MOUNTAIN

BY: ____________________________ BY: ____________________________
TITLE: __________________________ TITLE: ____________________________
DATE: __________________________

N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

Federal Tax Identification Number

____________________________________

(SEAL) Remittance Address:

Town of Black Mountain

____________________________________
____________________________________

DEPARTMENT OF TRANSPORTATION

BY: ____________________________

(CHIEF ENGINEER)

DATE: __________________________

PRESENTED TO BOARD OF TRANSPORTATION ITEM O: __________________________
SUBJECT: Staffing For Adequate Fire and Emergency Response (SAFER) grant

AGENDA INFORMATION

Agenda Location: NEW BUSINESS
Item Number: 8E
Department: Fire
Contact: Scottie Harris, Fire Chief
Presenter: Josh Harrold, Town Manager

BRIEF SUMMARY: The fire department is seeking approval to apply for the SAFER grant which is a FEMA assisted funding grant for staffing. The closing of submission date is March 12th, 2021 with an award date to recipients after the Oct 1st Federal Government FY. Typically awarded in the November time frame. The grant assistance is for 3 years with FEMA paying 75% the first year and 35% on years 2 and 3 of the salaries and benefits. The fourth year and beyond would be 100% the responsibility of the town. The fire department would like to request six (6) Firefighter in the grant application process.

MOTION FOR CONSIDERATION: To approve or deny allowing the Fire Department to apply for SAFER staffing grant.

FUNDING SOURCE: General Fund

ATTACHMENTS:

MANAGER’S COMMENTS AND RECOMMENDATIONS: To approve as presented.
SUBJECT: Ordinance to change name of town’s governing body to “Town Council”

AGENDA INFORMATION

Agenda Location: New Business
Item Number: 8F
Department: Board of Aldermen
Contact: Ron Sneed, Town Attorney
Presenter: Ron Sneed, Town Attorney

BRIEF SUMMARY: A recommendation and request has been made to change the name of the town’s governing board to Town Council

MOTION FOR CONSIDERATION: To adopt ordinance No. O-21-02 to amend the Town of Black Mountain Code of Ordinances to change the name of the town’s governing body to Town Council

FUNDING SOURCE: N/A

ATTACHMENTS: Proposed ordinance amendment

MANAGER’S COMMENTS AND RECOMMENDATIONS:
AN ORDINANCE TO AMEND ARTICLES I and II OF THE TOWN OF BLACK MOUNTAIN CODE OF ORDINANCES TO NAME THE TOWN’S GOVERNING BODY TO BE THE TOWN COUNCIL

BE IT HEREBY ORDAINED by the Board of Aldermen of the Town of Black Mountain that the Black Mountain Code of Ordinances is hereby amended as follows:

Article I, Section 1-5. Definitions and rules of construction, is amended to revoke the following definition:

Board of aldermen or the board. The term “board of aldermen” or “the board” means the board of aldermen of the Town of Black Mountain, North Carolina.

Article I, Section 1-5. Definitions and rules of construction, is amended to add the following definition.

Town Council. The term “town council” or “the council” or “the board” shall mean the Town Council, which is the elected governing body of the town. Any reference to the “board of aldermen” or the “aldermen” in the Town of Black Mountain Code of Ordinances shall mean the Town Council and council member or council members.

Article II. Council-Manager plan of government, is amended as follows:

Section 2-19, subsections (a) and (b) are revoked in their entirety.

The following Section 2-19 (a) and (b) of Article II are hereby adopted.

Sec. 2-19. - Council-manager plan of government.

(a) The plan of government shall be the council-manager plan, with all administrative responsibility and authority to be in a town manager and all legislative and policy making decisions to be in the elected governing body, known as the town council, with the responsibilities and duties of each to be as hereinafter set out.

(b) The town council shall appoint a town manager to serve at its pleasure. The town manager shall be appointed solely on the basis of his executive and administrative qualifications. He need not be a resident of the town or state at the time of his appointment. The office of town manager is an office that may be held concurrently with other appointive, but not elective, offices pursuant to North Carolina Constitution article VI, section 9.
I move the adoption of the foregoing ordinance.

