



TOWN OF BLACK MOUNTAIN

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

Date: **September 10, 2018** Time: **6:00 p.m.**

AMENDED

Regular Session Agenda

*The agenda and all related documentation may be accessed electronically via Wi-Fi in Town Hall. From your laptop or smartphone, access the Town's website at www.townofblackmountain.org. Click on **Town Government** and select **Mayor and Board of Alderman** to download materials for all Town board meetings.*

 **Conserve resources; print only when necessary.**

The Town of Black Mountain is committed to providing accessible facilities, programs and services for all people in compliance with the American with Disabilities Act (ADA). Hearing assistive devices are available at the door.

Should you need other assistance or accommodation for this meeting, please contact

*Town Clerk Angela Reece at 419-9310, or by email at angela.reece@townofblackmountain.org
(828) 419-9300 / TDD (800) 735-2962*

1. CALL TO ORDER

- Welcome
- Pledge of Allegiance
- Invocation – *Reverend Trent Holbert, Black Mountain Citizen*
- Announcements – *Mayor Don Collins*

2. PROCLAMATION AND AWARD RECOGNITION

- A.** Proclamation Honoring Bill Hamby
- B.** Hunger Awareness Month- Bounty & Soul

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.*

4. COMMUNICATIONS FROM BOARDS, COMMISSIONS & AGENCIES

- A.** Black Mountain Golf Course Annual Report, *Brent Miller, Golf Operations Manager*

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

TOWN OF BLACK MOUNTAIN- REGULAR SESSION AGENDA

September 10, 2018

Motion: *To adopt the minutes of August 9, 2018 (Closed Session), August 9, 2018 (Agenda Session), August 13, 2018 (Closed Session), August 13, 2018 (Regular Session), August 17, 2018 (Closed Sessions), August 9, 2018 (Closed Session), August 23, 2018 (Closed Session), August 24, 2018 (Closed Session), August 30, 2018 (Closed Session),*

B. Budget Amendment for Golf Fund Deficit #FY2018-14

Motion: *To approve Budget Amendment #FY2018- as submitted, increasing expenditure accounts 1000-5000-560 (Transfer to Golf) by \$130,530, and 5092-3905-900 (Fund Balance Appropriated) by \$130,530 and increasing the revenue accounts 1000-3905-900 (Fund Balance Appropriated) by \$130,530 and 5092-3808-800 (transfer from General Fund) by \$130,530.*

C. Budget Amendment for Replacement of HVAC at Lakeview and Grey Eagle #FY2019-2

Motion: *To approve Budget Amendment #FY2019-2 as submitted. This amendment increases budgeted Capital expenditures in the Recreation Department by \$30,500, decreases assorted salary and benefit line items in the Recreation Department by \$24,960, and increase Fund Balance Appropriated by \$5,540.*

D. Resolution in Support of Dynamic Messaging Signs for I40 - NCDOT Funded #R-18-18

Motion: *To adopt resolution #R-18-18 in support of Dynamic Messaging Signs to be placed east and west of the Old Fort Mountain on I-40.*

E. Call for Public Hearing to Close a Platted Portion of Wolf Creek Drive #R-18-17

Motion: *To call for the public hearing to close an unopened, platted portion of Wolf Creek Drive to be held on Monday, October 8, 2018 at 6:00 p.m. or as soon thereafter as possible, in the Board Room of Town Hall at 160 Midland Avenue.*

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

Motion: *To call for the public hearing for text amendments to replace privilege licenses with business registrations to be held on Monday, October 8, 2018 at 6:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 160 Midland Avenue.*

G. Call for Public Hearing for Text Amendments to Definitions to Add Vacant Lot and Undeveloped Lot #O-18-05

Motion: *To call for the public hearing for text amendments to definitions, Chapter 1, Section 1.2.3, to be held on Monday, October 8, 2018 at 6:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 160 Midland Avenue.*

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

TOWN OF BLACK MOUNTAIN- REGULAR SESSION AGENDA

September 10, 2018

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.

7. UNFINISHED BUSINESS

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

8. NEW BUSINESS

- A. Charter Amendment for Even Year Elections
- B. Request to Acquire Blue Ridge Assembly Drive Water Line- City of Asheville Water Line Transfer Agreement Amendment
- C. Service Agreement for Town Water Distribution System

9. PUBLIC HEARING

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. Interim Town Manager – Ron Moore

11. COMMUNICATION FROM MAYOR AND BOARD OF ALDERMEN

12. ADJOURNMENT



Ron Moore
Interim Town Manager



Proclamation

Honoring William C. Hamby

WHEREAS, William C. Hamby, referred to hereinafter as Bill Hamby, is a native of the Swannanoa Valley; and

WHEREAS, Bill Hamby has been a lifelong member of First Baptist Church Black Mountain where he has served in several leadership capacities including Deacon, Treasurer, Member of the Choir, and as Chairperson of the Building Committee managing multiple capital improvement projects; and

WHEREAS, Bill Hamby was instrumental in beginning the Emergency Homeless Shelter housed at First Baptist Church Black Mountain where Bill and Nancy Hamby have volunteered twice a month as guest supervisors for the past 8 shelter seasons; and

WHEREAS, Bill Hamby has dedicated over 30 years to the service to students and teachers of Buncombe County Schools through his attention to detail in managing capital building projects; and

WHEREAS, Bill Hamby has provided invaluable service to Swannanoa Valley Christian Ministry as the project manager for the construction of the “Hope for Tomorrow” apartments for women and children who would otherwise be homeless; and

WHEREAS, Bill Hamby as developed the Wood-yard Ministry to help provide firewood for the clients of Swannanoa Valley Christian Ministry who rely on this fuel source to keep their families warm; and

WHEREAS, Bill Hamby who is a loving husband; father and friend who lives out his strong faith in Christ by using his gifts to serve others; and

NOW, THEREFORE, I, Don Collins, Mayor of the Town of Black Mountain, on behalf of the Board of Aldermen and the Citizens of Black Mountain, wish to honor and do hereby proclaim September 10, 2018, as:

“William C. Hamby Day”

SIGNED this 10th day of September, 2018.

Don Collins, Mayor

Attest

Angela L. Reece, Town Clerk



Proclamation

“Hunger Action Month”

September 2018

WHEREAS, hunger and poverty remain issues of grave concern in the United States, the State of North Carolina, Buncombe County, and the Town of Black Mountain; and

WHEREAS, the Town of Black Mountain is committed to taking steps to raise awareness about the need to combat hunger in every part of our Town and to provide additional resources that citizens of Black Mountain need; and

WHEREAS, The Town of Black Mountain is committed to working with Bounty & Soul in mobilizing people about the role and importance of hunger relief organizations, in addressing hunger and bringing attention to the need to devote more resources and attention to hunger issues; and

WHEREAS, hunger relief organizations across the country, including Bounty & Soul, will host numerous events throughout the month of September to shed light on this important issue and encourage involvement in efforts to end hunger in this community;

NOW, THEREFORE, I, Don Collins, Mayor of the Town of Black Mountain, do hereby proclaim the month of September 2018 to be “Hunger Action Month” in our Town and encourage all citizens to take time during this month to call this observance to the attention of our citizens.

SIGNED this 10th day of September 2018.

Attest:

Don Collins, Mayor

Angela Reece, Town Clerk

Budget Amendment # 2018-14
Fiscal Year 2017-2018

Dept.	Account #	Account Name	Debit	Credit	Comments
	1000-5000-560	Transfer to Golf	130,530.00	-	General Fund
	1000-3905-900	Fund Balance Appr		130,530.00	transfer to Golf to zero
					out negative cash
	5092-3905-900	Fund Balance Appr	130,530.00		
	5092-3808-800	Transfer from Gen Fund		130,530.00	

Totals: 261,060 261,060

BD # _____

Journal # _____

Fiscal Yr _____

Date _____

Entered By: _____

Approved By: _____

Date _____

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: September 10, 2018

SUBJECT: Budget Amendment #FY2018-14 for Golf Fund Deficit

AGENDA INFORMATION

Agenda Location: Consent Agenda
Item Number: 5B
Department: Finance
Contact: Dean Luebbe, Assistant Town Manager/Finance Director
Presenter: Matt Settlemyer, Town Manager

BRIEF SUMMARY: The Town of Black Mountain Golf Fund is still operating at a deficit. At June 30, 2018, the cash position of the golf is (\$130,529.77). There are two main reasons for this deficit. The heavy rains associated with Tropical Storm Alberto in late May of 2018, severely impacted golf course revenues, at what would normally be a peak period for these revenues. Secondly, a Board approved rate change reduced membership revenue in FY18. This reduction was expected, and the Town expects future higher green fees and cart fees will exceed the revenue loss from the membership revenue. Negative cash can never be recorded in the financial statements of local governments, so the General Fund needs to transfer this amount to the Golf Fund to bring Golf's cash position to zero. This budget entry is effective back to June FY18, as cash is not changed. This entry has no effect on overall Town cash.

MOTION FOR CONSIDERATION: To approve Budget Amendment #FY2018- as submitted, increasing expenditure accounts 1000-5000-560 (Transfer to Golf) by \$130,530, and 5092-3905-900 (Fund Balance Appropriated) by \$130,530 and increasing the revenue accounts 1000-3905-900 (Fund Balance Appropriated) by \$130,530 and 5092-3808-800 (transfer from General Fund) by \$130,530.

FUNDING SOURCE: N/A.

ATTACHMENTS: Budget Amendment #FY2018-14.

MANAGER'S COMMENTS AND RECOMMENDATIONS: Adopt as presented.

Budget Amendment # 2019-2
Fiscal Year 2018-2019

Dept.	Account #	Account Name	Debit	Credit	Comments
	1080-6190-730	Capital		25,000	
	1081-6190-730	Capital	18,500		HVAC replacement at
	1082-6190-730	Capital	37,000		Grey Eage and Lakeview
	1080-6190-020	Salaries - FT		18,000	and water damage
	1080-6190-050	FICA		1,260	repairs at Lakeview
	1080-6190-060	Group Ins		2,500	
	1080-6190-070	LGERS		2,400	
	1080-6190-080	401K		800	
	1000-3905-900	Fund Bal Approp		5,540	

Totals: 55,500 55,500

BD #

Entered By:

Journal #

Fiscal Yr

Approved By:

Date

Date

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: September 10, 2018

SUBJECT: Budget Amendment #FY2019-2 for Replacement of HVAC at Lakeview and Grey Eagle

AGENDA INFORMATION

Agenda Location: Consent Agenda
Item Number: 5C
Department: Finance
Contact: Dean Luebbe, Assistant Town Manager/Finance Director
Presenter: Ron Moore, Interim Town Manager

BRIEF SUMMARY: In the FY18-19 budget, the Board approved \$25,000 to be spent for the purpose of replacing the upstairs windows at the Lakeview Center. In July of 2019, the Town became aware that four HVAC units at Grey Eagle and one HVAC unit at Lakeview needed to be replaced. These units have been replaced at a cost of \$25,000. The Town wishes to use the \$25,000 initially budgeted for the window replacement to cover the cost of these units. The scheduled window replacement will need to be delayed to a future year.

