BLACK MOUNTAIN TOWN COUNCIL MINUTES

May 11, 2026 | Regular Session Agenda | Time: 6:00 PM

Town Hall Council Chambers | 160 Midland Avenue, Black Mountain, NC 28711

Black Mountain Town Council held their regular session agenda on Monday, May 11, 2026, at 6:00 PM in the Council Chambers of Town Hall, 160 Midland Avenue, Black Mountain, NC 28711.

1. CALL TO ORDER.

Mayor C. Michael Sobol called the meeting to order at 6:00 p.m. with the following members in attendance: Vice Mayor Archie Pertiller, Town Council Member Alice Berry, Town Council Member Doug Hay, Town Council Member Ryan Stone. *Note: Larry Harris was appointed by the Council after the meeting was called to order and then joined the meeting as a voting Council Member, following his oath of office, which made the number of members present 5.*

The following staff members were present: Craig Justus, Town Attorney; Richard Hicks, Interim Town Manager; Scott Buffkin, Interim Assistant Town Manager; Wesley Barker, Town Clerk; John Coffey, Fire Chief, Steve Parker, Police Chief; Jamey Matthews, Public Works Director; Michelle Kennedy, Planning Director; Jacob Guiot, Parks and Recreation Director; Chris Kuhn, Deputy Police Chief; Matt Begley, Budget Analyst; Chad Goins, Interim Project Manager.

Mayor Sobol led those in attendance in the pledge of allegiance and a moment of silence, then read the ethics statement.

2. ORGANIZATIONAL MEETING.

The Council then entered an Organizational Meeting.

2.A. Appointment to Fill the Vacant Seat on the Town Council

Former Town Council Member Pam King resigned from the Town Council effective April 24, 2026. This leaves a vacant seat on the Town Council.

The Town Charter states: SECTION 2.2. FILLING OF VACANCIES
If the elected mayor or an elected council member shall fail or refuse to be qualified, or if the holder of any elective office is unable to discharge the duties of such office, or if a vacancy shall otherwise occur in any elective office, such vacancy shall be filled by the remaining members of the council. In the event such vacancy occurs within 135 days of the next general election, the person appointed by the council to fill the vacancy shall serve the remainder of the unexpired term. Otherwise, a successor shall be elected at the next general election and the person appointed to fill the vacancy shall serve only until the elected successor takes office. The elected successor shall then serve the remainder of the

unexpired term.

Previously, when a vacancy occurred on the Council, the remaining Council members decided to advertise the vacant seat and invited interested citizens to apply for this vacant seat. The only three requirements for appointing an individual for a Council seat are that they must be 1) a registered voter in Buncombe County, 2) live in the municipal limits of Black Mountain, and 3) be 21 years of age or older. Once the applications were received, Council would review and, in an open meeting, the applicant would be chosen via ballot voting method, with the majority vote being the nominee of consideration to vote to approve for appointment.

The Town Council directed the Town Clerk to advertise for this vacancy and seek interested applicants, with the application period open from April 24th through May 6th, 2026. The following citizens submitted an application by the deadline of 5pm on May 6th, 2026 which were (in alphabetical order):

- Amanda Carter
- Larry Harris
- Shane Lunsford
- Lawrence Lytle
- Debra Norman
- John Richardson
- Michael Roberts
- Sharon Tabor

The Town Clerk provided voting ballots to the Council, and the Council proceeded to vote for the appointee to the vacant seat. The Town Clerk tallied the ballots and reported that there was a unanimous vote to appoint Larry Harris to the vacant Council seat.

2.B. Administration of Oath of Office to the Appointed Council Member (Larry Harris)

Larry Harris came forward and was issued the oath of office by the Town Clerk. After the oath of office was issued, Council Member Harris duly took his seat on the dais.

2.C. Appointment to Black Mountain Center for the Arts Board of Directors - Primary Member

Council Member Pam King resigned effective April 24, 2026. She was the Town Council's appointed delegate, serving as primary member of the Black Mountain Center for the Arts Board for the Town. Vice Mayor Archie Pertiller is the current appointed alternate to this Board. Council should consider another appointment of a member to serve on the Center for the Arts Board as regular member, or appoint an alternate member, if Vice Mayor Pertiller wishes to move from alternate to regular member. Their board meetings are held on the 4th Tuesday of the month at 5:30 pm. Some discussion ensued and Council Member Ryan Stone agreed to serve on the Center for the Arts Board as the primary member if someone would take over for him on the Land of Sky Regional Council Board.

