TOWN OF BLACK MOUNTAIN

Town Hall, 160 Midland Avenue, Black Mountain, NC 28711

Date: **October 8, 2018** Time: **6:00 p.m.** **Regular Session Minutes**

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Conserve resources; print only when necessary.

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(828) 419-9300 / TDD (800) 735-2962

1. CALL TO ORDER

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

Mayor Don Collins
Vice Mayor Maggie Tuttle
Alderman Larry B. Harris
Alderman Ryan Stone
Alderman Carlos Showers
Alderman Tim Raines

The following staff members were present:
Ron Moore, Interim Town Manager
Dean Luebbe, Assistant Town Manager/Finance Director
Angela Reece, Town Clerk
Ron Sneed, Town Attorney
Shawn Freeman, Police Chief
Steve Jones, Fire Chief
Jessica Trotman, Planning Director
Jamey Matthews, Public Services Director

Mayor Don Collins welcomed everyone and led the Pledge of Allegiance. Reverend Trent Holbert of Black Mountain gave the invocation.
Mayor Collins thanked everyone in attendance and expressed appreciation to all those who were attending for the first time and also the viewing audience. The re-broadcast of each regular meeting is shown throughout the month on Charter Cable's Buncombe County Channel 192 at 8:00 p.m. on Sundays. Meetings initially air the same week in which they occur and are shown weekly until the next regularly scheduled meeting. Citizens may also go to the Town website www.townofblackmountain.org at any time and view the most recent regular meeting of the Board.

In his announcements Mayor Collins advised citizens he has received a letter directed to the Honorable Brock Long, Administrator of the Federal Emergency Management Agency (FEMA) from Senator Burr, Senator Tillis, and Congressman Patrick McHenry which is asking FEMA to provide the State of North Carolina's appeal every possible consideration.

2. PROCLAMATION AND AWARD RECOGNITION

A. Life Saving Award – Police Chief, Shawn Freeman (Officers Ian Ammons & Jon McDonald)

Police Chief Shawn Freeman presented Life Saving Awards to Officers Ian Ammons and Jon McDonald commending them for their efforts to protect the Citizens of Black Mountain.

3. CITIZEN COMMENTS

Individuals wishing to address the Board are asked to sign in at the entrance to the board room, indicating the 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****. 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.*

Mark Beeson *of Chapel Road, Black Mountain* addressed the Board of Aldermen expressing his concerns of having a generator installed in the right-of-way on his property. Mr. Beeson stated there is a water pumping station currently located on this site and said he does not wish to have a generator located next to it. Mayor Collins directed Manager Moore to follow up with Mr. Beeson regarding this issue.

4. COMMUNICATIONS FROM BOARDS, COMMISSIONS & AGENCIES

A. Black Mountain Public Works Annual Streets Report, Jamey Matthews, *Public Works Director*

Public Works Director, Jamey Matthews presented the Annual Public Works Street Report to the Board of Aldermen which is made part of and attached to these minutes. Aldermen Ryan Stone and Larry B. Harris asked for clarification regarding installation of a generator on Chapel Road. Director Matthews stated the generator is needed to keep the water tank full in the event of a power failure and would be run by the SCADA system. Director Matthews stated the proposed location is on public right-of-way.

B. Bounty & Soul Annual Report, Bruce Ganger, Executive Director

Bounty & Soul Executive Director, Bruce Ganger presented the Bounty & Soul Annual Report to the Board of Aldermen which is made part of and attached to these minutes.

C. BMSV Chamber of Commerce Events, Bob McMurray, Executive Director

Black Mountain Swannanoa Valley Chamber of Commerce Executive Director, Bob McMurray presented an Annual Report to the Board of Aldermen which is made part of and attached to these minutes. Mary Standaert, a volunteer with the Chamber addressed the Board and Citizens and invited them to a celebration of the Chamber's 100th Birthday and Town's 125th Year Celebration which will occur on Saturday October 28, 2018. Alderman Showers thanked and commended staff at the Chamber for their efforts in representing the Town.

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.

Interim Town Manager Moore presented the consent agenda to the Board of Aldermen.