The flooding associated with Tropical Storm Alberto in late May of 2018 caused water damage to the lower level of Lakeview and in June of 2018, the Town was made aware of water damage in the kitchen area of the upper level of Lakeview. Both incidents are still under investigation to determine whether insurance will cover the repairs, but at this time it appears they will not be covered. The total repair cost for both incidents is \$30,000. Because of staffing shortages in the Recreation Department, the Town is able to transfer \$24,960 from salary and benefit line items and will only need to use \$5,540 from Appropriated Fund Balance to cover these expenditures. The line item detail of this amendment can be viewed on the following page.

MOTION FOR CONSIDERATION: To approve Budget Amendment #FY2019-2 as submitted. This amendment increases budgeted Capital expenditures in the Recreation Department by \$30,500, decreases assorted salary and benefit line items in the Recreation Department by \$24,960, and increase Fund Balance Appropriated by \$5,540.

FUNDING SOURCE: Transfer from previously budgeted personnel and capital line items and fund balance appropriated.

ATTACHMENTS: Budget Amendment #FY2019-2.

MANAGER'S COMMENTS AND RECOMMENDATIONS: Adopt as presented.

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: September 10, 2018

SUBJECT: Dynamic Messaging Signs for I-40 ***#R-18-18***

AGENDA INFORMATION

Agenda Location:	CONSENT
Item Number:	5D
Department:	Building, Planning and Zoning Services Department
Contact:	Jessica Trotman, Planning Director
Presenter:	Jessica Trotman, Planning Director

BRIEF SUMMARY: The North Carolina Department of Transportation has secured \$400,000 to install Dynamic Messaging Signs (digitally programmed signs) at locations east and west of the Old Fort Mountain, in effort to alert interstate traffic of delays and closures. The eastbound sign will be located within the limits of Black Mountain at mile marker 64 ½ and westbound at mile marker 75 ½ . DOT hopes the signs will reduce the traffic jams on the mountain that occur when a lanes are blocked or closed. DOT has requested a resolution of support from the down before installing the signs. McDowell County has also provided a resolution of support.

MOTION FOR CONSIDERATION: To adopt the resolution *#R-18-18* in support of Dynamic Messaging Signs to be placed east and west of the Old Fort Mountain on I-40.

FUNDING SOURCE: N/A

ATTACHMENTS: Resolution *#R-18-18*

MANAGER’S COMMENTS AND RECOMMENDATIONS:



**Town of Black Mountain
Building, Planning and Zoning**

160 Midland Avenue S Black Mountain S North Carolina S 28711
Phone: 828-419-9300 s Fax: 828-669-2030 s TDD: 1-800-735-2962

MEMORANDUM

Date: August 27, 2018

To: Black Mountain Board of Aldermen

From: Jessica Trotman, Planning Director

RE: Dynamic Messaging Signs on Interstate 40

NC DOT has requested a resolution of support to place Dynamic Messaging Signs west and west of the Old Fort Mountain to alert motorists of closing and delays. The goal is to reduce traffic jams and delays on the mountain. The project is fully funded by NC DOT. The eastbound sign is within the Black Mountain town limits at mile marker 64 ½ .



TOWN OF BLACK MOUNTAIN

160 Midland Avenue
Black Mountain, NC 28711

BoA Regular Session
September 10, 2018
Agenda Item 5-D

RESOLUTION #R-18-18

RESOLUTION OF THE BOARD OF ALDERMEN IN SUPPORT OF DYNMAIC MESSAGING SIGNS

WHEREAS, the Town of Black Mountain finds Dynamic Messaging Signs are a valuable and effective means of giving motorists information; and

WHEREAS, the Dynamic Messaging System will warn motorists of accidents, weather conditions, roadwork zones or closures, and any other pertinent information related to travel; and

WHEREAS, by providing real time information the Dynamic Messaging System can improve motorists' route selection, reduce travel time, and improve safety of motorists; and

WHEREAS, the North Carolina Department of Transportation has discussed the placement of the Dynamic Messaging System in the vicinity of Old Fort mountain to provide important information to motorists;

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

Section 1: The Board of Aldermen fully supports the placement of Dynamic Messaging System to in the vicinity of Old Fort Mountain along Interstate 40.

Section 2: This **Resolution #R-18-18** shall be effective upon its adoption.

READ, APPROVED AND ADOPTED by a vote of __ to __ this 10th day of September, 2018.

Don Collins, Mayor

ATTEST:

Angela Reece, Town Clerk

Ron Moore, Town Manager

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: September 10, 2018

SUBJECT: Call for Public Hearing to Close an Unopened, Platted Portion of Wolf Creek Drive

AGENDA INFORMATION

Agenda Location:	CONSENT AGENDA
Item Number:	5E
Department:	Building, Planning and Zoning Services Department
Contact:	Jessica Trotman, Planning Director
Presenter:	Jessica Trotman, Planning Director

BRIEF SUMMARY: The adjoining property owners are requesting to close a portion of an unopened, platted street that runs between their properties to allow for continued maintenance and a play area for the neighborhood children.

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 Wolf Creek Drive to be held on Monday, October 8, 2018 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-18-17**, Staff Memo, Map

MANAGER'S COMMENTS AND RECOMMENDATIONS:



TOWN OF BLACK MOUNTAIN

160 Midland Avenue
Black Mountain, NC 28711

BoA Regular Session
September 10, 2018
Agenda Item

RESOLUTION OF INTENT # R-18-17

**RESOLUTION DECLARING THE INTENT OF THE BOARD OF ALDERMENT OF
THE TOWN OF BLACK MOUNTAIN TO CONSIDER THE CLOSING OF A
UNOPENED, PLATTED PORTION OF WOLF CREEK DRIVE AND TO HOLD A
PUBLIC HEARING ON THIS ISSUE OCTOBER 8, 2018**

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 has received a request from adjoining property owners to close that unopened, platted portion of street known as Wolf Creek Drive; and

WHEREAS, the Planning Board for the Town of Black Mountain, after reviewing petitioners' request, did recommend that the unopened, platted portion of street known as Wolf Creek Drive 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:

BEING, the southern portion of the 30 foot wide easement for Wolf Creek Drive having as its western boundary that line described as BEGINNING at the southeast corner of Lot D as shown on that survey for James W. Buchanan and wife, Jacqueline A. Buchanan, recorded in Plat Book 98 at Page 28, Buncombe County Registry; thence from said Beginning with the eastern boundaries of Lots D and C as shown on said plat North 01° 30' 00" East 120.10 feet to the northeast corner of Lot C.

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 that unopened, platted portion of street known as Wolf Creek Drive.

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, October 8, 2018 at 6:00 p.m.

TOWN OF BLACK MOUNTAIN

160 Midland Avenue
Black Mountain, NC 28711

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 10th day of September, 2018.

ATTEST:

Don Collins, Mayor

Angela Reece, Town Clerk

Ron Moore, Interim Town Manager

30 Wolf Creek Drive Right-of-Way Closure Request



Legend

- MSDPipes
- wrd_WRD_wGravityMain
- wrd_WRD_wLateralline

1 inch = 113 feet



Town of Black Mountain
Building, Planning and Zoning

160 Midland Avenue S Black Mountain S North Carolina S 28711
Phone: 828-419-9300 s Fax: 828-669-2030 s TDD: 1-800-735-2962

Date: July 30, 2018

To: Black Mountain Planning Board

From: Jennifer Tipton, Zoning Administrator

RE: Wolf Creek Drive Right-of-Way Closure Request

Please find pertinent information attached.

Summary

Daniel Shayne Peninger resides at 30 Wolf Creek Drive. Mr. Peninger is requesting to close a right-of-way at the end of Wolf Creek Drive that is approximately 122' in length. The properties that abut the right-of-way are 27 Wolf Creek Drive, 29 Wolf Creek Drive, 30 Wolf Creek Drive and 99999 Greenbriar Road.

The petition has been signed by Maya Peninger, Wanda Peninger, Daniel Shayne Peninger and Louis Jerome Bobilya for Black Mountain Center for Research and Technology, LLC.

Definitions

The land use code defines the following terms:

Abut: Having a common boundary or lot line not separated by a street, alley, railroad or other right-of-way (distinguished from adjacent which can include abutting property or those across a street.)

Adjacent: Either abutting or being directly across a street.

Alley: A service roadway providing a secondary means of public access to abutting property and not intended for general traffic circulation.

Right-of-way: 1) A The strip of land acquired by purchase, reservation dedication, forced dedication, prescription, or condemnation and intended to be occupied by a roadway, greenway, sidewalk, railroad, utility, storm sewer, or other uses; and 2) the right of one to pass over the property of another.

3.6.2 Dedication and closures of rights-of-way or land to the town.

- A. Improvements within rights-of-way, open space or easements, such as utility lines, street paving, drainage facilities or stormwater BMPs, sidewalks or trails may be accepted for maintenance by the town upon approval by the town board of aldermen

Does not apply.

- B. Property owners or other parties of interest may petition for the closure of a right-of-way offering through the planning department. The planning board, planning department, or other government or utility agency may also request the closure of a right-of-way. Rights-of-way closures shall follow these procedures:
 - 1. A right-of-way closure petition is filed with the planning department. Owners of property abutting the right-of-way or portion of the right-of-way requested for closure must sign the petition and pay a fee as established by the board of aldermen. If all owners of the abutting properties do not sign the petition, notice to abutting property owners shall be given as required by NCGS. If the request is generated from town staff or a board or commission, the fee shall not apply.

Daniel Shayne Peninger submitted a petition for street closing request on July 23, 2018. The petition was signed by Maya Peninger, owner of 29 Wolf Creek Drive; Wanda Peninger, owner of 27 Wolf Creek Drive; Daniel Shayne Peninger, owner of 30 Wolf Creek Drive; and Louis Jerome Bobilya, owner of 99999 Greenbriar Road. Daniel Shayne Peninger submitted check #4181 for the amount of \$300.00 for the petition. A copy of the petition is attached.

*N.C.G.S. 160A-299 (a) states that when a city proposes to permanently close any street or public alley, the council shall first adopt a resolution declaring its intent to close the street or alley and calling a public hearing on the question. The resolution shall be published once a week for four successive weeks prior to the hearing, **a copy thereof shall be sent by registered or certified mail to all owners of property adjoining the street or alley as shown on the county tax records** and a notice of the closing and public hearing shall be prominently posted in at least two places along the street or alley.*

2. The planning director or his/her designee will prepare a staff report that includes a map that shows the length of the right-of-way from terminus to terminus, an inventory of uses within the right-of-way if any (utilities, etc.) and information on possible future uses from any of the town's adopted plans, and place the issue on the next planning board agenda if the petition is filed two weeks before the date of the next meeting, or otherwise at the next meeting.

*The requested right-of-way closure is approximately 122' in length.
Currently there are no uses in the right-of-way other than some parking of vehicles.
The right-of-way does not contain a sewer line or water line.*

3. The planning board will review the request and make a recommendation to the board of aldermen to accept the petition for closure, to accept the right-of-way into town control or maintenance, to close any additional areas of right-of-way in addition to the petition, or not accept the petition and leave the right-of-way as an offering.