Council Member Harris stated he would take over for Council Member Ryan Stone on the Land of Sky Regional Council Board of Directors.
Town Council Member Alice Berry made a motion to appoint Ryan Stone to the Center for the Arts Board as Primary Member, and to appoint Larry Harris to the Land of Sky Board of Directors in place of Ryan Stone. A vote of 5-0 in favor.

2.D. Appointment to French Broad River MPO Board of Directors - Alternate Member

Council Member Pam King resigned effective April 24, 2026. She was the Town Council's appointed alternate delegate on the French Broad River MPO Board of Directors. Vice Mayor Archie Pertiller is the current appointed regular member to this Board. Council should consider an alternate member appointment for the MPO Board of Directors who would attend if Vice Mayor Pertiller is unable to. Discussion ensued and Council Member Ryan Stone stated he would serve as alternate.
Vice Mayor Archie Pertiller made a motion to appoint Ryan Stone as alternate member to French Broad River MPO Board of Directors. A vote of 5-0 in favor.

3. PROCLAMATIONS, AWARDS, RECOGNITIONS, SPECIAL RESOLUTIONS.

3.A. Resolution Recognizing Pam King for her Service to the Town of Black Mountain

This resolution is to recognize Pam King for her service to the Town serving as Town Council Member from December 2020- April 2026.

Vice Mayor Archie Pertiller made a motion to approve the resolution recognizing Pam King for her service to the Town of Black Mountain as presented. A vote of 5-0 in favor.

A RESOLUTION OF THE TOWN COUNCIL RECOGNIZING PAM KING FOR HER SERVICE TO THE TOWN OF BLACK MOUNTAIN

RESOLUTION NO. # R-26-42

WHEREAS, Pam King faithfully served the citizens of the Town of Black Mountain as a member of the Town Council from December 2020 through April 2026; and

WHEREAS, during her tenure on the Town Council, Pam King demonstrated exceptional dedication to public service through her attention to detail, thoughtful consideration of issues, and thorough approach to governance; and

WHEREAS, Pam King consistently carried out her duties with care and professionalism, striving to make informed decisions that reflected the best interests and well-being of the residents, staff, and community of Black Mountain; and

WHEREAS, Pam King represented the Town admirably by serving on the Land of Sky Regional Council Board of Delegates, and the Black Mountain Center for the Arts Board of Directors; and

WHEREAS, Pam King holds the distinction of being the twelfth female to serve as a Town Council member since the incorporation of the Town of Black Mountain in 1893, representing an important milestone in the Town's civic history; and

WHEREAS, the Town Council wishes to formally recognize and express its sincere appreciation for Pam King's commitment, service, and contributions to the Town of Black Mountain and its citizens;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Black Mountain that the Council hereby extends its gratitude and appreciation to Pam King for her dedicated service and extends its best wishes to her in all future endeavors, and this resolution will be presented to Pam King, and a copy placed within the town records.

ADOPTED by the Black Mountain Town Council this 11th day of May 2026.

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3.B. Consideration of Resolution Asking HCA CEO Sam Hazen to Engage Directly with Stakeholders in Western NC.

This special resolution was approved by the Land of Sky Regional Council Board of Directors on March 25, 2026 and asks Mr. Sam Hazen, CEO of HCA, to come to Western NC and meet with elected officials, healthcare advocates, and other community leaders and be accountable for HCA's decisions at Mission Health and engage in a collaborative and transparent dialogue to develop a plan for long term, permanent improvement at Mission Hospital and throughout the Mission Health system. A copy of the resolution approved by the Land of Sky Regional Council (LOSRC) board is attached, as well as the draft of a resolution for the Town of Black Mountain Council to consider approval of which further emphasizes the LOSRC resolution. Council Member Larry Harris stated he would like to recuse himself from this vote as he sits on the Board of Directors for Mission Health. ***Town Council Member Alice Berry made a motion to recuse Council Member Larry Harris from this item due to his role on the Mission Health Board of Directors. A vote of 5-0 in favor.***

Town Council Member Ryan Stone made a motion to approve the resolution as presented. A vote of 5-0 in favor.

