TOWN OF BLACK MOUNTAIN

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

Date: **March 12, 2018** Time: **6:00 p.m.** **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 – *Pastor Dan Snyder, First Baptist Church, Swannanoa*
- Announcements – *Mayor Don Collins*

2. PROCLAMATION AND AWARD RECOGNITION

A. In Recognition of the Life of Reverend Billy Graham

B. Litter Sweep 2018

C. Intermediate Law Enforcement Certificate Awards

3. CITIZEN COMMENTS

*Individuals wishing to address the Board are asked to sign in at the entrance to the board room, indicating topic(s) the 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. NCDOT Project Update – *Kristina Solberg, PE, NCDOT*

B. Annual Water Report - *Public Services Director,* Jamey Matthews

C. MSD Annual Report - *Bob Watts*

5. CONSENT AGENDA

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

A. Adoption of Minutes

__Motion:__ To adopt the minutes of February 8, 2018 (Agenda Session), and February 12, 2018(Regular Session).

B. Budget Amendment to Purchase Police Vehicle **#FY2018-8**

__Motion:__ To approve Budget Amendment #FY2018-08 as submitted, increasing the expenditure account 1010-5100-180 (Forfeiture Funds Expenditure) by $31,000 and increasing the revenue account 1010-3935-900 (Forfeiture Fund Balance Appropriated) by $31,000.

C. Budget Amendment for Purchase of Property Located at 304 Black Mountain Avenue. **#FY2018-9**

__Motion:__ To approve Budget Amendment #FY2018-09 as submitted. In the General Fund this entry increases the expenditure account 1000-4200-730 (Capital Outlay) by $986,100, the revenue account 1000-3905-900 (Fund Balance Appropriated) by $236,100 and the revenue account 1000-3920-900 (Proceeds from Installment Purchases) by $750,000. In the Water Fund, the entry increases the expenditure account 3091-8100-730 (Capital Outlay) by $1,001,100, the revenue account 3091-3905-900 (Fund Balance Appropriated) by $251,100 and the revenue account 3091-3910-900 (Proceeds from Installment Purchases) by $750,000.

D. Request For Proposal to Provide Legal Services

__Motion:__ To approve the request for proposal to provide legal services as presented.

__Consent Motion:__ To approve consent item A-D as presented.

6. CITIZEN COMMENTS

The chair will recognize individuals requesting to address the Board regarding the specific New Business or Unfinished Business items below. Comments by any one __speaker shall be limited to three (3) minutes__.
If the topic you wish to discuss pertains to a __public hearing__ scheduled for this meeting, please reserve your comment for the applicable public hearing.

7. UNFINISHED BUSINESS – NONE

8. NEW BUSINESS

A. Resolution to Approve Matching Funds for the Riverwalk Phase II Project ***#R-18-05***

__Motion:__ To approve Resolution __#R-18-05__ for matching funds for Riverwalk Greenway Phase II as presented.

9. PUBLIC HEARING - NONE

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

10. COMMUNICATION FROM STAFF

A. Town Attorney – Ron Sneed

B. Town Manager – Matt Settlemyer

11. COMMUNICATION FROM MAYOR AND BOARD OF ALDERMEN

12. ADJOURNMENT

Matt Settlemyer
Town Manager

<u>PUBLIC NOTICE</u>

BLACK MOUNTAIN BOARD OF ALDERMEN

<u>SPECIAL CALL MEETING</u>

Thursday, March 8, 2018 at 5:30 p.m.

The Black Mountain Board of Aldermen will meet in a special call meeting on **<u>Thursday, March 8, 2018 directly following the regularly scheduled Agenda Workshop at 5:30 p.m</u>**. in the Board Room in the Town Hall Building, 160 Midland Avenue, Black Mountain, NC. The purpose of this meeting is to enter into closed session to consult with the town attorney, as permitted in NC G.S. 143-318.11(a)(3).

Angela L. Reece
Town Clerk

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Please visit www.townofblackmountain.org to obtain agenda packets and other meeting information.

Posted to the Town Bulletin Board 3/02/18

Proclamation

IN RECOGNITION OF THE LIFE OF BILLY GRAHAM

WHEREAS, North Carolina's native son, the Reverend William Franklin "Billy" Graham, Jr., died on February 21, 2018; Reverend Graham was without peer as an evangelist during his lifetime; and

WHEREAS, Billy Graham was born on a dairy farm outside Charlotte in 1918 and called the mountain town of Montreat, and surrounding Black Mountain and Swannanoa Valley communities his home since 1943, when he met and married his wife, Ruth McCue Bell and began raising his family; and

WHEREAS, Billy Graham ministered to many local people as well as thirteen United States Presidents and to millions more people abroad, starting with sermons for revivals on sawdust floors under canvas tents in Los Angeles in 1949; and

WHEREAS, Reverend Graham refused to preach before racially segregated audiences, beginning in Chattanooga, Tennessee, in 1953, when he threatened to cancel his appearance unless the dividing ropes were removed; and

WHEREAS, his forward-thinking use of radio, television and other media extended the reach of his spiritual message to people worldwide; and

WHEREAS, Reverend Graham carried his message to more than 215 million people in more than 185 countries, including Russia, China, and North Korea; and

WHEREAS, Reverend Graham consistently ranked among the most admired Americans and was known for his humility and his warm, courtly manner and was awarded the Congressional Gold Medal in 1996; and

WHEREAS, Billy Graham, known as America's Pastor, has been accorded the rare honor of lying in honor in the Rotunda of the United States Capitol; and

WHEREAS, the Town of Black Mountain joins the nation in mourning the loss of this outstanding North Carolinian whose legacy will remain important to people across our state and the world;

NOW, THEREFORE, I, Don Collins, Mayor of the Town of Black Mountain, do hereby proclaim a period of mourning for Billy Graham to extend through his burial on March 2, 2018 and commend its observance to all citizens of the Town of Black Mountain.