Staff recommends that the planning board recommend the right-of-way for closure.

4. The planning board shall consider any or all of the following criteria in making their recommendation for closure of a right-of-way:
 - a. Right-of-way identified is not part of adopted town plans.

*The requested right-of-way closure is not identified in any of the following plans:
Bike Plan, Comprehensive Plan, Greenway Master Plan, Stormwater Master Plan, Recreation and Parks Master Plan, Pedestrian Plan, Wellhead Protection Plan, Hazard Mitigation Plan or Veteran's Park Master Plan.*

- b. Right-of-way is not necessary for current or future utilities.

There is only one vacant lot and the sewer line runs through the back of the lot. The other houses already have sewer access.

- c. Right-of-way in its current condition posesArea a hazard to public health, safety or welfare.

The right-of-way does not pose a threat to public health, safety or welfare.

- d. Right-of-way is along a drainage that is part of a stormwater management plan.

There are no stormwater systems on this right-of-way nor is it along any drainage system.

- e. Right-of-way provides a current or future corridor for a greenway, alley, or roadway that would meet a specific transportation need.

The right-of-way is not a current corridor and is not identified on the Greenway Master Plan or the Pedestrian Plan for future corridors or roadways. The existing houses have access to their properties from the maintained portion of Wolf Creek Drive. If the vacant lot were to be developed, an easement would be granted for access.

- f. Abutting property owners have signed the petition in favor of the closure.

The owners of 27 Wolf Creek Drive, 29 Wolf Creek Drive, 30 Wolf Creek Drive and 99999 Greenbriar Drive have signed the petition. These are the owners that abut the portion of the right-of-way that is requested to be closed.

- 5. The planning board may also make a recommendation to amend the scope or length of the right-of-way closure petition if the board determines that there are compelling reasons to do so. In these cases, the board may direct staff to contact additional abutting property owners to get their input before making a determination.

Staff does not find any compelling reasons to amend the scope of the petition. Staff has sent notification to all owners on Wolf Creek Drive to advise them of the Planning Board meeting.

- 6. Planning board recommendation is forwarded to the board of aldermen who shall establish a date for a public hearing by adopting a resolution of intent to close. The town attorney shall prepare a description of the right-of-way in question for use in setting the public hearing.

If the Planning Board recommends the closure then the next step would be a call for public hearing before the Board of Aldermen.

7. Area for closure is posted with a visible sign, indicating the scope of the petition, the date for the public hearing, and the phone number of the staff person to contact for information.

Staff will take of this portion.

8. Board of aldermen holds a public hearing and accepts or rejects the petition for closure.

The public hearing will be advertised and held at a regularly scheduled meeting of the Board of Aldermen.

TOWN OF BLACK MOUNTAIN, NORTH CAROLINA

PETITION FOR STREET CLOSING REQUEST

We, the undersigned property owners of property located abutting a private street or alleyway known as

Wolf Creek Drive

located off of Blue Ridge Road

do hereby petition the Black Mountain Board of Aldermen to permanently close said street or alleyway.

NAME/SIGNATURE

PROPERTY/MAILING ADDRESS

1. Maya Peninger

Maya Peninger

29 Wolf Creek Dr, Blk Mtn, NC 28711
Mailing: 30 Wolf Creek Dr, Blk Mtn, NC 28711

2. Wanda Peninger

Wanda Peninger

27 Wolf Creek Dr

Black Mtn, NC 28711

3. Shaope Peninger

Shaope Peninger

30 Wolf Creek Dr.

Black Mountain, NC 28711

4. The Black Mt. Center for
RESEARCH and Technology, LLC

PO Box 418

Black Mountain, NC 28711

Louis Jerome Bobilya,

5. _____

6. _____

7. _____

8. _____

Date Request Received at Town Hall: July 23, 2018

by: Jennifer Upston

pd. 7/23/18
check # 4181 - \$300.⁰⁰
JT

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: September 10, 2018

SUBJECT: Call for Public Hearing for Text Amendments to Replace Privilege License Section with Business Registrations

AGENDA INFORMATION

Agenda Location:	CONSENT AGENDA
Item Number:	5F
Department:	Building, Planning and Zoning Services Department
Contact:	Jessica Trotman, Planning Director
Presenter:	Jessica Trotman, Planning Director

BRIEF SUMMARY: The North Carolina General Assembly repealed privilege license statutes in 2015 for cities. In place of this, municipalities began to implement business registrations in order to still track what businesses are in the jurisdictions. Business registrations are only required for businesses that are located inside the local jurisdiction and the amendments lay out the process for obtaining a business registration, what information is required and penalties for not obtaining a business registration.

MOTION FOR CONSIDERATION: To call for the public hearing for text amendments to replace privilege licenses with business registrations to be held on Monday, October 8, 2018 at 6:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 160 Midland Avenue.

FUNDING SOURCE: N/A

ATTACHMENTS: Proposed Ordinance #O-18-04

MANAGER'S COMMENTS AND RECOMMENDATIONS: To call for the public hearing to be held at the next regularly scheduled meeting on Monday, October 8, 2018 or as soon thereafter as possible.

ORDINANCE NO. #O-18-04

AN ORDINANCE TO AMEND CHAPTER 9, ARTICLE II, DIVISIONS 1-4 FOR
PRIVILEGE LICENSE AND TAXATION

WHEREAS, the Black Mountain Code of Ordinances was adopted by the Board of Aldermen on the 13th day of December, 1993; and

NOW, THEREFORE, BE IT RESOLVED Chapter 9, Article II, Divisions 1-4 is amended with the following (additions are underlined in bold italic and deletions are shown as red struck text):

1. ARTICLE II – ~~PRIVILEGE LICENSE AND TAXATION~~ **BUSINESS REGISTRATION**

DIVISION 1 – GENERALLY

Section 9-19 – ~~Definitions.~~ **Purpose.**

~~The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~Business means and includes each trade, occupation, profession, business, and franchise taxed under this article.~~

~~Seasonal in nature means, when used to describe a business, a business conducted for profit six months out of the year or less.~~

- A. **Adopt a new Town of Black Mountain Business Registration Ordinance, based upon finding of the following purposes of justifications in accordance with North Carolina General Statute 160A-194.**
- B. **The Town of Black Mountain Board of Aldermen hereby finds that businesses and occupations located within the municipal limits should be required to obtain an annual certificate from the town so that the following public purposed may be accomplished: ensuring compliance with zoning and land use regulations; enabling the public safety to be aware of buildings being used for commercial purposes so as to assist in fire protection; identifying businesses that should be listing property for taxation; protecting the pblic from scam artists or con men; and any other lawful purpose related to the exercise of the town's general police power, and the public health, safety and welfare.**

Section 9.20 – ~~Construction of this article.~~ **Definitions.**

~~This article is enacted for revenue purposes only. Therefore, it should be construed to require payment of the maximum tax permitted under its term. In addition, issuance of a license~~

~~in accordance with the article does not excuse a licensee from compliance with any other applicable ordinance or statute. This article does not prevent the town from imposing license taxes on additional businesses, from increasing or decreasing the amount of any license tax, or from regulating any business taxed.~~

Whenever used in this article (unless the context requires a different meaning):
Agent means a person authorized to promote, represent, and/or sell for an agency or business.

Business includes each trade, occupation, profession, business and franchise or other activity engaged in by any person or gain, profit, benefit or advantage, taxed under this article.

Fiscal year means the period beginning with July 1 and ending on June 30.

Licensee means a person who has paid the business registration levied by this article and obtained a business certificate.

Person includes any individual, trustee, executor, other fiduciary, corporation, unincorporated association, partnership, sole proprietorship, firm or other legal entity.

Town means the Town of Black Mountain.

Sections 9.21-9.43 – Reserved.

DIVISION 2 ~~LEVY~~ **ADMINISTRATION AND APPLICATION**

Section 9-44 - ~~Levy of tax.~~ **Application of ordinance.**

~~An annual privilege license tax is hereby levied on each business conducted within the town in the amounts set forth by ordinance.~~

The provisions of the ordinance codified in this article shall apply to all businesses within the Town of Black Mountain municipal jurisdiction unless specifically exempted or excluded from registering by the ordinance or by the laws of North Carolina.

Section 9-45 – ~~Applicability of tax.~~ **Application of other provisions.**

~~Each person who conducts a business within the town is subject to the provisions of this division. For the purposes of this section, a person “conducts business” when he engages in one act of business taxed under this division, and the business is conducted “within the town” if he maintains a business location within the town or if, either personally or through agents, he solicits business within the town limits, or picks up or delivers goods or services within the town limits.~~

All certificates provided for by this article shall be granted subject to any other applicable town ordinance, or state or federal law.

Section 9.46 – ~~Period of license; due date.~~ Exclusions.

- ~~(a) Annual licenses. Unless an ordinance levying the privilege license tax applicable to a particular business provides otherwise, a license issued in accordance with this division is good for the 12-month period beginning July 1 and ending June 30. The tax is due on July 1 of each year. However, if a person begins a business after July 1 of a year, the tax for that year is due before the business is begun.~~
- ~~(b) Licenses for periods shorter than one year. If an ordinance levying the privilege license tax applicable to a particular business so provides, a license may be issued for a period of one day, one week, or some comparable period of less than a full license year. A person may not commence a business conducted within the town and taxed under such a provision until the privilege license tax due is paid and may not continue such a business beyond the period for which the license is issued.~~

This article shall not apply to, and no certificate hereunder shall be required of:

- (1) Any person holding a license issued by any occupational licensing board of this state as to the profession or trade that the person has been licensed to pursue by the state; or*
- (2) Any digital dispatching service for pre-arranged transportation service for hire. See N.C.G.S. 160A-194(b) and (c).*

Section 9.47 – ~~Proration of tax.~~ Continuing authority of aldermen.

~~If a business is begun after January 31 and before July 1, the amount of tax due is half the amount otherwise due. If a business is seasonal in nature and the amount of tax is not based on gross receipts, the amount of tax due is half the amount otherwise due.~~

Nothing contained within this article shall be construed to prevent the town aldermen from imposing from time to time any license taxes allowed by law as are not specifically herein defined or required, nor from prohibiting or regulating any business or acts licensed hereunder.

Section 9.48 – ~~Refunds.~~ Certificate prerequisite to conduct of business.

~~If, for any reason, a licensee discontinues his business during the license year, he is not entitled to a refund.~~

It shall be unlawful for any person to engage in any business or profession, unless excluded from the effect of this article by section 9.46 exclusions above, without first having secured the required certificate and paid the requisite fee therefore.