A RESOLUTION ASKING HCA CEO SAM HAZEN TO ENGAGE DIRECTLY WITH STAKEHOLDERS IN WESTERN NORTH CAROLINA

RESOLUTION NO. #R-26-41

WHEREAS, Mission Health, which includes Mission Hospital in Buncombe County and five satellite hospitals in Transylvania, Macon, Jackson, Mitchell, and McDowell Counties, is the healthcare backbone of Western North Carolina; and

WHEREAS, Mission Hospital is the only Level I trauma center west of Charlotte and only tertiary care hospital in the 18 westernmost counties; and

WHEREAS, for profit, publicly-traded HCA bought nonprofit Mission Health in 2019 and quickly made significant changes, including reducing Mission Hospital staff by the hundreds, closing primary care practices, and reducing many services previously offered; and

WHEREAS, hundreds of long-serving and highly skilled nurses and physicians, as well as numerous physician practices, have left Mission Health and especially Mission Hospital; and

WHEREAS, due to these staffing reductions and other management decisions, Mission Hospital has been cited by the federal Centers for Medicare and Medicaid Services (CMS) for Immediate Jeopardy in 2021, 2024, 2025, and 2026; and

WHEREAS, Mission Hospital was found to have violated the federal Emergency Medical Treatment and Labor Act in 2024 and 2025; and

WHEREAS, other hospitals in the Mission Health system have also experienced regulatory censure, including Mission McDowell Hospital and Blue Ridge Regional Hospital in Spruce Pine being cited for Immediate Jeopardy in 2021 and 2023, respectively; and

WHEREAS, HCA has failed to provide sufficient resources and support for its staff, has failed to act on recommendations from nurses, and has created a culture in which doctors, nurses and staff are hesitant to raise quality of care concerns with management; and

WHEREAS, Mr. Sam Hazen, CEO of HCA, said at the time of purchase: "We are excited that Mission Health chose to be part of the HCA Healthcare family. We look forward to investing in western North Carolina and ensuring Mission Health's 133-year tradition of caring continues for years to come. This is a model partnership and one we hope will be replicated to benefit many similar communities."; and

WHEREAS, due to HCA's management, Mission Health's tradition of caring has been severely impaired; and

WHEREAS, HCA leaders, including Mission CEO Greg Lowe, have not met with community members at public forums or meaningfully engaged community stakeholders to discuss conditions at Mission Hospital; and

WHEREAS, HCA and Mission Hospital are not transparent or accountable to our community; and

WHEREAS, the Land of Sky Regional Council Board of Delegates adopted this resolution on March 25, 2026; and

WHEREAS, the Town of Black Mountain Town Council desires to join regional partners in expressing these concerns and advocating for the health and well-being of its residents;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Black Mountain, North Carolina, as follows:

1. The Town of Black Mountain hereby affirms and adopts the intent of the resolution approved by the Land of Sky Regional Council Board of Delegates on March 25, 2026.
2. The Town Council calls on Mr. Sam Hazen, as the leader of HCA, to come to Western North Carolina and meet with elected officials, healthcare advocates, and other community leaders, be accountable for HCA's decisions at Mission Health, and engage in a collaborative and transparent dialogue to develop a plan for long term, permanent improvement at Mission Hospital and throughout the Mission Health system.

ADOPTED this 11th day of May, 2026.

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4. COMMUNICATIONS FROM STAFF, COUNCILS, COMMISSIONS & AGENCIES.

4.A. Introduction of Jacob Guiot, Recreation & Parks Director. Interim Town Manager Richard Hicks introduced Jacob Guiot, who is the new Recreation & Parks Director.