SIGNED this 27th day of February 2018.

____
Don Collins, Mayor

Attest:

____
Angela Reece, Town Clerk

Proclamation

"LITTER SWEEP 2018"

WHEREAS, the North Carolina Department of Transportation organizes an annual spring statewide roadside cleanup to ensure clean and beautiful roads in North Carolina; and

WHEREAS, the spring 2018 LITTER SWEEP roadside cleanup will take place April 14 – April 28, 2018; and

WHEREAS, Adopt-A-Highway volunteers, Department of transportation employees, Department of Correction inmates and community service workers, local government agencies, community leaders, civic and community organizations, businesses, churches, schools, and environmentally concerned citizens conduct annual local cleanups during LITTER SWEEP; and

WHEREAS, this year, Black Mountain will observe the annual cleanup on Saturday, April 14, 2018.

NOW, THEREFORE, I, Don Collins, Mayor of the Town of Black Mountain, do hereby proclaim April 14 through April 28, 2018 as "SPRING LITTER SWEEP" time in our Town and encourage all citizens to take an active role in making our community cleaner and more beautiful.

SIGNED this 12th day of March 2018.

____
Don Collins, Mayor

Attest:

____
Angela Reece, Town Clerk

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: March 12, 2018

SUBJECT: Budget Amendment to purchase Police Vehicle #FY2018-8

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: A 2004 Chevrolet Impala police vehicle is no longer in service and in need of a new transmission. The vehicle currently has over 125,000 miles on it and a book value of $2,500. Rather than spending over $3,000 on a remanufactured transmission, the Police Department is electing to use $31,000 from its Forfeiture Funds account to purchase a new vehicle. These funds are restricted for police use only, and the balance in this account after this expenditure will be $17,000.

MOTION FOR CONSIDERATION: To approve Budget Amendment #FY2018-08 as submitted, increasing the expenditure account 1010-5100-180 (Forfeiture Funds Expenditure) by $31,000 and increasing the revenue account 1010-3935-900 (Forfeiture Fund Balance Appropriated) by $31,000.

FUNDING SOURCE: Police Forfeiture Funds.

ATTACHMENTS: Budget Amendment #FY2018-8

MANAGER'S COMMENTS AND RECOMMENDATIONS: Adopt as presented.

Budget Amendment # 2018-8
Fiscal Year 2017-2018

Dept.	Account #	Account Name	Debit	Credit	Comments
	1010-5100-180	Forfeiture Expense	31,000.00		Police vehicle
	1010-3935-900	Forfeiture Fund Bal Approp		31,000.00	purchase from
					Forfeiture Funds

Totals: 31,000.00 31,000.00

BD # __________ Entered By: __________

Journal # __________

Fiscal Yr __________ Approved By: __________

Date __________ Date __________

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: March 12, 2018

SUBJECT: Budget Amendment for Purchase of Property located at 304 Black Mountain Avenue. **#FY2018-9**

AGENDA INFORMATION

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

BRIEF SUMMARY: Since early November of 2017, the Town has been in the process of purchasing the building located at 304 Black Mountain Avenue. On November 2, 2017, the Town paid $15,000 as earnest money and due diligence, and signed an offer to purchase and contract for $2,000,000. On January 8, 2018, the Town chose BBT to provide financing for this purchase at 3.49% over a fifteen year term. On February 6, 2018, the Local Government Commission (LGC) approved the financing request. On February 26, 2018, the transaction was closed, and the Town paid $487,200 ($500,000 less $15,000 plus $2,200 in title charges and additional settlement charges) as a down payment on the purchase, and the balance of $1,500,000 was paid through the BBT loan. The building will benefit the Town in both the General and Water Funds, so the expenses associated with the purchase have been evenly split between these funds.

MOTION FOR CONSIDERATION: To approve Budget Amendment #FY2018-09 as submitted. In the General Fund this entry increases the expenditure account 1000-4200-730 (Capital Outlay) by $986,100, the revenue account 1000-3905-900 (Fund Balance Appropriated) by $236,100 and the revenue account 1000-3920-900 (Proceeds from Installment Purchases) by $750,000. In the Water Fund, the entry increases the expenditure account 3091-8100-730 (Capital Outlay) by $1,001,100, the revenue account 3091-3905-900 (Fund Balance Appropriated) by $251,100 and the revenue account 3091-3910-900 (Proceeds from Installment Purchases) by $750,000.

FUNDING SOURCE: Fund Balance Appropriated and Proceeds from Installment Debt.

ATTACHMENTS: Budget Amendment #FY2018-9

MANAGER'S COMMENTS AND RECOMMENDATIONS: Adopt as presented.