Section 9.49 – ~~Separate businesses.~~

~~A separate license is required and a separate privilege license tax must be paid for each place of business unless two or more places of business under common ownership are contiguous to each other, communicate directly with and open into each other and are operated as a unit. In addition, a separate privilege license tax must be paid for each business taxable under this division conducted by the taxpayer at any one location; provided, however, that the town may issue a single license for all taxable business conducted at one location by a single taxpayer.~~

~~Section 9-50—Computation of tax.~~

~~License taxes and exemptions therefrom shall be computed based on the schedule of activities as is established and amended from time to time by ordinance.~~

Section 9-51 – 9.73 – Reserved.

DIVISION 3 – LICENSES

Section 9-74 – ~~Application.~~ **Application to be made.**

~~A person shall apply to the tax collector for each license required by this article no less than 30 days before the date the tax is due. The application, which shall be submitted on forms provided by the town, shall contain:~~

- ~~(1) The name of the applicant and whether the applicant is an individual, a partnership, a corporation, or some other entity.~~
- ~~(2) The nature of the business.~~
- ~~(3) Where the business is conducted.~~
- ~~(4) An address where notices and statements may be mailed to as required by this article.~~
- ~~(5) Whether the business is regulated by a state occupational licensing board subject to G.S. ch. 93B, and if so, the serial number of the state license the applicant currently holds.~~
- ~~(6) Any other information the town determines to be necessary to compute the amount of tax due.~~

Except as otherwise provided by this article every business located within the town shall make application in writing to the town's business registration administrator; or designee, for the registration certificate required by this article. The application shall be upon a form provided by the town, and shall be filled out and signed by the applicant or an agent of the applicant. All information requested on the application shall be provided.

Section 9-75 – ~~Reasons for refusal or revocation.~~ **Standards for granting registration certificate.**

~~The town shall refuse to issue a license or shall revoke a license for either of the following reasons:~~

- ~~(1) The applicant misrepresents a fact relevant to the amount of tax due or his qualifications for a license.~~
- ~~(2) The applicant refuses to provide information necessary to compute the amount of tax due.~~

Before issuing any registration certificate, the official charged with consideration of such applications shall be satisfied that the applicant is of good character, or if the applicant is a corporate entity, that the officers or managers thereof are of good character. No license shall be issued if the application has failed or refused to complete the application form and all required parts thereof, or has failed to pay the full required certificate fee as set by the town aldermen.

Section 9-76 – ~~Unqualified applications; right to a conference.~~ **Issuance of certificate.**

- (a) ~~If, after receipt of the complete application, it is believed that a reason exists for refusing a license under section 9.75, the town shall refuse to accept payment of the tax and shall not issue the license. At the applicant's request, the tax collector, shall, in accordance with section 9.85, give the applicant a written statement of the reason for refusing the license. The applicant may, within ten days later the statement is received, request a conference to discuss the refusal. In the request, the application shall specify why the application for a license should not be refused. The tax collector shall arrange the conference within a reasonable time.~~
- (b) ~~If the collector refuses to issue a license, the applicant may reapply for a license at any time thereafter. If the reason for which the application was refused no longer exists, and if no other reason exists for refusing to issue a license, the tax collector shall cause the license to be issued in compliance with section 9.77.~~

Provided the applicant has duly completed the application form and paid the required certificate fee, and has met all the requirements of this article, the town business registration administrator, or designee, shall issue to the applicants a certificate on a form prepared by the town. The license shall show on its face the name of the registering business, the time period for which it is issued, and the amount of fee paid by the registrant.

Section 9-77 - ~~Authority of tax collector to issue; payment of tax a prerequisite.~~ **Record kept.**

~~If, after the receipt of the completed application, the tax collector believes that no reason exists for refusal of a license under section 9-75, the tax collector shall determine the amount of tax due and cause the applicant to be notified of that amount. The tax collector shall not cause a license to be issued until the tax is paid.~~

The town's business registration administrator or designee shall keep an exact copy of each certificate issued, including the approval of any board or official endorsed on the face of the same.

Section 9-78 – ~~Amount of tax disputed.~~ **Refusal to issue registration certificate; appeal.**

~~If a dispute arises over the amount determined to be due, the applicant may either refuse to pay and request a conference with the tax collector to discuss the determination or pay the~~

~~amount and request a conference to discuss the right to a refund. If a conference is requested, the tax collector shall arrange it within a reasonable time.~~

Any applicant refused or denied a certificate under this article may appeal to the town aldermen for review of such refusal or denial. Such appeal shall be in writing, and shall be delivered to the town clerk within 30 days after notice of such refusal or denial.

Section 9-79 – ~~Revocation.~~ **Assignment of registration certificate.**

- ~~(a) The tax collector shall revoke a license if a reason exists to revoke it as set forth in section 9-75. Before revoking a license, the tax collector shall give the licensee a written notice of the grounds for revocation, in accordance with section 9-85. The licensee may, within ten days after the day on which notice is served, request a conference with the tax collector in writing. The request shall specify the reasons why the license should not be revoked. The tax collector shall arrange the conference within a reasonable time.~~
- ~~(b) If the licensee fails to request a conference within ten days after the day on which notice is served, the tax collector shall revoke the license. If the licensee requests a conference, the tax collector may not revoke the license until after the conference.~~
- ~~(c) If the tax collector revokes a license, the former licensee may apply for a new license at any time thereafter. If the reason for which the license was revoked no longer exists and if no other reasons exists for refusing to issue a license, the tax collector shall cause the license to be issued in accordance with this article.~~

Every certificate issued under this article shall be a personal privilege and shall not be assignable; except that when a business is carried on at a fixed location designated in the application therefore, and is then sold as a unit to a purchaser who is to carry on the same business at the same location, the certificate for such business may be assigned to such purchaser. In such case, the purchaser shall deliver the existing registration certificate, properly assigned, to the business at that location, and upon payment of the transfer fee as set from time to time by the town council, the purchaser shall be entitled to issuance of a new and appropriate certificate.

Section 9-80 – ~~Form and contents.~~ **Separate businesses; separate locations.**

~~A license shall show the name of the person licensed, the place where the business is conducted (if it is to be conducted at one place), the nature of the business licensed, the period for which the license is issued and the amount of tax paid. In addition, if a machine is licensed, the license shall show the serial number of the machine. A copy shall be kept of each license issued.~~

Every person engaged in more than one line of business, or having more than one place of business (even if the same type or line), shall secure a separate certificate for each separate line of business or business location, and shall pay a separate application fee for each certificate.

Section 9-81 - ~~Assignments.~~ Effect of change of business.

~~A license may be assigned if a business licensed under this article and carried on at a fixed place is sold as a unit to any person and the purchaser is to carry on the same business at the same place. Such a change shall be reported to the town in accordance with section 9-82. Otherwise, each license issued under this article is a personal privilege and is not assignable.~~

When a certificate is issued to carry on a certain line of business, and subsequently the certificate holder shall so change or alter its business to bring it under a different classification, the certificate holder shall, before making such change, deliver the certificate to the town business registration administrator, together with a written application for a new certificate for the new or altered line of business, and the appropriate scheduled fee. The town business registration official shall thereupon cancel the old certificate and issue a new and appropriate certificate.

Section 9-82 – ~~Changes in business conducted by licensee during tax year.~~ Display of certificate.

~~A licensee or an assignee shall report a change in the information contained in the license application to the town within ten days after the change occurs. If information shown on the license itself is affected, the licensee or assignee shall surrender the license to the town when reporting the change.~~

- ~~(1) Changes affecting amount of tax due. If there are no reasons for revoking the license under section 9-75 and the change results in the imposition of a separate or additional tax, the license shall be reissued reflecting the change upon payment of the separate or additional tax.~~
- ~~(2) Changes not affecting amount of tax due. If there are no reasons for revoking the license under section 9-75 and the change does not result in an imposition of a separate additional tax, the license shall be reissued reflecting the change upon payment of a fee of \$1.00.~~
- ~~(3) Change requiring refusal of license. If there is a reason for revoking the license under section 9-75, the town shall refuse to reissue a license and shall instead begin proceedings to revoke the license in accordance with section 9-79.~~

Every certificate issued under this article shall be kept prominently at the place of business of the registered business named therein; or if such registered business has not fixed place of business, the certificate shall be kept wherever such business is being operated, and in a place where it can be seen by any town official desiring to inspect the same.

Section 9-83 – ~~Duplicate copy furnished.~~ Revocation and suspension of certificate.

~~Upon satisfactory proof that a license has been lost or destroyed, a duplicate shall be furnished for a fee of \$1.00.~~

Any certificate issued under this article shall be subject to revocation, or to suspension or indefinite time, by the town aldermen if the registered business shall violate any section of

this Code of Ordinances, or any state law, relative to such business, or if the registered owner is convicted of any felony or of any class 1 misdemeanor, or if in the judgement of the town aldermen the nature or manner or place of business of the registered business constitutes a nuisance or is a menace to the public health, safety or morals. Upon revocation or suspension of any such certificate, it shall be unlawful for the person to whom such certificate was issued to conduct such business until and unless the suspension is lifted or anew certificate duly issued.

Section 9-84 – ~~Record of conferences.~~ Certificate fee schedule.

~~The tax collector shall maintain, for three years, a record of each conference held in accordance with this article. The record shall contain the applicant's or licensee's name, the dates of all conferences, and brief statements of the issues discussed with the results reached. After three years, the tax collector shall dispose of the record in accordance with G.S. 121-5.~~

The fee required of every applicant for any business conducted or engaged in within the town as required by sections 9-48 and 9-75 of this article shall be as set forth in and made a part of the schedule of fees and charges adopted by the town aldermen in connection with the town's annual budget, as amended from time to time.

Section 9-85 — ~~Providing notice to an applicant or licensee.~~ Enforcement.

~~Whenever this article requires the tax collector to give written statement or notice to an applicant or licensee, the tax collector may do so in one of three ways:~~

- ~~(1) By personally delivering the statement or notice to applicant or licensee;~~
- ~~(2) By mailing the statement or notice by registered or certified mail and returning the receipt requested to the address specified for that purpose in the license application; or~~
- ~~(3) By causing the statement or notice to be served on the applicant or licensee in accordance with the procedures for service of process under rule 4, North Carolina Rules of Civil Procedure.~~

- (a) Criminal remedies. Conducting business within the town without having paid the registration fee imposed by this article, without a valid registration issued in accordance with this article, or without posting a registration in compliance with section 9-82 is a misdemeanor, punishable as provided in G.S. 160A-175(b). Each day that a person conducts business in violation of this article is a separate offense. Payment of affine imposed in criminal proceedings in accordance with this section does not relieve a person of the liability for fees imposed under this article.
- (b) Equitable remedies. In addition to the criminal remedies set forth in subsection (a) of this section and in compliance with G.S. 160A-175(d), the town may seek an injunction against any person who conducts a business in violation of this article.