4.B. Presentation on Town Capital Projects and Grants. Council has requested an update from staff on the status of the Town's capital projects and grants. These include all Helene recovery projects and mitigation projects among others. Town Budget Analyst Matt Begley gave a presentation and answered questions from Town Council on the capital projects and grants. Information included data on the project area, project status, cost, funding status and funding agencies being used and next steps. On hold, future and completed projects were also briefly discussed. ***A list of the projects and grants discussed is included at the end of these minutes as Appendix A.***

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4.C. Update on Water Use Restrictions. With the recent emphasis on the Statewide drought and burn ban, staff thought it would be appropriate to provide an update on the Town's ordinances and regulations regarding potential water use restrictions. Interim Manager Hicks reviewed Chapter 48, Article III, Section 48-194 through 48-196 of the Town of Black Mountain Code of Ordinances, which provides the framework for the adoption of water use restrictions. Further, the Town's Water Shortage Response Plan was reviewed that has been approved by the North Carolina Division of Public Water Supply. The water supply plan ties the Town's restrictions to the same as directed by the City of Asheville, since the Town is a wholesale customer of the City of Asheville. There currently are no water use restrictions for Town of Black Mountain water customers.

5. CITIZEN COMMENTS.

6. COMMUNICATION FROM MAYOR AND TOWN COUNCIL.

Mayor Sobol invited citizens to the Black Mountain Library on Wednesday, May 19th at 6pm for a community meeting to discuss bears, and also invited citizens to the Library on Wednesday, May 27th to discuss AI.

7. COMMUNICATION FROM TOWN ATTORNEY & TOWN MANAGER.

It was stated that a Closed Session needed to be added at the end of the agenda pursuant to 143-318.11 (a)(3): to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. ***Town Council Member Ryan Stone made a motion to add Closed Session to the end of the agenda as recommended. A vote of 5-0 in favor.***

8. CONSENT AGENDA

8.A. Adoption of Meeting Minutes from March 5, 9, 12 & April 1, 9, 13, 2026.

Town Council Member Alice Berry made a motion to approve the meeting minutes from March 5, 9, 12 and April 1, 9, 13, 2026 as presented. A vote of 5-0 in favor.

8.B. Monthly Tax Collector Report.

Town Council Member Alice Berry made a motion to approve the monthly tax collector report as presented. A vote of 5-0 in favor.

8.C. Consideration of Resolution Repealing Resolution No. R-25-103 Entitled "A Resolution to Amend the Fiscal Year 2025-2026 Budget for Golf Course Bridge Repairs and Cart Path Repairs."

This item is to repeal Resolution No. R-25-103 Entitled "A Resolution to Amend the Fiscal Year 2025-2026 Budget for Golf Course Bridge Repairs and Cart Path Repairs" that was approved on November 1, 2025. The reason for this repeal is that these allocations were based on projections of expected obligated funding for the Golf Course Irrigation FEMA Public Assistance. The Town has since received the reimbursement for the golf course irrigation project and allocated those funds to a Capital Project Ordinance for the golf cart bridges per Resolution No. R-26-39 approved April 13, 2026. By repealing this resolution, the duplicative funding for the project can be returned to the Helene fund balance.

Town Council Member Alice Berry made a motion to approve the resolution repealing Resolution No. R-25-103 as recommended. A vote of 5-0 in favor.

A RESOLUTION REPEALING RESOLUTION NO. R-25-103 ENTITLED "A RESOLUTION TO AMEND THE FISCAL YEAR 2025-2026 BUDGET FOR GOLF COURSE BRIDGE REPAIRS AND CART PATH REPAIRS"

RESOLUTION NO. # R-26-45

WHEREAS, on November 1, 2025, at a special called Town Council work session meeting, Town Council approved Resolution No. R-25-103, entitled "A Resolution to Amend the Fiscal Year 2025-2026 Budget for Golf Course Cart Bridge and Cart Path Repairs"; and

WHEREAS, these allocations were based on projections of expected obligated funding for the Golf Course Irrigation FEMA Public Assistance; and

WHEREAS, the Town has since received the reimbursement for the golf course irrigation project and allocated those funds to a Capital Project Ordinance for the golf course cart bridges per resolution R-26-39 approved April 13, 2026; and

WHEREAS, the Town Council wishes to return the duplicative funding for the project to the fund balance in the Helene Fund.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BLACK MOUNTAIN:

1. That Resolution No. R-25-103, adopted November 1, 2025, is hereby repealed.

Adopted this the 11th day of May 2026.