Budget Amendment # 2018-9
Fiscal Year 2017-2018

Dept.	Account #	Account Name	Debit	Credit	Comments
	1000-4200-730	Capital Outlay	236,100		
	1000-3905-900	Fund Balance Approp		236,100	
					To record budget
	3091-8100-730	Capital Outlay	251,100		entries for 487,000
	3091-3905-900	Fund Balance Approp		251,100	down pmnt
					and
	1000-4200-730	Capital Outlay	750,000		loan proceeds of
	1000-3920-900	Proceeds Installment Purchases		750,000	1,500,000
					for the purchase of
	3091-8100-730	Capital Outlay	750,000		Carolina Foam and Fabric
	3091-3910-900	Proceeds Installment Purchases		750,000	
		Totals:	1,987,200	1,987,200	

BD # ____________ Entered By: ____________

Journal # ____________

Fiscal Yr ____________ Approved By: ____________

Date ____________ Date ____________

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: March 12, 2018

SUBJECT: Request for Proposal for Legal Services

AGENDA INFORMATION

Agenda Location: **Consent Agenda**
Item Number: 5D
Department: Administration
Contact: Matt Settlemyer, Town Manager
Presenter: Matt Settlemyer, Town Manager

BRIEF SUMMARY: The Board of Aldermen have directed the Manager to solicit expressions of interest from those individuals interested in filling the Town Attorney position. The Town Attorney will provide general legal counsel to the Board, Mayor, Town Manager, and Town staff, and, if necessary, will provide legal counsel, and/or coordinate additional outside legal counsel to the Town as plaintiff or defendant. The purpose of all submitted proposals is to demonstrate the qualifications, competence, depth and capability of the firms seeking to provide legal services to the Town of Black Mountain in conformity with the requirements of this request for proposals. The proposal should address all the points outlined in the request for proposals. The proposal should be prepared simply and economically, providing a straightforward, concise description of the individual's or firm's capabilities to satisfy the requirements of the request for proposals.

MOTION FOR CONSIDERATION: To approve the RFP for Legal Services as presented.

FUNDING SOURCE: General Fund

ATTACHMENTS: RFP for Attorney Legal Services

MANAGER'S COMMENTS AND RECOMMENDATIONS: Adopt as presented.

REQUEST FOR PROPOSAL TO PROVIDE LEGAL SERVICES

March 2018

BLACK MOUNTAIN
NORTH CAROLINA
(pop. 8,125)

The Black Mountain Board of Aldermen is accepting applications from those interested in serving as Town Attorney. Licensed attorneys who wish to be considered for the post should submit an application to the Town Manager, 160 Midland Avenue, Black Mountain, NC 28711.

<u>The deadline for applications is Monday, April 30, 2018 by 5:00 p.m.</u>

TOWN OF BLACK MOUNTAIN
160 Midland Avenue Black Mountain, NC 28711

828-419-9310
FAX: 828-669-4204
www.townofblackmountain.org
townmanager@townofblackmountain.org

TOWN ATTORNEY
POSITION OVERVIEW

The Black Mountain Board of Aldermen is accepting applications from those interested in serving as Town Attorney. The Town of Black Mountain operates under the Council-Manager form of government, with 5 voting aldermen and a mayor, all elected at large for four-year staggered terms. Under this form of government, the Town Attorney is appointed directly by the Board of Aldermen. There is no specified term for the Town Attorney's service, however the terms of appointment are reviewed every two years, coincident with installation of the Board following each municipal election. Neither the Mayor nor Town Manager have appointing authority for the Town Attorney, but a close and cooperative working relationship among the Town Attorney, Town Manager, Board, Mayor, and Town staff is essential.

The Board of Aldermen have directed the Manager to solicit expressions of interest from those individuals interested in filling this position. The Town Attorney will provide general legal counsel to the Board, Mayor, Town Manager, and Town staff, and, if necessary, will provide legal counsel, and/or coordinate additional outside legal counsel to the Town as plaintiff or defendant.

The purpose of all submitted proposals is to demonstrate the qualifications, competence, depth and capability of the firms seeking to provide legal services to the Town of Black Mountain in conformity with the requirements of this request for proposals. The proposal should address all the points outlined in the request for proposals. The proposal should be prepared simply and economically, providing a straightforward, concise description of the individual's or firm's capabilities to satisfy the requirements of the request for proposals.

Typical responsibilities of the Town Attorney will include:

- Attendance at monthly Board meetings (second Monday of the month at 6:00 PM)
- Attendance at monthly Agenda Workshop Meetings (Thursday prior to the second Monday of the month at 5:00 PM, with schedule subject to change)
- Attendance at special-called meetings as needed
- Legal advice and other legal services as requested by the Board, and/or Town Manager
- Attendance at and legal advice for other Town boards and commissions as requested by Board, and/or Town Manager
- Review of Town contracts
- Assisting in development and review of draft ordinances/amendments prepared by Town staff, prior to consideration by the Board

- Approval of all official bonds
- Review and approval of draft resolutions as requested
- Assistance with real estate transactions, including foreclosures, preparation of deeds and property descriptions, filing of liens, and sale or acquisition of property associated with Town projects and/or operations
- Assistance with development and review of deeds, contracts, offers and any other instruments relating to the business of the Town as requested
- Legal prosecution and defense for and against the Town, and for and against Town officials acting in their official capacity
- Advise the Mayor, Board and other Town officials, as to the legality and legal consequences of proposed courses of action

Desired Qualifications of the sole practitioner and/or firm:

- A thorough understanding of the legal framework of municipal government in North Carolina
- Diverse legal experience, particularly in the areas of municipal liability, regulation of new development, public employment law, construction and professional service contracts, and real estate law
- Prior local government law experience in service to a North Carolina city, town, village, county or related local government entity
- Accessibility and prompt response for the Mayor, Board, Town Manager and designated Town staff as needed

The Town of Black Mountain reserves the right to reject all or any part of any or all proposals, to waive technical or legal deficiencies and to accept any proposal that it deems to be in the best interest of the Town. Proposed fees must be guaranteed for two (2) years from acceptance date of proposal, with review and negotiation of terms, every two years thereafter.