~~DIVISION 4 — ENFORCEMENT AND COLLECTION~~

Section 9-114 — ~~Duty to determine whether tax due.~~

~~———— Each person has the duty to determine whether the business he conducts is taxed under this article and, if so, whether that tax has been paid for the current tax year.~~

~~Section 9-115—Tax collector to investigate.~~

~~———— If the tax collector has reason to believe that a person is conducting a business in the town in violation of this article, the tax collector or agent of the tax collector shall conduct an investigation to determine the person's tax liability.~~

~~Section 9-116—Duty to keep books.~~

~~———— Each person who conducts a business taxed under this article shall keep records and books necessary to compute the tax liability. If a person fails to keep books and records as required, the town shall make a determination of that person's tax liability from the information available.~~

~~Section 9-117—Duty to permit inspection.~~

~~———— Each person who conducts business in the town shall permit the tax collector or agent for the tax collector to inspect the business premises during normal business hours to determine the nature of the business conducted there and to examine the books and records to determine the nature and amount of business transacted.~~

~~Section 9-118—Duty to post license.~~

~~———— A licensee shall post his license conspicuously in the place of business licensed. If the licensee has no regular place of business, the license must be kept where it may be inspected at all times by the proper town officials. If a machine is licensed, the license shall be affixed to the machine.~~

~~Section 9-119—Notice of deficiency.~~

~~———— If it is determined that a person has not paid the full amount of tax due under this article, either for the current license year or for a prior year, the person shall be given a written notice of deficiency in accordance with section 9-85. The notice of deficiency shall specify the total amount of tax due, the provision of this article upon which the tax is based, the amount of tax paid, any interest due, the balance owed, the manner and time period in which the person may respond to the notice of deficiency, and the consequences of failing to respond as specified.~~

~~Section 9-120—Request for a conference.~~

~~———— The person may, within ten days after the day on which notice is served, request a conference in writing. The request shall specify the person's objections to the notice of deficiency. By way of illustration but not limitation, a person who receives a notice of deficiency may object on the following grounds:~~

- ~~(1) The tax due has already been paid;~~
- ~~(2) The tax amount has been miscalculated;~~
- ~~(3) The calculation has been based on incorrect or insufficient information concerning either the nature or the amount of business conducted; or~~
- ~~(4) The calculation is based on an erroneous interpretation of the provision of this article that establishes a category of business subject to a particular tax.~~

~~Section 9-121—Deficiency to become final.~~

~~———If the taxpayer fails to request a conference under section 9-120, the deficiency becomes final and the town shall proceed to collect the deficiency.~~

~~Section 9-122—Conference held.~~

~~———If the taxpayer requests a conference, the tax collector shall not proceed to collect the deficiency until hearing the taxpayer's objections and determining that the deficiency should become final. The tax collector shall maintain a record of each conference held for three years in accordance with section 9-84. The record shall contain the name of the taxpayer, the date of the conference, a brief statement of the issues discussed, and the results of the discussion. After three years, the records shall be disposed of in compliance with G.S. 121-5.~~

~~Section 9-123—Collection of deficiency.~~

- ~~(a) The tax collector may use any of the following methods to collect a deficiency:~~
 - ~~(1) Criminal prosecution in accordance with section 9-124(a);~~
 - ~~(2) Equitable relief in accordance with section 9-124(b);~~
 - ~~(3) The remedies of levy, sale, attachment and garnishment in accordance with section 160A-207; or~~
 - ~~(4) The remedies of levy and sale of real and personal property of the taxpayer within the town in accordance with the provisions of G.S. 105-109.~~
- ~~(b) Any person who commences or continues to conduct a business taxed under this article without payment of the tax is liable for the additional tax of five percent every 30 days as imposed by G.S. 105-109.~~

~~Section 9-124—Enforcement sanctions.~~

- ~~(a) Criminal remedies. Conduction business within the town without having paid the privilege tax imposed by this article, without a valid license issued in accordance with this article, or without posting a license in compliance with section 9-118 is a misdemeanor, punishable as provided in G.S. 105-109. Each day that a person conducts business in violation of this article is a separate offense. Payment of a fine imposed in criminal proceedings in accordance with this section does not relieve a person of the liability for taxes imposed under this article.~~

~~(b) Equitable remedies. In addition to the criminal remedies set forth in subsection (a) of this section and in compliance with G.S. 160A-175(d), the town may seek an injunction against any person who conducts a business in violation of this article.~~

READ, APPROVED AND ADOPTED by a vote of ____ to ____ this the 8th day of October, 2018.

Don Collins, Mayor

ATTEST:

Angela L. Reece, Town Clerk

**TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
A STATEMENT OF CONSISTENCY FOR:
TEXT AMENDMENTS TO CHAPTER 1, SECTION 1.2.3, DEFINITIONS**

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE TOWN OF BLACK MOUNTAIN, that they adopt the following Statement of Consistency:

WHEREAS, the Town of Black Mountain has the authority, pursuant to Part 3 of Article 19 of Chapter 160A 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 proposed text amendment has been reviewed by the Planning Board and recommends its enactment to the Board of Aldermen; and

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

- The definitions will better clarify the difference between vacant land and undeveloped land.
- The clarification will help in enforcement actions on complaints of tall grass and weeds on lots that have been developed and left vacant and lots that have not been developed and are still in their natural state.
- It will not be detrimental to the public health, safety or welfare of the community.

WHEREAS, the Board of Aldermen find that this land use code text amendment is consistent with the Town of Black Mountain Comprehensive Plan 2014 Update in the following ways:

- Vision Statement 7: Housing and Neighborhoods – to allow for well-maintained lots that have been developed but may still be vacant.

WHEREAS, after notice duly given, a public hearing was held on October 8, 2018 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, THE BOARD OF ALDERMEN APPROVE THIS STATEMENT OF CONSISTENCY, by a vote of ____ to ____ on this the 8th day of October, 2018.

Don Collins, Mayor

ATTEST:

Angela L. Reece, Town Clerk

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: September 10, 2018

SUBJECT: Call for Public Hearing for Text Amendment to Definitions to Add Vacant Lot and Undeveloped Lot

AGENDA INFORMATION

Agenda Location:	CONSENT AGENDA
Item Number:	5G
Department:	Building, Planning and Zoning Services Department
Contact:	Jessica Trotman, Planning Director
Presenter:	Jessica Trotman, Planning Director

BRIEF SUMMARY: There has been confusion on what constitutes a vacant lot and what constitutes an undeveloped lot, so adding definitions for both will help clarify the confusion as well as make code enforcement more accurate for tall grass and weeds that are reported.

MOTION FOR CONSIDERATION: To call for the public hearing for text amendments to definitions, Chapter 1, Section 1.2.3, to be held on Monday, October 8, 2018 at 6:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 160 Midland Avenue.

FUNDING SOURCE: N/A

ATTACHMENTS: Proposed Ordinance **#O-18-05**, Statement of Consistency

MANAGER'S COMMENTS AND RECOMMENDATIONS: To call for the public hearing to be held at the next regularly scheduled meeting on Monday, October 8, 2018 or as soon thereafter as possible.

ORDINANCE NO. #O-18-05

**AN ORDINANCE TO AMEND CHAPTER 1, SECTION 1.2.3 DEFINITIONS TO ADD
VACANT LAND AND UNDEVELOPED LAND**

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, the following text amendments are required in order to carry out vision statement three: community appearance; vision statement seven: housing and neighborhoods; and vision statement eight: public safety of the 2014 Comprehensive Plan;

NOW, THEREFORE, BE IT RESOLVED Chapter 1, Section 1.2.3 is amended with the following (additions are underlined in bold italic and deletions are shown as red struck text):

1. SECTION 1.2.3 DEFINITIONS

Land, vacant: A lot or parcel of land on which no improvements have been constructed.

Undeveloped land: Land in its natural state.

READ, APPROVED AND ADOPTED, by a vote of ____ to ____ on this the 8th day of October, 2018.

Don Collins, Mayor

ATTEST:

Angela L. Reece, Town Clerk

SERVICE AGREEMENT

This Service Agreement (the “Agreement”) dated this ____ day of September, 2018, is between the Town of Black Mountain, herein referred to as “Town” and Charlie Gross d/b/a Gross Enterprises and Industrial Services, herein referred to as “Contractor”.

WITNESSETH:

THAT WHEREAS, Contractor has agreed to provide the following described services to the Town on the terms and conditions set out in this Agreement, while Town is of the opinion and has been assured that Contractor has the proper and necessary qualifications, experience and abilities to provide services to Town.

Therefore in consideration of the matters described above and the mutual covenants hereafter set out, the receipt and sufficiency of which consideration is hereby acknowledged, the Town and the Contractor agree as follows:

1. Scope of Work

The Contractor is to provide the Town with the following services (the “Services”):

Perform all duties as the ORC (Operator Responsible in Charge) for and over the Town’s wells and water distribution system.

Compile all reports required by local, state and federal regulations and submit them in a timely manner to the appropriate regulatory agencies or departments.

Take or obtain all required water samples and submit them in a timely manner to the appropriate testing agencies or laboratories.

Monitor SCADA 24 hours per day, seven days a week, including weekends and holidays, promptly reporting any anomalies, water loss indicators or other evidence of problems within the system to the Town Manager and Public Works Director in a timely manner.

Keep the Town and its water system in compliance with all applicable local, state and federal regulations.

Provide any other services which the Town and the Contractor agree are necessary to keep the water system in compliance with all laws and regulations.

Provide maintenance and control work as needed and as directed by the Town, to be paid for by the Town at the rate of \$75.00 per hour, which shall be in addition to the contract rate set out below.

2. Term of Agreement

This Agreement will begin on September ____, 2018, and will remain in full force and effect for one year, ending September ____, 2019. This Agreement shall automatically renew from year to year unless either party gives notice no later than ninety (90) days before the end of the original or any renewal term of this Agreement of its intent to terminate this Agreement.

3. Termination Other Than at End of Term

Either party may terminate this Agreement at any time with ninety days written notice to the other party.

4. Compensation

The Town will provide compensation to the Service Provider of \$3,000.00 per month services rendered by the Contractor as required by this Agreement, with maintenance and control work performed by the Contractor as needed and as directed by the Town to be paid for by the Town at the rate of \$75.00 per hour in addition to the flat monthly fee.

5. Independent Contractor

The Contractor is acting as an independent contractor in providing the Services under this Agreement, not as an employee. The parties agree that this Agreement does not create a joint venture or a partnership between the parties.

6. Modification of Agreement

Any modifications or amendments to this Agreement will be binding if evidenced in writing, approved by the Board of Aldermen of the Town and signed by each Party.

7. Notice

All notices or demands required or permitted by the terms of this Agreement will be given in writing and delivered to the parties.

8. Time is of the Essence

No extension or variation of this Agreement will operate as a waiver of this provision. Time is of the essence in this Agreement.

9. Integration

This Agreement contains the entire agreement and understanding by and between the Town and the Contractor and no representations, promises, agreements or understandings, written or oral, not herein contained shall be of any force or effect.

10. Choice of Law

This Agreement and the performance under this Agreement and all suits and special proceedings under this Agreement, be construed in accordance with and governed by the laws of the State of North Carolina.

11. Severability

The provisions of this Agreement shall be deemed severable, and the invalidity or unenforceability of any one or more of the provisions hereof shall not affect the validity and enforceability of the other provisions hereof.

IN WITNESS WHEREOF the parties have duly affixed their signatures on this _____ day of September, 2018.