A. Adoption of Minutes

> ***Motion:*** *To adopt the minutes of September 5, 2018 (Closed Session), September 10, 2018 (Closed Session), September 6, 2018 (Agenda Session), and September 10, 2018 (Regular Session).*

B. Call for Public Hearing to Close an Unopened, Platted Portion of First Street ***#R-18-14***

Manager Moore stated the adjoining property owners are requesting to close a portion of an unopened, platted street that runs between their properties to allow for extra land and driveways. The space is not currently used for any access or utilities. The owners have agreed to install a 15' wide easement for access and utilities and to connect to the existing alleyway.

> ***Motion:*** *To call for the public hearing to close an unopened, platted street known as First Street to be held on Monday, November 19, 2018 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 for Text Amendments to Floodways and Non-Encroachment Areas ***#O-18-06***

Manager Moore stated in the Zoning Ordinance prior to 2010, provisions were in place regarding citizens leaving debris and discarded items to accumulate in special flood hazard areas and streams and creeks. He advised when the ordinance was updated in 2010, this language was inadvertently omitted leaving little recourse for enforcement for debris and discarded items that remained after flood events or that people just neglected to clean up.

> ***Motion:*** *To call for the public hearing to text amendments to floodways and non-encroachment areas to be held on Monday, November 19, 2018 at 6:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 160 Midland Avenue.*

D. Call for Public Hearing for Text Amendments to Home Occupations ***#O-18-07***

Manager Moore stated currently there are home occupations that are not registered with the town and staff does not know about them until a complaint is filed. The proposed amendment would require home occupations to complete a home occupation application that would allow for a zoning district review to make sure the use was permitted and that all other regulations of the home occupation ordinance were being followed.

> ***Motion:*** *To call for the public hearing to text amendments to home occupations to be held on Monday, November 19, 2018 at 6:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 160 Midland Avenue.*

E. Budget Amendment for Fourth of July Fireworks ***#FY2019-3***

Manager Moore stated this amendment is necessary to reflect contributions for fireworks donations in the amount of $7,426 and to reflect fund balance appropriation in the amount of $974.00 for the 2018 fireworks.

> ***Motion:*** *To approve Budget Amendment #FY2019-1 as submitted, increasing expenditure account 1080-6190-320 (Rec Programs) by $8,400, and increasing revenue accounts 1080-3601-400 (Sponsorships - Fireworks) by $7,426 and 1000-3905-900 (Fund Balance Appropriated) by $974.*

F. Budget Amendment for Police K-9 Vehicle ***#FY2019-4***

Manager Moore stated this budget amendment reflects a drug seizure of a pickup truck which requires repairs and modification to be utilized for a K-9 Police Vehicle. Manager Moore stated when repairs are complete the vehicle will have a market value of approximately $60,000.

> ***Motion:*** *To approve Budget Amendment* #FY2019-3 as submitted, increasing expense account 1010-5100-190 (ABC Distribution expense) by $1,300, and 1010-5100-730 (Capital Expense) by $15,000 and increasing revenue account 1000-3905-900 (Fund Balance Appropriated) by $16,300.

G. Budget Amendment for Water System Service Contract ***#FY2019-5***

Manager Moore stated this budget amendment is necessary to move budgeted funds from salary to contractual services to fund the contractual amount and reminded the Board of their September 11, 2018 approval of the Water Distribution System Service Contract which allows the Town to keep the water system in compliance with State and Federal regulations.

> ***Motion:*** *To approve Budget Amendment* #FY2019-4 as submitted, increasing expenditure account 3091-8100-450 (Contract Services) by $30,000, and decreasing three salary and wages related expenditure accounts 3091-8100-xxx by $30,000.

H. Budget Amendment for Property Tax at 304 Black Mountain Ave. ***#FY2019-6***

Manager Moore stated the FY18-19 Town of Black Mountain adopted budget did not included property taxes due on the property located at 304 Black Mountain Avenue, which the Town had purchased on February 26, 2018. He reminded all that the Town is exempt from paying property taxes, but said tax was assessed on this property as of January 1, 2018, to the owner of record at that date. Approximately 1/6 of that tax amount was accounted for on the settlement statement. Manager Moore stated $4,829.66 will be returned to the Town as tax revenue. Attorney Ron Sneed clarified this was agreed upon in the sale of the property to the Town.