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8.D. Resolution Approving the Purchase of a Conex Box for Evidence Storage and Armory.

Due to structural instability at the Town of Black Mountain's public safety building, public safety personnel have been displaced and require temporary facilities for workspace and storage. While multiple rental options were considered, Town staff identified a more cost-effective solution through the purchase of a Conex box to be used for evidence and Police Department armory storage. The total estimated cost for purchase, transport, and necessary upfit is $11,000, which can be accommodated within previously allocated funds for temporary facilities. The proposed resolution authorizes the Town Manager, or designee, to proceed with the purchase and associated arrangements.

Town Council Member Alice Berry made a motion to approve the following resolution. A vote of 5-0 in favor.

A RESOLUTION APPROVING THE PURCHASE OF A CONEX BOX FOR EVIDENCE STORAGE AND ARMORY

RESOLUTION NO. #: R-26-43

WHEREAS, Town of Black Mountain public safety personnel have been displaced due to structural instability of the public safety building; and

WHEREAS, public safety departments require temporary facilities for workspaces and storage; and

WHEREAS, the Town received multiple bids for renting temporary facilities for public safety purposes; and

WHEREAS, Town staff have found a more cost-effective alternative for purchasing storage for evidence and the Police Department armory; and

WHEREAS, the purchase, transport, and upfit costs are estimated to total $11,000; and

WHEREAS, the Town has previously allocated funding for the acquisition of temporary facilities which would adequately meet these needs.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BLACK MOUNTAIN:

1. That the Town Manager, or assign, is authorized to purchase a Conex Box for public safety use and make further arrangements for transport and upfit to meet the needs of public safety evidence and armory storage.

Adopted this the 11th day of May 2026.

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8.E. Resolution Authorizing Agreement with Anchor QEA of NC, PLLC for Professional Engineering & Architectural Services

Although the Town had an existing Master Service Agreement with Anchor QEA, Town staff and staff at Anchor QEA have drafted a new Master Service Agreement to clarify the relationship between the two organizations. Task Orders for the Flat Creek Greenway Project and the North Oconeechee Sinkhole will now fall under this Master Service Agreement. A copy of this agreement is attached in this packet. Council has been asked to approve the resolution authorizing the agreement with Anchor QEA of NC for the Professional Engineering & Architectural Services. Some discussed ensued. ***Town Council***

Member Alice Berry made a motion to request presentation from Anchor QEA of NC at a later meeting before moving forward with the agreement. A vote of 5-0 in favor.

Council then took a short recess at 7:45 p.m.

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9. PUBLIC HEARING.

Town Council Member Alice Berry made a motion to open the public hearing on data processing centers. A vote of 5-0 in favor. The time was 7:55 p.m. *No public comment was provided.* ***Town Council Member Alice Berry then made a motion to close the public hearing. A vote of 5-0 in favor.***

9.A. Public Hearing to Amend Chapter 1, Section 1.2.3, Definitions; Chapter 4, Section 4.7.14, Table of Uses by Zoning District; and Chapter 5, Section 5.19, Data Processing Centers, to add a definition, use, and requirements for data processing centers.

Staff discussion then took place. Planning Director Michelle Kennedy stated that multiple towns and cities across the state are beginning to get applications for data processing centers. There are currently no definitions or requirements for data processing centers in the Town's Code. The proposed amendments presented will define a data processing center and will allow for requirements to be put in place. The goal is to have the ordinance in place before an application for a date processing center comes in. Council Member Alice Berry discussed the proposed text around signage offering some suggested amendments. Additionally, Council Member Hay asked staff to draft possible language for a moratorium on data centers. ***Town Council Member Alice Berry made a motion to approve the following ordinance text amendments and that the proposed changes are consistent with current state regulations and find that the recommendation promotes general welfare and in keeping with good zoning practice.. A vote of 5-0 in favor.***

AN ORDINANCE TO AMEND CHAPTER 1, SECTION 1.2.3, DEFINITIONS; CHAPTER 4, SECTION 4.7.14, TABLE OF USES BY ZONING DISTRICT; AND CHAPTER 5, SECTION 5.20, DATA PROCESSING CENTERS, OF THE TOWN OF BLACK MOUNTAIN LAND USE CODE TO ADD A DEFINITION, USE, AND REQUIREMENTS FOR DATA PROCESSING CENTERS