It is Black Mountain's intent that this RFP shall permit competition. It shall be the respondent's responsibility to advise the Town Manager in writing if any language, requirement, specification, or combination thereof, inadvertently restricts or limits the requirements stated in this RFP to a single source. Such notification must be received by the Town Manager no later than ten (10) days prior to the date set for proposals to close.

All responses to this solicitation must be returned to the Town Manager by 5:00 p.m. on Monday, April 30, 2018. Responses will be accepted by electronic means or by physical delivery via the address and contact information shown above. All responses will be provided to the Board of Aldermen for review, consideration and disposition. Should you have questions or need further information, please do not hesitate to contact me.

Thank you.

Mat Settlemyer, Town
Manager

BLACK MOUNTAIN, NORTH CAROLINA TOWN ATTORNEY POSITION

PROPOSAL INFORMATION

Applicants may present information in any format and may provide additional data or supporting documentation as desired, however, the following information is <u>required</u>, and applicants are encouraged to be brief and concise.

1. Name, address, telephone number, fax number and email address of firm. Include contact person and telephone number for purposes of following up on proposal.

2. Please provide a brief description of your personal, educational and professional background. Educational background should include undergraduate and postgraduate degree(s), and any relevant information regarding licensure, certification, honors, and/or professional associations with which you are involved. You may include any other personal information you deem relevant and wish to share with the Board.

3. State the size of the firm, the firm's municipal law staff, the location of the office from which the work on this position is to be performed, and the number and nature of the professional staff to be employed in this appointment.

4. Provide a narrative of the history of your firm, including date of inception, experience with relevant North Carolina municipal, state and federal law and the firm's experience performing services to North Carolina local government entities.

5. Narrative of the qualifications of the person(s) proposed to work directly with the Town to include:

- **a.** Legal training, years of practice, area of specialization; include date of admittance to North Carolina Bar;
- **b.** Years of municipal, county or state government law practice;
- **c.** Litigation experience and demonstration of a satisfactory court track record;
- **d.** Identify any professional affiliations/detail experience in representing North Carolina municipalities.

6. Identify the accessibility of the proposed designated lead Attorney, and the response time that the individual offers to the Town.

7. Identify other resources the firm has to offer, including clerical and support staff, library and research capabilities, and other relevant information.

8. Describe the level of coverage for malpractice insurance your firm carries. Is the coverage on a per client basis, or is the dollar figure applied to the firm as a whole? Provide documentation of malpractice insurance coverage.

9. Within the last five years has your organization, its officers, partners, employees, shareholders or principals been a party in any litigation or other legal proceedings as a defendant relating to the services provided by your entity? If so, provide an explanation and indicate the current status or disposition of any such situation.

10. State whether the firm, its officers, partners, principals, agents, or employees, that are expected to perform services under this RFP, have been disciplined, admonished, warned, or had any license, registration, charter, certification, or any similar authorization to engage in the legal profession suspended or revoked for any reason.

11. Has the firm been in bankruptcy, reorganization or receivership in the last five years? If so please explain current status.

12. Has the firm been disqualified or terminated by any municipal, county, state government or other public agency? If so please explain under what circumstances this disqualification or termination occurred.

13. If you are selected as Town Attorney, what fees will you charge and under what terms? (e.g. Will you require a monthly minimum or retainer?) Also, please provide a concise statement describing your philosophy for cost effectiveness in providing legal services to the Town.

14. How do you propose to meet the Town’s legal needs when you are on vacation or are otherwise unavailable?

15. Please identify any conflicts, or potential conflicts of interest that your firm may have in representing the Town of Black Mountain, and your approach to avoiding conflicts of interest.

16. Describe your plan for transitioning service from the Town1 s current attorney and how you plan to handle any existing lawsuits or legal matters. Include estimated time needed for the transition and what type of relationship you anticipate with the current attorney.

17. Please provide a list of client references with whom we may confer.

18. Please share any other information you feel would be useful to the Board as they consider proposals for legal services.

Please be advised that the Board of Aldermen may request candidate interviews prior to rendering a decision.

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION

Meeting Date: March 12, 2018

SUBJECT: Resolution to Provide Matching Funds for Riverwalk Greenway Phase II

AGENDA INFORMATION

Agenda Location: **New Business**
Item Number: **8A**
Department: Planning
Contact: Jessica Trotman, Planning Director
Presenter: Matt Settlemyer, Town Manager

BRIEF SUMMARY: The Town is applying for additional funding through the current STBG call for projects from the MPO to fully fund the Riverwalk Phase II project. The application requires a resolution indicating the Town will provide matching funds if awarded. The total request for additional funding is $1,600,000 (80%) with the Town responsible for $400,000 (20%).

MOTION FOR CONSIDERATION: Motion to Approve Resolution *#R-18-05* for Matching Funds for Riverwalk Greenway Phase II.

FUNDING SOURCE:

ATTACHMENTS: Resolution ***#R-18-05*** to Provide Matching Funds

MANAGER'S COMMENTS AND RECOMMENDATIONS: To approve as presented.