Motion: *To approve Budget Amendment* #FY2019-6 as submitted, increasing expense account 1000-4200-040 (Professional Services) by $12,514, and increasing revenue account 1000-3905-900 (Fund Balance Appropriated) by $12,514.

I. Resolution to Award Firefighting Helmet & Badge to Retiring Fire Chief, Steve Jones

#R-18-19

Manager Moore stated Fire Chief, Steve Jones is retiring effective November 28, 2018 and this resolution is necessary to reflect award of the service helmet and badge to Chief Jones. Manager Moore and the Board of Aldermen thanked Chief Jones for his years of service to the Town.

Motion: *To* adopt Resolution ***#R-18-19*** awarding retiring Fire Steve Jones his firefighting helmet as provided in NC G.S. 160A-294.1 and award of service badge at the Board of Aldermen's discretion.

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

Alderman Larry B. Harris moved to approve consent items A-I as presented.

The motion was approved by a vote of 5-0.

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.*

There were no citizen comments.

7. UNFINISHED BUSINESS

A. Agreement for Wholesale Purchase of Water from City of Asheville

Alderman Larry B. Harris requested Finance Director Dean Luebbe prepare a recommendation of the amount of water to purchase from the City of Asheville and directed him to discuss it with the new Town Manager, Josh Harrold and bring it back to the Board at their November meeting. Alderman Harris suggested tabling the discussion temporarily until water usage totals and projections can be provided to the Board.

B. Request to Acquire Blue Ridge Assembly Drive Water Line- City of Asheville Water Line Transfer Agreement Amendment

Manager Moore recalled past discussions regarding fire hydrant testing and water pressure issues along the Blue Ridge Assembly Drive water line and stated he has discussed this with the Town Attorney, Public Works Director, and Fire Chief and recommended requesting the line be transferred into the Black Mountain water system earlier than originally proposed. Manager Moore

stated he has spoken with the City of Asheville who requested a timeframe of phases to take over the lines. Manager Moore stated there is a need to amend this agreement to adjust the timeline to account for a need to transfer part of the lines described in the original Phase One at an earlier date to accommodate growth and fire safety on Blue Ridge Assembly Drive and to modify the completion dates to conform to actual progress on the planning and contracting of the associated infrastructure project. Proposed Transfer of Phases and Dates are as follows:

a. Phase One Transfer Date. The transfer of the portion of the Water Distribution System from the City to Black Mountain indicated by the green lines on Exhibit A which run from Blue Ridge Road for the full length of Blue Ridge Assembly Drive will occur on or before May 31, 2019. This transfer shall be effective on the date the City's six inch line on Blue Ridge Assembly Drive is connected to Black Mountain's ten inch line in Blue Ridge Road and the users on that line have been notified and have been incorporated into the Black Mountain water billing system.

b. Phase Two Transfer Date. The transfer of the Water Distribution System from the City to Black Mountain indicated by the green lines on Exhibit A which were not transferred as a part of Phase One will occur on or before May 31, 2020.

c. Phase Three Transfer Date. The transfer of the Water Distribution System from the City to Black Mountain indicated by the red lines on Exhibit A will occur one (1) year after the Phase Two Transfer Date.

Manager Moore stated Public Works Director Jamey Matthews has coordinated the connection of the City's existing 6 inch line to a 10 inch line owned by the Town which is located about 100 yards away and said the City was agreeable and that the work could be performed in house. Attorney Sneed discussed the interests of the engineers with regarding to timing of completion of the Alderman Larry B. Harris stated he feels safety of the citizens being served by the Blue Ridge Assembly Drive water line is paramount and said he is concerned with low pressure and potential fire hazard.

Alderman Larry B. Harris moved to direct Attorney Ron Sneed to proceed with negotiations to amend the waterline transfer agreement with the City of Asheville and to authorize the City of Asheville to proceed with connecting to the Town's 10 inch water line along Blue Ridge Assembly Drive.

The motion was approved by a vote of 5-0.

C. Charter Amendment for Even Year Elections

Manager Moore stated he spoke with Trena Parker, Director of Elections, Buncombe County Election Services who stated odd year elections would result in a 30-50% cost savings while moving to even year elections would result in a 75% cost savings. Finance Director Dean Luebbe advised the last election cost was approximately $17,000. Alderman Larry B. Harris requested to table the discussion until further information can be obtained from adjoining municipalities. Alderman Ryan Stone stated he is opposed to a charter amendment in this fashion and prefers having a referendum to allow the citizens to vote on the matter.