TOWN OF BLACK MOUNTAIN

By: _____
Town Manager

Charlie Gross

Minutes
Follow
This Section



TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
AGENDA WORKSHOP MEETING MINUTES
August 9, 2018

THE BLACK MOUNTAIN BOARD OF ALDERMEN held an agenda workshop on Thursday, August 9, 2018 at 5:00 p.m. in the board room of Town Hall, 160 Midland Avenue, Black Mountain, NC. The purpose of the meeting was to review the agenda for the regular monthly meeting scheduled for Monday, August 13, 2018 at 6:00 p.m.

1. CALL TO ORDER

Mayor Don Collins called the meeting to order at 5:05 p.m. with the following members present:

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

The following staff members were present:

Ron Moore, Interim Town Manager
Angela L. Reece, Town Clerk
Ron Sneed, Town Attorney
Shawn Freeman, Police Chief
Steve Jones, Fire Chief
Jamey Matthews, Public Services Director
Jessica Trotman, Planning Director

The Board reviewed the items that were proposed for the July 9, 2018 regular session meeting and REMOVED Item 5F, Proposal and Scope of Services Amendment – Cherry Street One-Way Study, REMOVED Item 7B, Investigation Regarding Censure Proceedings, and ADDED New Item 8B, Approval of Resolution #R-18-12, Motorola Solutions Lease to Purchase.

Mayor Don Collins opened the meeting and addressed the Board and Citizens regarding the recent resignation of Alderman Jeremie Konegni. Mayor Collins reminded everyone that the process of selecting of an Aldermen to replace Mr. Konegni is laid out in the Town of Black Mountain Charter and is the responsibility of the Board of Aldermen. Mayor Collins asked if any Board member would like to make a nomination. Vice Mayor Maggie Tuttle stated she is very pleased to nominate Tim Raines. Vice Mayor Tuttle stated Mr. Raines taught civics for the last twenty five years at Owen High School and also was a former coach at Owen High. Vice Mayor Tuttle stated Mr. Raines is a lifelong resident of Black Mountain and very well-known and respected in the area.

Black Mountain Board of Aldermen
Agenda Workshop Minutes –August 9, 2018

Appointment of Alderman for the Town of Black Mountain to an unexpired term ending 2021

Vice Mayor Maggie Tuttle moved to appoint Tim Raines as Alderman to the Town of Black Mountain Board of Aldermen to fill an unexpired term ending 2021.

The motion was approved by a vote of 4-0.

Town Clerk, Angela Reece issued the oath of office to Alderman Tim Raines.

Interim Town Ron Moore presented the proposed agenda to the Board of Aldermen. Interim Parish Associate Bob Tuttle of Black Mountain Presbyterian will give the invocation. Alderman Larry Harris requested the Board to add Shane Lunsford to the Agenda to give an update on playground construction. Alderman Harris stated Black Mountain Primary was awarded a grant to construct a playground which will also benefit the community.

Manager Moore discussed **Item 5B**, Call for Public Hearing to Close a Platted Street known as Honeycutt Street. Alderman Ryan Stone stated the Board has engaged the Metropolitan Planning Organization and has obtained funds to conduct a traffic study on the entire downtown area and prefers this closure wait until the study is completed in order to determine the impact this closure will have on the traffic light at State Street and Montreat Road. Planning Director Jessica Trotman stated an RFP will go out next month and it will take approximately three months to conduct the study and receive the results.

Alderman Ryan Stone moved to remove Item 5B, Call for Public Hearing to Close a Platted Street known as Honeycutt Street #R-18-15.

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

Manager Moore requested to add **NEW Item 5B**, Budget Amendment for Additional Full Time Employee in Water Department #FY2019-1 stating this position is already allocated however a budget amendment is necessary to account for funds. Manager Moore advised the Water Department previously had two full time employees and said he feels this is necessary for safety and work flow.

Alderman Larry B. Harris moved to Add NEW Item 5B, Budget Amendment for Additional Full Time Employee in Water Department #FY2019-1 to the agenda.

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

Manager Moore discussed **Item 8C**, Cherry Street One-Way Resolution #R-18-16 and deferred to Planning Director Jessica Trotman to provide an update. Director Trotman advised the Board that she invited business owners from Cherry Street to come talk with her regarding their delivery schedule and parking needs. Director Trotman stated some business owners were not in favor of making the street one-way after hearing the engineers proposal on the direction to be from South to North. Board members inquired as to a number of parking spaces and layout and Director Trotman stated this was not included in the study as the study was only to determine if the street could be safely made one-way. Alderman Stone reiterated his thoughts on the traffic and

Black Mountain Board of Aldermen
Agenda Workshop Minutes –August 9, 2018

circulation study for the entire downtown area and stated he preferred more information before making a decision. Mayor Collins stated he was not in favor of losing parking spaces. ***The Board unanimously agreed to remove this item from consideration at this time.***

Alderman Ryan Stone asked Manager Moore to give an update on staffing. Manager Moore stated he conducted interviews last week for candidates to fill the Lakeview Senior Center position and said there were some strong candidates and said he hopes to fill this position soon. Manager Moore stated he will also be interviewing for the position of Director of Parks and Recreation and hopes to have someone in place by the middle of September. Manager Moore stated Laurel Mabery would be transitioning back to the Water Department and said he is confident he will be able to fill the second full time position in the Water Department within two to three weeks to bring it up to full staffing. Manager Moore stated there were a total of 3 ½ positions vacant in the Parks and Recreation Department at this time due to recent resignations and stated all other departments are operating at full capacity.

There being no further discussion, on a motion by Alderman Larry B, Harris with a vote of 5-0 Mayor Don Collins adjourned the meeting at 5:36 p.m.

ATTEST:

Angela L. Reece, Town Clerk

Don Collins, Mayor



TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN

SPECIAL CALL MEETING MINUTES

(Public Version)

August 9, 2018

THE BLACK MOUNTAIN BOARD OF ALDERMEN, held a special called meeting on Thursday August 9, 2018 at 8:30 a.m. in the board room of Town Hall, 160 Midland Avenue, Black Mountain NC and upon a motion duly made by Alderman Larry B. Harris, entered into closed session to discuss personnel matters, as permitted in NCGS § 143.318.11 (a)(6) at 8:30 a.m. on Thursday August 9, 2018 in the board room of Town Hall, 160 Midland Avenue, Black Mountain, NC.

1. CALL TO ORDER

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

Mayor Don Collins
Vice Mayor Maggie Tuttle
Alderman Larry Harris
Alderman Carlos Showers
Alderman Ryan Stone – arrived 8:35 a.m.

The following staff members were present:

Ron Moore, Interim Town Manager
Angela Reece, Town Clerk
Ron Sneed, Town Attorney– absent

Alderman Larry B. Harris moved to enter into closed session to discuss personnel matters, as permitted in NCGS § 143.318.11(a)(6) at 8:30 a.m.

The motion was approved by a vote of 4-0

Alderman Larry B. Harris moved to return to open session at 9:18 a.m.

The motion was approved by a vote of 4-0.

There was no public discussion.

There being no further business, on a motion made by Alderman Larry B. Harris and with a vote of 4-0, Mayor Don Collins adjourned the meeting at 9:18 a.m.

ATTEST:

Angela L. Reece, Town Clerk

Don Collins, Mayor



TOWN OF BLACK MOUNTAIN

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

Date: August 13, 2018

Time: 6:00 p.m.

Regular Session Minutes

*The agenda and all related documentation may be accessed electronically via Wi-Fi in Town Hall. From your laptop or smartphone, access the Town's website at www.townofblackmountain.org. Click on **Town Government** and select **Mayor and Board of Alderman** to download materials for all Town board meetings.*

 **Conserve resources; print only when necessary.**

The Town of Black Mountain is committed to providing accessible facilities, programs and services for all people in compliance with the American with Disabilities Act (ADA). Hearing assistive devices are available at the door.

*Should you need other assistance or accommodation for this meeting, please contact
Town Clerk Angela Reece at 419-9310, or by email at townclerk@townofblackmountain.org
(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. Interim Parish Associate Bob Tuttle of Black Mountain Presbyterian Church 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.

Black Mountain Board of Aldermen
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In his announcements Mayor Collins welcomed Alderman Tim Rains to the Board. Mayor Collins stated the Town has been ranked North Carolina's 13th safest city in 2018 and thanked the Black Mountain Police Department for their efforts in achieving this recognition. Mayor Collins reminded the public that MSD will be working on rehabilitating sewer lines on Midland Avenue over the next several weeks and said an announcement will be posted on the Town's website.

2. PROCLAMATION AND AWARD RECOGNITION

A. Certificate of Achievement for Excellence in Financial Reporting.

Mayor Collins presented the certificate of achievement for excellence in financial reporting to Finance Director, Dean Luebke stating this is the highest form of recognition in government accounting and represents a significant accomplishment of government and its management.

B. Municipal and County Administration Certification and North Carolina Certified Municipal Clerk Designation.

Mayor Collins recognized Town Clerk, Angela Reece and congratulated her on receiving her certification as a North Carolina Municipal Clerk. Mayor Collins also recognized Ms. Reece for attaining a certificate in North Carolina City and County Management from UNC School of Government, Chapel Hill stating she was 1 of 96 individuals accepted into the 2017-18 course and is now 1 of 3,200 graduates since the course began in 1954.

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.*

Michael Ogus of Riding Trail, Black Mountain addressed the Board of Aldermen and citizens encouraging participation in the Black Mountain Veterans Day Parade to recognize and honor local Veterans. The parade will be held on November 11, 2018 around 1:00 p.m.

Sherry Williams of Church Street, Black Mountain addressed the Board of Aldermen expressing her concerns regarding staffing in recent weeks.

James Full of Gold Leaf Walk Way, Black Mountain addressed the Board of Aldermen expressing his concerns and support of the Cherry Street One-Way plan. Mr. Full stated he is disabled and fully supports the one way idea but would ask for consideration of making traffic flow heading south bound and additional research on diagonal parking.

Faila Allen of West College Street, Black Mountain addressed the Board of Aldermen expressing her concerns regarding Alderman Carlos Showers comments on social media regarding volunteers.

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Michael Raines of *Blue Ridge Road, Black Mountain* addressed the Board of Aldermen regarding storm water and stated he is a member of the Planning Board and is asking more citizens to attend planning board meetings to discuss a solution.

Charlie Sparks of *N. Dougherty Street, Black Mountain* addressed the Board of Aldermen stating he is a builder with Black Mountain Bungalow. Mr. Sparks stated his company is doing due diligence to comply with storm water issues and he appreciates citizen involvement in reporting issues.

Pat Ward of *Laurel Circle Drive, Black Mountain* addressed the Board of Aldermen with her concern of lack of communication between the Board of Aldermen and citizens referring to an email she sent to the Board regarding a storm water complaint.

Marilyn Sobanski of *Rainbow Recycling, Black Mountain* addressed the Board of Aldermen and citizens encouraging them to attend the Hard-2-Recycle event Saturday September 15, 2018 at Madden's Ace Hardware Swannanoa beginning at 10:00 a.m. and concluding at 2:00 p.m. Ms. Sobanski stated there are a few prohibitions which will be listed on the flier and posted at the Black Mountain Library and on the Town's Facebook page.