RESOLUTION #R-18-05

RESOLUTION TO PROVIDE MATCHING FUNDS FOR RIVERWALK GREENWAY PHASE II

WHEREAS, the Board of Aldermen for The Town of Black Mountain intends to apply for a 2018 STBG grant in the amount of $1,800,000, which amount is (80%) of the total estimated cost of $2,250,000 needed to fully fund design and construction of Riverwalk Phase II Greenway; and,

WHEREAS, as a condition of such grant is that the local jurisdiction provide matching funds in the amount of $450,000, which is twenty percent of the cost of the project ; and,

WHEREAS, the Board of Aldermen wishes to assure the availability of such matching funds;

NOW, THEREFORE, BE IT RESOLVED, BY THE BOARD OF ALDERMEN OF THE TOWN OF BLACK MOUNTAIN, NORTH CAROLINA THAT the Board of Aldermen will appropriate from general revenues, its fund balance, contributed funds received from the Greenways Foundation, Inc., or a combination thereof, the amount required to satisfy the matching funds requirement condition of the grant.

I move the adoption of the foregoing resolution:

____
Alderman

READ, APPROVED AND ADOPTED, this 12th day of March, 2018.

ATTEST:

____
Don Collins, Mayor

____
Angela Reece, Town Clerk

____
Matt Settlemyer, Town Manager

Minutes Follow This Section

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
AGENDA WORKSHOP MEETING MINUTES
February 8, 2018

THE BLACK MOUNTAIN BOARD OF ALDERMEN held an agenda workshop on Thursday, February 8, 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, February 12, 2018 at 6:00 p.m.

1. **CALL TO ORDER**

Mayor Don Collins called the meeting to order at 5:06 p.m. *with the following members present*:

Mayor Don Collins
Alderman Larry B. Harris
Alderman Jeremie Konegni
Alderman Carlos Showers
Alderman Ryan Stone

Vice Mayor Maggie Tuttle - absent

The following staff members were present:

Matt Settlemyer, Town Manager
Angela L. Reece, Town Clerk
Ronald E. Sneed, Attorney
Shawn Freeman, Police Chief
Steve Jones, Fire Chief
Jamey Matthews, Public Services Director
Casey Conner, Recreation Services Director
Jessica Trotman, Planning Director

The Board reviewed the items that were proposed for the February 12, 2018 regular session meeting and ADEED New Items 5E and 8C, placing them on the February 12, 2018 agenda for consideration.

Town Manager Settlemyer presented the proposed agenda to the Board of Aldermen. He stated Reverend Mike Macdonald will give the invocation.

Manager Settlemyer discussed **Item 5B**, Proposal to Award Contract to Audit Accounts of the Town of Black Mountain for the July 1, 2017 through June 30, 2018 time period to Gould Killian. Manager Settlemyer stated he and Assistant Manager Luebbe discussed sending out an RFP for these services in the fall but recommended awarding the contract for the upcoming year. Alderman Harris recommended asking the firm to put a different partner on the job.

Manager Settlemyer discussed **Item 5C**, Budget Amendment to Purchase Police Equipment from Restricted ABC Distribution Funds stating the ABC funds are restricted solely for use by the police department and said the Police Chief is requesting to utilize these funds for trainings and equipment.

Manager Settlemyer discussed **Item 5D**, Resolution of Support for Children and Friends Inc. to Request Grant Funding by Filing Application with SECU stating this resolution coincides with the MOU that was previously adopted by the Board of Aldermen in support of Children and Friends seeking out grant funding for their project.

Alderman Larry B. Harris moved to amend the resolution, paragraph 5, to reflect the following language: Whereas, the Town of Black Mountain will be responsible for the construction and maintenance of necessary public infrastructure, in the project area, that serves the good of the general public, such as sidewalks or road enhancements.

The motion passed by a vote of 4-0.

Alderman Larry B. Harris moved to amend the consent agenda, and add New Item 5E, Text Amendment to the August 8, 2016 Board of Aldermen Regular Session Minutes.

The motion passed by a vote of 4-0.

The item motion will read as follows:

Motion: *To amend the August 8, 2016 Board of Aldermen Regular Session Minutes, Item 8B, Recommendation of Award of Solid Waste Contract to Waste-Pro USA, Inc., adding the following language to the minutes:*

The Black Mountain Board of Aldermen acknowledges and ratifies the current contract as negotiated by Town Manager Settlemyer pursuant to Board of Aldermen authorization and believes it accurately reflects the discussion from the August 8, 2016 Board of Aldermen meeting and is consistent with Aldermen Harris' motion.

Manager Settlemyer stated Attorney Sneed requested to **add New Item 8C**, Resolution of the Town's Intent and Desire to Accept the Offer on the Hemphill Property for Use as a Town Park and Resolving NOT to accept the 1.7 Acre Non-Contiguous Parcel. Attorney Sneed recalled prior discussions regarding the cash value of the Hemphill Estate and stated the 1.7 acre, non-contiguous parcel would not be an asset to the Town as there is no access to it and it is very steep and unsuitable for use as a park. Attorney Sneed recommended not accepting the 1.7 acre parcel so that the estate could sell it and possibly generate revenues for the estate. There were discussions between Board members and staff of the safety, potential uses, and cost maintenance of the park. Attorney Sneed stated in the event the Town decided not to continue utilizing the remaining donated parcels (approximately 25 acres) as a park for any reason then the estate would be re-opened and the property liquidated with no penalty to the Town.