8. NEW BUSINESS

A. Financial Statements and Independent Auditor's Report for the Town of Black Mountain for Fiscal Year Ending June 30, 2018- *by Gould Killian CPA Group, P.A.*

> ***Motion:*** *To accept the Auditor's Report for the Year Ending June 30, 2018, as presented.*

Finance Director Dean Luebbe presented a financial statement overview and a draft copy of the financial statements to the Board of Aldermen. Both reports are attached to and included in these minutes. In his report Director Luebbe discussed fund balance stating the appropriated fund balance totals were less in fiscal year 2018 due to paying off poll debt and acquiring the new property at 304 Black Mountain Ave. Director Luebbe discussed property tax and sales tax revenues stating growth has been flat since 2014. Director Luebbe stated the Town receives approximately 1.1% sales tax. Alderman Larry B. Harris stated there was a neutral increase in revenues which reflect a revenue neutral property tax valuation in 2017.

Travis Keever, Gould Killian CPA Group, P.A. presented the Independent Auditors Report to the Board of Aldermen which is made part of and included in these minutes. Alderman Larry B. Harris discussed unfunded liabilities for retirement and health insurance premiums stating the number is recorded in the Town's financial statements and encouraged the public to read through the report to gain a better understanding of what this means as it is a very large sum. Mr. Keever stated he discussed internal controls regarding payroll and HR functions with administration and recommended separating payroll from HR functions or at least having a mitigating control where the payroll rosters and journals are reviewed prior to being approved. Alderman Larry B. Harris recalled past discussions with the Board and Gould Killian Auditors and requested the following recommendations be brought back to the Board for consideration: Policy revision and recommendations regarding the use of Town credit cards, and policy recommendations and best practices regarding the pre-audit and disbursement process for all Town disbursements. Alderman Harris asked Finance Director Dean Luebbe to bring these recommendations back to the Board of Aldermen by early 2019 after he has had a chance to discuss with the new Town Manager. Alderman Harris also requested the Board review and consider whether the finance officer should become a direct hire of the Board of Aldermen rather than a direct hire of the Town Manager. Alderman Harris stated this will require a charter amendment and can be discussed at a later date once the new Town Manager has had a chance to get acquainted with the information.

> ***Alderman Larry B. Harris moved to approve Financial Statements and Independent Auditor's Report for the Town of Black Mountain for Fiscal Year Ending June 30, 2018.***
>
> ***The motion was approved by a vote of 5-0***

B. Update on 304 Black Mountain Ave.

Manager Moore stated a sprinkler system is necessary at the new building in order to comply with the state fire code due to a change in occupancy. Manager Moore stated staff has moved into the facility, however Public Works is unable to utilize the warehouse portion to store equipment until it is in compliance. Manager Moore stated he has sought estimates for installation and is exploring the issue.

C. Acceptance of Real Property Donation ***#R-18-20***

Motion: *adopt Resolution #R-18-20 to accept the donation of land from the Swannanoa Valley Friends Meeting.*

Vice Mayor Maggie Tuttle moved to approve Resolution R-18-20 to accept the donation of land from the Swannanoa Valley Friends Meeting

The motion was approved by a vote of 5-0

Attorney Ron Sneed stated the Friends own property where a portion of our greenway is proposed to go and said they have offered to donate this property to the Town as it is unusable by them due to flooding issues. Attorney Sneed stated this resolution is necessary to accept the donation of this property.

D. Acceptance of Easement for Real Property Donation ***#R-18-21***

Motion: *adopt Resolution #R-18-21 to accept the easement from the Swannanoa Valley Friends Meeting.*

Attorney Sneed stated this resolution is necessary to accept the easement from this property.

Vice Mayor Maggie Tuttle moved to approve Resolution R-18-21 to accept the easement from the Swannanoa Valley Friends Meeting

The motion was approved by a vote of 5-0

E. Appointments to Town Boards and Commissions

1. **Historic Preservation Commission**– (1) vacancy/ 3-yr term ending June 30, 2021

Vice Mayor Maggie Tuttle moved to appoint Frank Cappelli to fill a 3 year term ending June 30, 2021 on the Historic Preservation Commission.