4. COMMUNICATIONS FROM BOARDS, COMMISSIONS & AGENCIES

At home viewers can view the video presentations by clicking [here](#).

A. Black Mountain Primary School Playground Update, *Shane Lunsford, President PTO*

Shane Lunsford addressed the Board of Aldermen stating Black Mountain Primary received a grant from KABOOM to replace 25 year old playground equipment. Mr. Lunsford asked for community participation to volunteer in various ways to construct the new playground on October 6, 2018. Mr. Lunsford stated the playground will be a community asset and is open to the community after school hours to enjoy. Mr. Lunsford invited citizens to visit the Black Mountain Primary PTO's Facebook page for more information.

A. Building Planning Zoning Annual Report, *Jessica Trotman, Planning Director*

Planning Director Jessica Trotman presented the Annual Building, Planning, Zoning report to the Board of Aldermen. Director Trotman thanked the Board for the opportunity to be a part of Black Mountain and stated this month is her one year anniversary with the Town. Director Trotman stated the Planning Board has had a quiet year but are gearing up for some big projects. Director Trotman stated the Planning Board has accomplished the below referenced items this past fiscal year:

The preliminary plat for the following major subdivision was approved by the Planning Board:

- Chapman's Cove – 10 units on Blue Ridge Assembly Drive

The following street closure was recommended to the Board of Aldermen:

Black Mountain Board of Aldermen
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- A right-of-way off of Carver Avenue
- Honeycutt Street

The Planning Board held a work session with Planning Director Jessica Trotman to talk about goals and strategies for the board and the town. The Planning Board also watched some training videos from the North Carolina School of Government regarding rezonings. The Planning Board adopted a new format for their agenda to make business run smoother, keep clearer records and to make it more specific to the business of the board. The Planning Board had a presentation from NCDOT about the I-40 interchange project. The presentation spoke about meeting dates that would be held for the public and possible timeframes of when a plan would be ready to look at. Members of the Planning Board attended a regional workshop at the NC Arboretum hosted by the North Carolina School of Government.

Director Trotman will begin working with the Planning Board in the fall/winter to start on a small area plan for the Blue Ridge Road area to gauge current conditions and look at what future conditions might look like with the incorporation of the interchange. Director Trotman acknowledged stormwater challenges in the community and emphasized concerns of having a weak stormwater ordinance. She explained rewriting the ordinance and flood prevention efforts are a priority for the department. Director Trotman also said planning staff are working many text amendments to improve the land use code ordinances as well as ordinances for street and sidewalks and lighting. Director Trotman discussed future projects such as updating the Greenways master plan and beginning the 2019 mandated update of the comprehensive plan.

Alderman Larry B. Harris inquired as to the River Walk Phase II Greenway Project recalling the original funding request approved was \$2,250,000 (\$1,800,000 federal / \$450,000 local match and the second request made through the same funding source was \$750,000 (\$600,000 federal, \$150,000 local match). Mayor Collins added that Buncombe County allocated grant funding to the Town of Black Mountain in the amount of \$400,000 over a period of 3 years which can be used toward the match. The Board allocated \$80,000 per year in the CIP to fund the Town's match for this project.

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 July 9, 2018 (Agenda Session), July 9, 2018 (Regular Session), July 12, 2018 (Special Called), July 12, 2018 (Closed Session), July 19, 2018 (Special Called), July 19, 2018 (Closed Session), July 26, 2018 (Special Called), July 26, 2018 (Close Session), August 2, 2018 (Special Called), and August 2, 2018) (Closed Session).*

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B. Budget Amendment for Additional Full Time Employee in Water Department #FY2019-1

Manager Moore stated the Town has elected to return to having two full time positions on the water customer service desk, in anticipation of the takeover of 600 Asheville water accounts and the fact that the Public Services Senior Admin Assistant will be moving down to the new building at 304 Black Mountain Avenue shortly. This position provided necessary backup on the water customer desk, when the part time employees were not working.

Motion: *To approve as presented.*

Alderman Ryan Stone moved to approve Consent Items A-B as submitted.

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

Manager Moore announced Civil Design Concepts, PA has been awarded the RFQ (request for qualifications) and will be the design firm responsible for overseeing construction of the new water pumping station to be located at 2992 US Highway 70W. This pumping station is grant funded through the Golden Leaf Foundation and the Economic Development Administration and will facilitate water service to the Black Mountain Commerce Park as well as allow the Town of Black Mountain to accept 600 additional residential water customers who are currently served by the City of Asheville. This pumping station will have the capability to pump 750,000 gallons of water per minute and will solve flow issues in that area of Black Mountain. Jesse Gardner, Project Engineer with Civil Design Concepts indicated that his firm will be ready to award bids to begin construction in October. Alderman Larry B. Harris reminded the public that the tentative move in date for Avadim into the commerce park would be at the end of 2019.

8. NEW BUSINESS

A. Planning and Development Services Fee Schedule

Manager Moore stated recent changes to the North Carolina Fire Code require vacation rental properties to receive a fire inspection. Manager Moore conferred with the Fire Inspector, Spencer Elliot regarding an appropriate fee comparable to other municipalities to cover the time of Fire Department staff to perform the inspections and determined \$25 is appropriate and is in

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align with other municipalities in the region. Manager Moore stated the fee for “change out” inspections, which include things like water heaters and heat pumps has been reduced to \$75 which is required by statute.

Alderman Larry B. Harris moved to adopt the amended planning and development services fee schedule as presented.

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

B. Appointment to fill vacancies on Town Boards and Commissions

1. Urban Forestry Commission– (1) vacancy/ 3-yr term ending June 30, 2021

Alderman Ryan Stone moved to appoint Matthew Putnam to fill a 3 year term ending June 30, 2021 on the Urban Forestry Commission.

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

Mayor Collins reminded the public that one vacant seat remains on the Historic Preservation Commission and encouraged citizens to apply.

C. Cherry Street One Way Resolution

#R-18-16

Planning Director Jessica Trotman addressed the Board of Aldermen stating Cherry Street is currently a through street with two-way traffic. She said this resolution will change Cherry Street to one-way travel from Sutton Avenue to State Street. Director Trotman stated this traffic pattern is recommended based on the findings of a traffic analysis made by J.M. Teague Engineering. She said the request was originally made by the majority of business owners on Cherry Street requesting the Town make this change and said the recommended pattern is supported by Planning, Fire, and Police Departments. Director Trotman stated she held a meeting with the business owners at Town Hall on August 3 to primarily to discuss the parking and loading zone needs for the business on Cherry Street and through surveys conducted she stated the top three requests were pedestrian safety, improving traffic flow and the number of parking spaces on Cherry Street. Director Trotman stated the one-way traffic pattern is widely supported to our knowledge and said only two business owners has requested to leave the existing traffic pattern. Jason Fulton, Traffic Engineer with J.M. Teague was present to give a brief synopsis of the findings to the Board which are made part of and attached to these minutes. Alderman Larry B. Harris inquired of the current traffic volume and patterns in the area and expressed concerns of increasing the flow of traffic headed north by 60% and the effect on the traffic light on State Street. Alderman Ryan Stone also expressed concerns pedestrian safety and reminded the public that a traffic and circulation study has been funded and planned later this fall and recommended delaying the decision on this until the entire area is studied to avoid a peace mill approach. Alderman Larry B. Harris agreed.

Alderman Larry B. Harris moved to table the Cherry Street One-Way Resolution until the traffic and circulation study is completed in the downtown area.

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

Black Mountain Board of Aldermen
Regular Session Minutes – August 13, 2018

9. PUBLIC HEARING

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.

A. Public Hearing to Close an Unopened, Platted Street near Carver Avenue #R-18-13

Vice Mayor Maggie Tuttle moved to open the public hearing on Resolution #R-18-13

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

Attorney Ron Sneed stated the property owners are requesting to close a portion of the unopened, platted street that runs through their property to clean up the plat and property lines. Attorney Sneed stated the unopened street is not currently used except as the driveway to two different homes owned by the petitioner's and does not provide ingress or egress for any other properties on Carver Avenue. The Town has the authority to close dedicated but unopened streets within its jurisdiction on its own motion.

There were no public comments.

Alderman Carlos Showers moved to close the public hearing.

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

Alderman Larry B. Harris moved to approve Resolution #R-18-13 to close the Unopened, Platted Street near Carver Avenue.

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

10. COMMUNICATION FROM STAFF

A. Town Attorney – None at this time.

B. Interim Town Manager – Ron Moore recalled issuing a CodeRed notification for an expected power outage in Town stating the initial notification from Duke Energy advised 500 customers would be without power including Town Hall and after further inquiry staff found that only 130 customers near Vance Avenue were to be affected for the installation of underground utilities. Manager Moore gave an update regarding staffing to the Board of Aldermen and citizens stating interviews will be underway in the coming week for the town manager position. Manager Moore also stated Laurel Mabery was transferred to the Water Department due to her prior experience. Manager Moore stated with regard to the Parks and Recreation Department, the new Senior Center Program Supervisor, Melinda Polites will begin in the next few weeks and comes to the Town with a wealth of experience and knowledge in that area. Manager Moore stated he plans to involve Ms. Polites in recruiting and selection of a part-time assistant to assist with the senior programs when she comes on board. Manager Moore stated he has posted a position for

Black Mountain Board of Aldermen
Regular Session Minutes – August 13, 2018

Recreation Activity Coordinator to assist with outdoor sports and activities. Manager Moore stated he has changed the job descriptions in order to facilitate better work flow in the Recreation Department allowing for more flexibility so employees are not bound by a job description and can perform functions as needed depending on the season. Manager Moore also stated he will be posting an Assistant position in the Recreation Department to assist the staff with scheduling and other necessary tasks. Manager Moore stated the application process for the Recreation Director position has closed and he expects to begin interviews in the next week. Manager Moore also stated the new HR Coordinator, Rhonda Freeman is in place and he is very impressed with the knowledge, skills, and abilities she brings with her and said she is doing an excellent job.

Manager Moore gave a brief update on the 304 Black Mountain Avenue location (new Public Works and Recreation Department location). He stated a fence has been installed staff has been painting and setting up office spaces getting ready for the move. Manager Moore stated the phones and internet will be in place in the next week and he hopes staff can be moved in by the end of the month.

11. COMMUNICATION FROM MAYOR AND BOARD OF ALDERMEN

Mayor Don Collins stated he understands that there seems to be a lot of turnover in the town and stated this reminded him of when his friend Gary Bartlett was appointed as the Public Safety Director. Mayor Collins stated that year 11 police and fire employees left employment in the span of two months. Mayor Collins stated this is not unusual when administration changes and said we will keep moving forward in the right direction.

Alderman Ryan Stone stated on behalf of the Board of Aldermen he is grateful for the contributions Mr. Jeremie Konegni made during his time with the Board and he said he wished Mr. Konegni the best going forward. Alderman Stone addressed some confusion over yard waste removal policies and asked that the website be updated to reflect the brochure information.