Manager Settlemyer stated there is an opening on the Historic Preservation Commission due to a resignation and said one application has been received.

Alderman Larry B. Harris moved to nominate Elaine Loutzenheiser to fill an unexpired term on the Historic Preservation Commission ending June 30, 2018.

The motion passed by a vote of 4-0.

Manager Settlemyer discussed **Item 8A**, Capital Project Ordinance Amendment O-18-01, Watershed Restoration Capital Project Fund, and **Item 8B**, Budget Amendment stating these items are necessary to amend the project ordinance to reflect the funds that will be expended this fiscal year. Manager Settlemyer stated there were monies left over in this project from the previous year and staff is requesting to amend the project ordinance to allow those funds to be utilized in the current fiscal year to continue with the watershed restoration to minimize the impact of stormwater in town and in the Swannanoa River.

There was no further discussion by the Board.

There being no further discussion, Mayor Don Collins adjourned the meeting at 5:40 p.m.

ATTEST: Don Collins, Mayor

Angela L. Reece, Town Clerk

Matt Settlemyer, Town Manager

TOWN OF BLACK MOUNTAIN

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

Date: **February 12, 2018** Time: **6:00 p.m.** **Regular Session Minutes**

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

1. CALL TO ORDER

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

Mayor Don Collins
Vice Mayor Maggie Tuttle
Alderman Larry B. Harris
Alderman Jeremie Konegni
Alderman Ryan Stone
Alderman Carlos Showers - Absent

The following staff members were present:
Matt Settlemyer, 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
Casey Conner, Recreation Services Director

Mayor Don Collins welcomed everyone and led the Pledge of Allegiance. Reverend Mike Macdonald of Black Mountain United Methodist 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.

In his announcements Mayor Collins asked citizens to keep Aldermen Carlos Showers and his wife in their thoughts and prayers due to an accident Mrs. Showers suffered.

2. PROCLAMATION AND AWARD RECOGNITION - NONE

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.*

Doug Brock *of 269 Old Lakey Gap Rd., Black Mountain* addressed the Board of Aldermen asking the Board of Aldermen to consider bringing back horses in Black Mountain by amending the zoning code to allow grazing animals in urban residential zones.

Julie White *of 205 Ninth Street, Black Mountain* addressed the Board of Aldermen recalling a meeting she attended with Asheville Design Center in reference to the proposed daycare facility on White Pine Drive and stated she was concerned of rumors she was hearing regarding proponents of the daycare attending Land of Sky meetings as well as intentions of the Board of Aldermen to relocate the Fire Department to the new Public Services facility. Ms. White encouraged everyone to work with The Design Center on a plan before decisions are made.

4. COMMUNICATIONS FROM BOARDS, COMMISSIONS & AGENCIES –NONE

A. Fire Department Annual Report *by Steve Jones, Fire Chief*

Fire Department Chief, Steve Jones delivered the annual Fire Department report to the Board of Aldermen stating overall calls for service have increased by 7.5%. Chief Jones stated staff responded to 1,525 calls in the town and 887 calls in the rural district totaling 2,412 calls for 2017. He stated 58% are rescue and EMS calls. Chief Jones stated each call costs approximately $708. Chief Jones stated the monetary value of fire exposures is approximately $3,719,955, which is considerably lower than previous years due to types of fires. Chief Jones stated there was approximately $497,000 property loss mainly due to aging buildings and new construction techniques. Chief Jones stated twenty years ago you would have about 70 minutes to get out of a burning home and today you have about 3 minutes. He stated this was due to cheaper construction techniques. Chief Jones stated staff performed 527 inspections in 2017 and with new changes to the building code he is expecting significant changes in the number of inspections required. Chief Jones thanked the Board of Aldermen for the purchase of the newest fire truck and stated it has been put to good use and they are receiving positive feedback from the public. Chief Jones discussed activities staff have attended throughout the year such as 911 Sunday. Chief Jones discussed grant funding stating staff has applied for a Prevention and Safety Grant as well as Personal Protective Equipment Grant and did not receive either. Chief Jones stated the washer and dryer being used in the fire house is a standard set and is not effective. Chief Jones discussed an article on cancer among firemen stating a new commercial washer and dryer would greatly benefit firemen and reduce the amount of carcinogens present on their clothing which is linked to cancers.

Chief Jones stated having a schedule of replacement safety equipment is also a necessity to prevent types of cancers related to carcinogens staff is exposed to. Chief Jones discussed fundraising activities by the Volunteer Firefighters Association encouraging everyone to visit bmvfire.org to make donations. He stated all proceeds are returned to the fire department to purchase needed equipment and items. Chief Jones discussed other outreach activities including nursing home visits, Christmas parade, Halloween, Safety Saturday, Town Hall Day, Open House, Walk to School Day, and NC Legislative Day. Chief Jones recognized Sterling Poe and congratulated him on receiving the Firefighter of the Year Award and his 50 Years of Service Award. Chief Jones encouraged citizens to attend the annual Safety Saturday which will be held on Saturday, May 19th at 10:00 a.m. at Ingles in Black Mountain. Chief Jones stated the shred truck will also be there and encouraged citizens to bring their documents to be shredded for free. Car seat placement will also be available. Chief Jones stated a grand total of $25,033.44 was raised at the annual Deck the Trees at the Monte Vista Hotel and the Fire Department tree earned the most donations. He stated all proceeds go to the Swannanoa Valley Christian Ministry for heating assistance in the community.