The motion was approved by a vote of 5-0.

2. **Urban Forestry Commission**– (1) vacancy/ Unexpired term ending June 30, 2019

Alderman Ryan Stone moved to appoint Rhea Bockhorst to fill an unexpired term ending June 30, 2019 on the Historic Preservation Commission.

The motion was approved by a vote of 5-0.

9. PUBLIC HEARING

A. Public Hearing for Text Amendments to Replace Privilege License Section with Business Registrations **#O-18-04**

Motions:

Alderman Larry B. Harris moved to open the public hearing for Text Amendments to Replace Privilege License Section with Business Registrations.

The motion was approved by a vote of 5-0.

Attorney Ron Sneed recalled the NC General Assembly removing the ability of municipalities to collect business privilege license taxes a few years ago and substituted it with business registrations. Attorney Sneed stated the amendment is necessary to update the ordinance to comply with state law.
There were no citizen comments.

Vice Mayor Maggie Tuttle moved to close the public hearing.

The motion was approved by a vote of 5-0.

Alderman Larry B. Harris moved to adopt Ordinance O-18-04 as presented.

The motion was approved by a vote of 5-0.

B. Public Hearing for Text Amendment to Definitions to Add Vacant Lot and Undeveloped Lot **#O-18-05**

Motions:

Alderman Larry B. Harris moved to open the public hearing for Text Amendments to Add Vacant Lot and Undeveloped Lot.

The motion was approved by a vote of 5-0.

Attorney Ron Sneed stated the Town currently has ordinances that provide for keeping lots maintained. Attorney Sneed stated staff and the Planning Board have looked at the issue to determine if they could identify and determine the difference between a vacant lot and undeveloped land. Attorney Sneed stated the definition of a vacant lot is land that is partially prepared for development and sitting there and undeveloped land in land in its natural state. Attorney Sneed stated this is necessary to distinguish so that owners of undeveloped land are exempt from maintaining by mowing and cutting underbrush.

There were no citizen comments.

Vice Mayor Maggie Tuttle moved to close the public hearing.

The motion was approved by a vote of 5-0.

Attorney Sneed called attention to the statement of consistency and stated the NC General Assembly now requires the statement of consistency to be adopted prior to the ordinance being adopted.

Alderman Larry B. Harris moved to adopt the statement of consistency as presented.

The motion was approved by a vote of 5-0.

Vice Mayor Maggie Tuttle moved to adopt Ordinance O-18-05 as presented.

The motion was approved by a vote of 5-0.

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 – None at this time.

B. Interim Town Manager – Manager Moore announced the new Town Manager, Josh Harrold will begin on Thursday October 11th and invited the Board and Citizens to attend a welcome reception on Tuesday October 23rd at 304 Black Mountain Ave. for Mr. Harrold. Manager Moore stated it has been his honor and pleasure to serve the Town of Black Mountain over the past four months and thanked the Board of Aldermen for the opportunity to serve.

11. COMMUNICATION FROM MAYOR AND BOARD OF ALDERMEN

Alderman Larry B. Harris thanked Manager Moore for serving. Alderman Harris stated the Black Mountain Primary School has a new playground and it was a successful community participation to get it built. Alderman Harris commended Golf Couse staff for working hard to make repairs over the weekend.

Vice Mayor Maggie Tuttle called attention to the geese reappearing at the Black Mountain Golf Course stating that the gees dog, Calvin, has been out of town with his handlers but will be back on the job very soon.

Mayor Don Collins presented Fire Chief Steve Jones with Resolution R-18-19, awarding his fire helmet and service badge to him upon retirement and congratulating him on serving 38 years of service as a Fireman. Job well done, thank you Chief Jones.

Mayor Don Collins presented Public Works Director Jamey Matthews with a certificate of commendation and thanked him for his enthusiasm in managing the Recreation Department while the search for a director was underway.

Mayor Don Collins presented a proclamation to Ron Moore and thanked him for his service to the Town of Black Mountain as Interim Town Manager.

12. ADJOURNMENT

There being no further business, on a motion made by Alderman Carlos Showers and with a vote of 5-0, Mayor Don Collins adjourned the meeting at 7:59 p.m.

ATTEST:

Angela L. Reece, Town Clerk

Don Collins, Mayor