Alderman Ryan Stone moved to enter into closed session to discuss personnel matters, as permitted in NCGS § 143.318.11(a)(6) at 7:32 p.m.

The motion was approved by a vote of 5-0

Alderman Ryan Stone moved to return to open session at 7:53 p.m.

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

12. ADJOURNMENT

There being no further business, on a motion made by Vice Mayor Maggie Tuttle and with a vote of 5-0, Mayor Don Collins adjourned the meeting at 7:55 p.m.

ATTEST:

Angela L. Reece, Town Clerk

Don Collins, Mayor



TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
SPECIAL CALL MEETING MINUTES
August 16, 2018

THE BLACK MOUNTAIN BOARD OF ALDERMEN, held a special called meeting on Thursday August 16, 2018 at 8:30 a.m. in the board room of Town Hall, 160 Midland Avenue, Black Mountain, NC. The Board of Aldermen did not enter into a closed session to discuss personnel matters as noticed. The Board did proceed with manager updates and election services discussion as noticed.

1. CALL TO ORDER

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

Mayor Don Collins
Vice Mayor Maggie Tuttle
Alderman Larry Harris
Alderman Carlos Showers
Alderman Ryan Stone – arrived at 8:35 a.m.

The following staff members were present:

Ron Moore, Interim Town Manager
Angela Reece, Town Clerk
Ron Sneed, Town Attorney– absent

Dean Luebbe, Finance Director/Assistant Town Manager addressed the Board of Aldermen giving a brief update on water usage numbers. Mr. Luebbe stated he believes the Town will need an additional 75,000 to 90,000 gallons of water per day to accommodate the additional 600 water customers and Avadim facility when they come online. Mr. Luebbe stated the Town currently uses approximately 100,000 to 125,000 gallons of water per day and he believes an average could be 175,000 gallons per day depending usage rates of the additional customers once the pumping station is operational. Alderman Larry B. Harris recalled the current purchasing agreement tenants stating it is based on a tiered usage system and if the Town's usage increases over 200,000 gallons per day the City automatically increases the billable usage rate in 50,000 gallons per day increments and bills accordingly. Asheville has roughly 40M gallons per day capacity and have 20M of this to sell. This discussion will be continued during regularly scheduled Board of Aldermen Meetings until a decision is reached to determine an amount to purchase that is adequate for the Town's future needs.

The Board of Aldermen welcomed Trena Parker Velez, Director of Election Services, Buncombe County to speak to them regarding upcoming election services. Director Parker advised in the

Black Mountain Board of Aldermen
Special Call Meeting Minutes – August 16, 2018

year 2015 the cost of the Town of Black Mountain election was \$17,842. Director Parker stated if the Town continues on the odd number year election cycle the cost will increase 25-35%. Director Parker advised the cost would REDUCE by 90-95% by electing to hold elections in even number years as the Town would only have to pay for costs associated with ballots, coding and noticing. Director Parker stated the NC General Assembly elected to change the City of Asheville's election cycle but a change for the Town means the town will need to amend its Charter. The Board agreed to continue this discussion at a regular scheduled meeting and thanked Ms. Parker for coming to explain the process. There was no further discussion.

Alderman Larry B. Harris moved to enter into closed session to discuss personnel matters, as permitted in NCGS § 143.318.11(a)(6) at 8:30 a.m.

The motion was approved by a vote of 4-0

Alderman Larry B. Harris moved to return to open session at 9:20 a.m.

The motion was approved by a vote of 4-0.

There was no further discussion.

There being no further business, on a motion made by Alderman Ryan Stone and with a vote of 4-0, Mayor Don Collins adjourned the meeting at 9:20 a.m.

ATTEST:

Angela L. Reece, Town Clerk

Don Collins, Mayor



TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN

SPECIAL CALL MEETING MINUTES

(Public Version)

August 17, 2018

THE BLACK MOUNTAIN BOARD OF ALDERMEN, held a special called meeting on Friday August 17, 2018 at 8:30 a.m. in the board room of Town Hall, 160 Midland Avenue, Black Mountain NC and upon a motion duly made by Vice Mayor Maggie Tuttle, entered into closed session to discuss personnel matters, as permitted in NCGS § 143.318.11 (a)(6) at 8:30 a.m. on Friday August 17, 2018 in the board room of Town Hall, 160 Midland Avenue, Black Mountain, NC.

1. CALL TO ORDER

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

Mayor Don Collins – left the meeting at 9:30 a.m.
Vice Mayor Maggie Tuttle
Alderman Larry Harris
Alderman Carlos Showers
Alderman Ryan Stone – arrived at 8:34 a.m.
Alderman Tim Raines

The following staff members were present:

Ron Moore, Interim Town Manager
Angela Reece, Town Clerk
Ron Sneed, Town Attorney– absent

Vice Mayor Maggie Tuttle moved to enter into closed session to discuss personnel matters, as permitted in NCGS § 143.318.11(a)(6) at 8:30 a.m.

The motion was approved by a vote of 4-0

Alderman Carlos Showers moved to return to open session at 9:45 a.m.

The motion was approved by a vote of 4-0.

There was no public discussion.

There being no further business, on a motion made by Alderman Ryan Stone and with a vote of 4-0, Vice Mayor Maggie Tuttle adjourned the meeting at 9:51 a.m.

ATTEST:

Angela L. Reece, Town Clerk

Don Collins, Mayor



TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN

SPECIAL CALL MEETING MINUTES

August 17, 2018

(Public Version)

THE BLACK MOUNTAIN BOARD OF ALDERMEN, held a special called meeting on Friday August 17, 2018 at 5:00 p.m. in the board room of Town Hall, 160 Midland Avenue, Black Mountain NC and upon a motion duly made by Alderman Ryan Stone, entered into closed session to discuss personnel matters, as permitted in NCGS § 143.318.11 (a)(6) at 5:00 p.m. on Friday August 17, 2018 in the board room of Town Hall, 160 Midland Avenue, Black Mountain, NC.

1. CALL TO ORDER

Mayor Collins called the special meeting to order at 5:00 p.m. with the following members present:

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

The following staff members were present:

Ron Moore, Interim Town Manager
Angela Reece, Town Clerk
Ron Sneed, Town Attorney— absent

Alderman Ryan Stone moved to enter into closed session to discuss personnel matters, as permitted in NCGS § 143.318.11(a)(6) at 5:00 p.m.

The motion was approved by a vote of 5-0

Alderman Larry B. Harris moved to return to open session at 6:23 p.m.

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

There was no public discussion.

There being no further business, on a motion made by Alderman Ryan Stone and with a vote of 5-0, Vice Mayor Maggie Tuttle adjourned the meeting at 6:24 p.m.

ATTEST:

Angela L. Reece, Town Clerk

Don Collins, Mayor



TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN

SPECIAL CALL MEETING MINUTES

August 23, 2018

(Public Version)

THE BLACK MOUNTAIN BOARD OF ALDERMEN, held a special called meeting on Thursday August 23, 2018 at 5:00 p.m. in the board room of Town Hall, 160 Midland Avenue, Black Mountain NC and upon a motion duly made by Alderman Ryan Stone, entered into closed session to discuss personnel matters, as permitted in NCGS § 143.318.11 (a)(6) at 5:00 p.m. on Thursday August 23, 2018 in the board room of Town Hall, 160 Midland Avenue, Black Mountain, NC.

1. CALL TO ORDER

Mayor Collins called the special meeting to order at 5:00 p.m. with the following members present:

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

The following staff members were present:

Ron Moore, Interim Town Manager
Angela Reece, Town Clerk
Ron Sneed, Town Attorney– absent

Alderman Ryan Stone moved to enter into closed session to discuss personnel matters, as permitted in NCGS § 143.318.11(a)(6) at 5:00 p.m.

The motion was approved by a vote of 5-0

Alderman Larry B. Harris moved to return to open session at 6:03 p.m.

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

There was no public discussion.

There being no further business, on a motion made by Alderman Larry B. Harris and with a vote of 5-0, Mayor Don Collins adjourned the meeting at 6:03 p.m.

ATTEST:

Angela L. Reece, Town Clerk

Don Collins, Mayor



TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN

SPECIAL CALL MEETING MINUTES

August 24, 2018

(Public Version)

THE BLACK MOUNTAIN BOARD OF ALDERMEN, held a special called meeting on Friday August 24, 2018 at 8:30 a.m. in the board room of Town Hall, 160 Midland Avenue, Black Mountain NC and upon a motion duly made by Alderman Ryan Stone, entered into closed session to discuss personnel matters, as permitted in NCGS § 143.318.11 (a)(6) at 8:30 a.m. on Friday August 24, 2018 in the board room of Town Hall, 160 Midland Avenue, Black Mountain, NC.

1. CALL TO ORDER

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

Mayor Don Collins
Vice Mayor Maggie Tuttle
Alderman Larry Harris
Alderman Carlos Showers
Alderman Ryan Stone
Alderman Tim Raines -absent

The following staff members were present:

Ron Moore, Interim Town Manager
Angela Reece, Town Clerk
Ron Sneed, Town Attorney– absent

Alderman Ryan Stone moved to enter into closed session to discuss personnel matters, as permitted in NCGS § 143.318.11(a)(6) at 8:30 a.m.

The motion was approved by a vote of 4-0

Alderman Larry B. Harris moved to return to open session at 10:24 a.m.

The motion was approved by a vote of 4-0.

There was no public discussion.

There being no further business, on a motion made by Alderman Carlos Showers and with a vote of 4-0, Mayor Don Collins adjourned the meeting at 10:24 a.m.

ATTEST:

Angela L. Reece, Town Clerk

Don Collins, Mayor



TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN

SPECIAL CALL MEETING MINUTES

August 30, 2018

(Public Version)

THE BLACK MOUNTAIN BOARD OF ALDERMEN, held a special called meeting on Thursday August 30, 2018 at 8:30 a.m. in the board room of Town Hall, 160 Midland Avenue, Black Mountain NC and upon a motion duly made by Vice Mayor Maggie Tuttle, entered into closed session to discuss personnel matters, as permitted in NCGS § 143.318.11 (a)(6) at 8:30 a.m. on Thursday August 30, 2018 in the board room of Town Hall, 160 Midland Avenue, Black Mountain, NC.

1. CALL TO ORDER

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

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

The following staff members were present:

Ron Moore, Interim Town Manager
Angela Reece, Town Clerk
Ron Sneed, Town Attorney– absent

Vice Mayor Maggie Tuttle moved to enter into closed session to discuss personnel matters, as permitted in NCGS § 143.318.11(a)(6) at 8:30 a.m.

The motion was approved by a vote of 5-0

Alderman Larry B. Harris moved to return to open session at 9:00 a.m.

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

The Board announced they would hold a subsequent closed session meeting next week to discuss personnel matters and would have the Clerk issue notice.

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 9:04 a.m.

ATTEST:

Angela L. Reece, Town Clerk

Don Collins, Mayor