B. Economic Development Update *by Erica Anderson, Economic & Community Dev. Director, Land of Sky*

Economic & Community Development Director, Erica Anderson delivered a brief overview on the water sewer infrastructure at the new Avadim facility and the Black Mountain Commerce Park. Director Anderson prepared a detailed brief of this report which is made part of and included in these minutes. Director Anderson stated the total project cost is $1.65 million dollars and the Town has received grant awards in the amount of $827,580 from the US Dept. Economic Development, $775,000 from the Golden Leaf Foundation, and $52,580 local funds from Commerce Park. Alderman Larry B. Harris confirmed the general timeframe for water/sewer infrastructure construction would be approximately April 2018. Alderman Harris stated NCDOT will begin work on the access road about the same time. Alderman Harris and Manager Settlemyer clarified that the water and sewer work would take approximately 8-9 months and the access road would take approximately 3-4 months. Alderman Harris thanked and recognized Director Anderson for the hard work she put into applying and administrating the grant and for all the work she has put into 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.

Town Manager Settlemyer presented the consent agenda to the Board of Aldermen.

A. Adoption of Minutes

Motion: *To adopt the minutes of January 4, 2018 (Agenda Session), and January 8, 2018(Regular Session).*

B. Proposal to award contract to audit accounts of the Town of Black Mountain for the July 1, 2017 – June 30, 2018 time period.

> ***Motion:*** *To approve terms of the contract for FY2017-18 auditing and financial reporting with Gould Killian CPA Group, P.A. of Asheville, NC in the amount of $25,400 as presented, and to authorize the mayor and manager to execute the agreement on behalf of the Town.*

C. Budget Amendment to Purchase Police Equipment (from restricted ABC distribution funds) **# FY2018-06**

Manager Settlemyer stated this budget amendment is for additional safety equipment for the Police Department and comes from restricted ABC distribution funds for this purpose.

> ***Motion:*** *To approve Budget Amendment #FY2018-06 as submitted, increasing the expenditure account 1010-5100-190 (ABC Distribution Expenditure) by $13,000 and increasing the revenue account 1000-2990-000 (Fund Balance Appropriated) by $13,000.*

D. Resolution of Support for Children and Friends Inc. to Request Grant Funding by Filing Application with SECU **#R-18-03**

Manager Settlemyer recalled the previous MOU signed by the Board in November 2017 and stated this resolution is to support Children and Friends filing an application with State Employees Credit Union for Grant Funding. Manager Settlemyer clarified that this resolution does not commit the Town to any funding and merely lays out what the previously signed MOU stated for purposes of applying for grant funding.

> **Motion:** *To adopt the resolution as presented.*

E. Text Amendment to the August 8, 2016 Board of Aldermen Regular Session Minutes

Manager Settlemyer recalled some debate over the sanitation contract and stated this motion has been derived to represent the intent of the Board of Aldermen.

> **Motion:** *To amend the August 8, 2016 Board of Aldermen Regular Session Minutes, Item 8B, Recommendation of Award of Solid Waste Contract to Waste-Pro USA, Inc., adding the following language to the minutes:*

The Black Mountain Board of Aldermen acknowledges and ratifies the current contract as negotiated by Town Manager Settlemyer pursuant to Board of Aldermen authorization and believes it accurately reflects the discussion from the August 8, 2016 Board of Aldermen meeting and is consistent with Aldermen Harris' motion.

There was no discussion by the Board.

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

Alderman Ryan Stone moved to approve consent item A-E as presented.

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

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 – NONE

8. NEW BUSINESS

A. Capital Project Ordinance Amendment (Watershed Restoration Capital Project Fund)

#O-18-01

Manager Settlemyer reminded everyone that a capital project fund was set up to address watershed restoration and stormwater runoff. Manager Settlemyer stated the project ordinance amendment is necessary to reflect staff receiving a $60,000 grant from the Land of Sky and a $5,000 Pigeon River grant for the continuation of this project. Manager Settlemyer stated the amendment also reflects $40,000 of the Town's matching funds and to and $15,000 which was leftover funds from the previous year. Manager Settlemyer stated the overall project equates to $100,000 to make stormwater improvements at the golf course parking lot, Black Mountain library and for a small pilot project on Church Street.

Alderman Larry B. Harris moved to approve capital project ordinance #O-18-01 for watershed restoration as presented.

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

B. Budget Amendment for Capital Project Ordinance #O-18-01, Watershed Restoration Capital Project Fund **# FY2018-07**

Manager Settlemyer stated this budget amendment is necessary to reflect the capital project ordinance amendment as discussed above.

Vice Mayor, Maggie Tuttle moved to approve Budget Amendment #FY2018-07 as submitted, increasing the revenue accounts, 6300-3700-705 (Land of Sky Grant) by $60,000, and 6300-3700-955 (Transfer from GF) by $20,000, and increasing the expenditure accounts, 6300-4200-040 (Prof Services) by $5,000 and 6300-4200-730 (Capital Outlay) by $75,000.

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

C. Resolution of the Town's Intent and Desire to Accept the Offer of the Hemphill Property for Use as a Town Park and Resolving Not to accept the 1.7 Acre Non-Contiguous Parcel **#R-18-04**

Manager Settlemyer stated this resolution is to acknowledge the intent to develop the Hemphill property as a park.