____________________________________
Alderman

**READ, APPROVED AND ADOPTED**, by a vote of ______ two _______, on this 8th day of March, 2021.

____________________________________
Larry B. Harris, Mayor

ATTEST:

____________________________________
Savannah Parrish, Town Clerk

Approved as to form:

____________________________________
Ronald E. Sneed, Town Attorney
SUBJECT: NCDEQ Division of Air Quality Volkswagen Settlement Level Rebate

AGENDA INFORMATION

Agenda Location: New Business
Item Number: 8G
Department: Administration
Contact: Savannah Parrish, Town Clerk
Presenter: Josh Harrold, Town Manager

BRIEF SUMMARY: The North Carolina Department of Environmental Quality (NCDEQ), Division of Air Quality (DAQ) recently approved two Volkswagen Settlement Level 2 ZEV Infrastructure Program rebate applications in the amount of $10,000.00 each. The proposed projects would add 2 ports, each equipped with 2 chargers, at the Black Mountain Library and at Lake Tomahawk. The cost to complete the project at Lake Tomahawk is estimated to cost $14,388 with $10,000 being reimbursed from NCDEQ. The project at the Black Mountain Library is estimated to cost $16,194 with $10,000 being reimbursed from NCDEQ.

MOTION FOR CONSIDERATION: To approve or deny acceptance of the rebate to expand electric vehicle charging infrastructure

FUNDING SOURCE: Rebate funding through NCDEQ Division of Air Quality.

ATTACHMENTS: Award Letters.

MANAGER’S COMMENTS AND RECOMMENDATIONS:
Josh Harrold  
47147327 Black Mountain Town  
160 Midland Ave  
Black Mountain, NC 28711-3112  
Application Number: 1000010765  

Dear Josh Harrold:

I am pleased to inform you that the North Carolina Department of Environmental Quality (NCDEQ), Division of Air Quality (DAQ) approved your Volkswagen Settlement Level 2 ZEV Infrastructure Program rebate application in the amount of $10,000.00. We are excited about your project entitled Charging Infrastructure.

**Project Details:**

| Project Location | Charging Infrastructure  
401 Laurel Circle Drive Black Mountain, NC 28711 |
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<td>Charger Number</td>
<td>Number of Ports</td>
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<td>2</td>
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Rebate vouchers are valid for 180 days from the date of the Level 2 Rebate Agreement is signed by your organization and NCDEQ. Reimbursement requests must be submitted in the DAQ Grants Management System prior to the voucher expiration date. Voucher extensions will not be granted.

The attached Level 2 Rebate Agreement form must be completed and emailed to svc.NCVWApplication@ncdenr.gov within 15 business days of receipt. Should you have any questions or need further information, you may contact Steven Rice via telephone at 919-715-7220 or email at steven.rice@ncdenr.gov.

**Applicants must log into the NC DAQ Grant Management System to view application and claim status or to submit invoices and documents for reimbursement.**
Thank you for your interest in reducing emissions in the State of North Carolina. We look forward to working with you on this worthwhile endeavor and receiving reports on the success of this project so that we may learn how to best use funding in future phases.

Sincerely,

[Signature]

for

Michael S. Regan, Secretary
Department of Environmental Quality

MSR/SPR
Enclosures
cc: Steven Rice
February 22, 2021

Josh Harrold
Town of Black Mountain
160 Midland Avenue
Black Mountain, NC 28711-3112
Application Number: 1000010767

Dear Josh Harrold:

I am pleased to inform you that the North Carolina Department of Environmental Quality (NCDEQ), Division of Air Quality (DAQ) approved your Volkswagen Settlement Level 2 ZEV Infrastructure Program rebate application in the amount of $10,000.00. We are excited about your project entitled Charging Infrastructure - Library.

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<tr>
<th>Project Location</th>
<th>Charging Infrastructure - Library</th>
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<td>105 N Dougherty Street Black Mountain, NC 28711</td>
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Rebate vouchers are valid for 180 days from the date of the Level 2 Rebate Agreement is signed by your organization and NCDEQ. Reimbursement requests must be submitted in the DAQ Grants Management System prior to the voucher expiration date. Voucher extensions will not be granted.

The attached Level 2 Rebate Agreement form must be completed and emailed to svc.NCVW.Application@ncdenr.gov within 15 business days of receipt. Should you have any questions or need further information, you may contact Steven Rice via telephone at 919-715-7220 or email at steven.rice@ncdenr.gov.