Attorney Sneed stated the Conservancy needs the commitment of the Board of Aldermen to develop the property as a town park in order to proceed with the project. Attorney Sneed recalled prior discussions regarding the cash value of the Hemphill Estate and stated the 1.7 acre, non-contiguous parcel would not be an asset to the Town as there is no access to it and it is very steep and unsuitable for use as a park. Manager Settlemyer stated discussions have begun with staff on the potential uses of the park. There was no further discussion by Board members.

Alderman Larry B. Harris moved to adopt Resolution #R-18-04 as presented.

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

9. PUBLIC HEARING -NONE

*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 – Attorney Ron Sneed advised the Board of Aldermen he is expecting to receive a judgment in the Watson case later this week.

B. Town Manager –Town Manager Settlemyer stated horses and grazing animals are allowed in 9 of the 12 zoning districts. He stated they are not allowed in CB (Central Business) UR-8 (Urban Residential) and Neighborhood Mixed Use. Manager Settlemyer stated the Planning Director presented information to the Planning Board regarding the proposed text amendment and conservation of open space. Manager Settlemyer stated the Planning Board decided not to take up the amendment for consideration and felt the current zoning ordinances are adequate.

Manager Settlemyer reminded the Board of Aldermen staff has received a letter from the Local Government Commission earlier today approving the financing the Foam and Fabric property.

Manager Settlemyer also discussed the stakeholder meeting with Asheville Design Center stating staff, representatives from the Black Mountain Greenways Commission, The Community Garden, Disc Golf, Black Mountain Recreation Commission, JM Teague Engineering, Black Mountain Fire Department, and Children and Friends met to discuss a comprehensive master plan for the area. Manager Settlemyer clarified funding is coming from private entities and the Greenways Foundation.

11. COMMUNICATION FROM MAYOR AND BOARD OF ALDERMEN

Vice Mayor Maggie Tuttle stated she attended the Annual Swannanoa Valley Dr. Martin Luther King Jr. Prayer Breakfast and encouraged citizens to watch the video of the speaker, George Logan, a native of Black Mountain, NC, and son of Wayne Logan and lifelong Black Mountain resident Lillian Logan. Vice Mayor Tuttle stated she felt his speech was relevant to issues in today's society and encouraged everyone to watch it. The Town will post a video to their social media page when the video is published. Mayor Collins and Alderman Harris agreed.

Alderman Ryan Stone gave a brief update of the January MPO meeting stating grant funding has been awarded for the downtown parking study which will begin soon. Alderman Stone stated he has also spoken with Cole Hood, Project Engineer with NCDOT, who stated they are still in the design process for the I-40 Blue Ridge Road Interchange and no design has been formalized yet for the interchange. Alderman Stone assured the public that multiple designs will be presented to the public for public input and opinion when they are completed. He stated survey work is being conducted.

Alderman Stone addressed citizen comments regarding a design for the proposed I40-Blue Ridge Road Interchange stating he has spoken with the NCDOT project engineer, Cole Hood, and stated there is no design at this time and said the project is still in the earliest phases. Alderman Stone advised the public that survey work is being conducted at this time. Alderman Stone stated there will be an opportunity for community input regarding the interchange once design(s) have been completed. Alderman Stone thanked everyone who came to the meeting to express their concerns for open space and grazing animals. Alderman Stone stated preserving open space is a challenge in town but cautioned there is a process that should be followed regarding text amendments and asked citizens to respect the process and allow the Planning Board to do its job.

Alderman Stone spoke of supporting the resolution to support Children and Friends Inc. to apply for grant funding and stated he believes there is an overwhelming need in the region, county and town for adequate child care facilities and thanked the Board of Aldermen for their fellow support of the resolution.

Mayor Collins addressed comments regarding open space in the town recalling a lifetime of memories of area farms and hay fields. Mayor Collins recalled a farm being located where the new hotel is being built today, a large hay field where the Montreat Recreation Center is today, lush pasture land where White Insurance, Cheshire Fitness, Jacobs Cottages, The Settings, Llama Vista, and now Sweet Birch are today. Mayor Collins stated he was the last person to use all those properties before they were sold and developed. Mayor Collins stated he is extremely aware of the importance of open space but also aware of property owner's rights and said most of them are getting elderly and retiring and they have a right to sell their property. Mayor Collins stated Highland Farms used to be a livestock farm, 9 South was also a livestock farm, Forest Hills development was the most beautiful farm in the town, Tudor Croft was a horse farm, Meadowbrook apartments used to be a large hay field and Cheshire was the site of the old Ager Farm. Mayor Collins stated he grew up here and has watched growth spread down highway 9 adding businesses like Bi-Lo, Ingles, Denny's and Wendy's. Mayor Collins stated things are not that fast paced but are steady and said development will continue as long as people are willing to move to this type of community with wonderful people, a great climate, and recreation opportunities. Mayor Collins said we shouldn't expect to stop growth but agreed proper management is necessary. Mayor Collins stated he has had numerous complaints filed against him on his horses and high hay fields and said not everyone wants horses next to their homes. Mayor Collins stated no one has been affected more by the loss of green spaces and pasture lands than him and said he was not upset over it because the property owners have paid taxes on their lands all their lives and now are doing what is best for their families.

12. ADJOURNMENT

There being no further business, Mayor Don Collins adjourned the meeting at 7:08 p.m.

ATTEST:

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Don Collins, Mayor

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Angela L. Reece, Town Clerk

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Matt Settlemyer, Town Manager