Applicants must log into the NC DAQ Grant Management System to view application and claim status or to submit invoices and documents for reimbursement.
Thank you for your interest in reducing emissions in the State of North Carolina. We look forward to working with you on this worthwhile endeavor and receiving reports on the success of this project so that we may learn how to best use funding in future phases.

Sincerely,

[Signature]

Michael S. Regan, Secretary
Department of Environmental Quality

MSR/SPR
Enclosures
cc: Steven Rice
SUBJECT: Public Hearing for Text Amendments Definitions

AGENDA INFORMATION

Agenda Location: PUBLIC HEARING
Item Number: 9A
Department: Planning and Development Department
Contact: Jessica Trotman, Planning Director
Presenter: Jessica Trotman, Planning Director

BRIEF SUMMARY: The proposed definitions will help clear up confusion regarding residential uses. The proposed definitions will allow staff and applicants to clearly differentiate between residential and non-residential uses. The proposed definitions are consistent with NC General Statutes and were acquired from the American Planning Association’s Planner’s Dictionary.

MOTION FOR CONSIDERATION:

1. To open the public hearing for Ordinance #O-21-01 for amendments to definitions.
2. To close the public hearing.
3. To adopt Ordinance #O-21-01 as presented [or as amended].

FUNDING SOURCE: N/A

ATTACHMENTS: Ordinance #O-21-01

MANAGER’S COMMENTS AND RECOMMENDATIONS: To approve Ordinance #O-21-01 as presented.
ORDINANCE #0-21-01

AN ORDINANCE TO AMEND CHAPTER 1, SECTION 1.2.3, DEFINITIONS, OF THE TOWN OF BLACK MOUNTAIN LAND USE CODE

WHEREAS, the Town of Black Mountain Planning Board is charged with reviewing and updating land use planning, zoning and subdivision regulations; and

WHEREAS, the Planning Board made a commitment to the Board of Aldermen to review the text of the Land Use Code in the years since its adoption to address any residual inconsistencies in the text and to look for opportunities to clarify or improve text; and

WHEREAS, upon recommendation of the Planning Board, the following text amendments are consistent with the comprehensive plan and reasonable in the public interest because it allows for clarifying language regarding residential uses;

WHEREAS, the Town of Black Mountain has the authority, pursuant to Article 7 of Chapter 160D of the North Carolina General Statutes, to adopt land development regulations, clarify such regulations, and may amend regulations from time to time in the interest of public health, safety and welfare; and

WHEREAS, the Board of Aldermen find that the land use code text amendment is reasonable and in the public interest because of the following findings:

- Clarifies language for better interpretation of residential uses

WHEREAS, the Board of Aldermen find that this amendment is consistent with the Town of Black Mountain Comprehensive Plan 2014 update in the following ways:

- Vision Statement 7: Housing and Neighborhoods – better differentiates between residential and non-residential uses in regards to transient uses

WHEREAS, after notice duly given, a public hearing was held on March 8, 2021, as part of the regularly scheduled Board of Aldermen meeting at 6:00 p.m. in the Board Room of Town Hall, 160 Midland Avenue.

NOW, THEREFORE, BE IT RESOLVED that Chapter 1, Section 1.2.3, of the Town of Black Mountain Land Use Code, be amended with the following (additions are underlined in bold and deletions are shown as red struck text):

Chapter 1

Section 1.2.3

Residence: A structure or part of a structure containing dwelling units or rooming units, including single-family or two-family houses, multiple dwellings, boarding or rooming
Residences do not include: such transient accommodations such as transient hotels, motels, tourist cabins, dormitories, and recreational vehicles.

Resident: An individual whose principle place of living and sleeping is in a particular location is a resident of that location.

Short-term rental: Any dwelling or portion thereof that is available for use or is used for accommodations or lodging of guests paying a fee or other compensation for a period of less than 30 consecutive days.

Transient: Occupancy of a dwelling unit or sleeping unit for not more than 30 days.

READ, APPROVED AND ADOPTED, by a vote of _____ to _____ on this the 8th day of March, 2021.

______________________________
Larry Harris, Mayor

ATTEST:

______________________________
Savannah Parrish, Town Clerk