ORDINANCE NO. # O-26-11

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 Town Council to review the text of the Land Use Code in the years since its adoption to address any residual inconsistencies in the text and to look for opportunities to clarify or improve text; and

WHEREAS, upon recommendation of the Planning Board, the following text amendments are consistent with the comprehensive plan and reasonable in the public interest because they support community character and enhance safety and support manufacturing, including small scale; and

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

WHEREAS, the Town Council finds that the land use code text amendments are consistent with the comprehensive plan and are reasonable and in the public interest because of the following findings:

- Supports community character and enhances safety (Goal 2.4)
- Supports manufacturing, including small scale (Goal 4.5)

WHEREAS, after notice duly given, a public hearing was held on May 11, 2026, as part of the regularly scheduled Town Council meeting at 6:00 p.m. in the Council Room of Town Hall, 160 Midland Avenue.

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

Chapter 1

Section 1.2.3 Definitions.

Data processing facility: A building, dedicated space within a building, or group of structures used to house a group of computer systems and associated components, such as telecommunications and data processing systems, to be used for the remote storage, processing, or distribution of large amounts of data. Examples of such data include, but are not limited to, computationally intensive applications such as artificial intelligence, blockchain technology, cryptocurrency mining, weather modeling, genome sequencing, etc. Such facilities may also include air handlers, power generators, water cooling and storage facilities, utility substations, and other associated utility infrastructure to support operations.
May also be referred to as a "Data Center". This definition shall not apply to data processing facilities that are accessory or incidental to a primary use.

BE IT FURTHER RESOLVED that Chapter 4, Section 4.7.14, Table of uses by zoning district, of the Town of Black Mountain Land Use Code, be amended with the following (additions are underlined in bold and deletions are shown in red struck text):

Chapter 4

Section 4.7.14 Table of uses by zoning district.

Category	Uses	CR-1	SR-2	TR-4	UR-8	NMU-8	OI-6	CBD	HB-8	LI-8	HI-0
Industrial	**Data Processi-ng Facility**										**A**

BE IT FURTHER RESOLVED that Chapter 5, Section 5.19, Data processing facilities, of the Town of Black Mountain Land Use Code, be amended with the following (additions are underlined in bold and deletions are shown in red struck text):

Chapter 5

Section 5.19 Data processing facilities.

5.19.1 – Purpose.

To regulate data processing facilities and data center buildings, including for the use of cryptocurrency mining.

5.19.2 – General provisions.

A. Height restrictions. Systems, equipment, and structures (excluding electric transmission lines and utility poles) will not exceed 35 feet in height, including rooftop mechanical equipment.

B. Use separation. All equipment and structures will be a minimum of fifty feet from the boundary of the facility as delineated on a site plan, and one-quarter mile (1,320 feet) from any place of worship, school, or residence.

C. Submittal requirements.
   - **a. A narrative describing the proposed data processing facility including an overview of the project;**
   - **b. A site plan showing the proposed location and dimensions of all equipment, existing and proposed structures, screening, fencing, property lines, access roads, turnout locations, ancillary equipment, and the location of any place of worship, school, or residence within one-quarter mile (1,320 feet) of the perimeter of the facility;**
   - **c. A study prepared by an acoustical engineer that describes the anticipated noise level of the facility and any proposed mitigation efforts such as sound walls, baffles, ventilation, silencers, additional separation from surrounding uses, etc.;**
   - **d. Other relevant studies, reports, certifications, and approvals as may**

be reasonably requested by the Town of Black Mountain to ensure compliance with this ordinance; and

e. Signature of the property owner(s) and the owner/operator(s) of the facility (if different than the property owner).

D. Structural requirements.

a. The facility will meet all requirements of the North Carolina Building Code.

b. Any electric wiring will be located underground, except where wiring is brought together for interconnection to system components and/or the local utility power grid.

E. Access.

All roads providing access to the data processing facility will be of sufficient width to accommodate emergency vehicle access as determined by the Town of Black Mountain Fire Marshal.

F. Security fencing.

Security fencing of a minimum of eight feet in height will be provided along the entire perimeter of the data processing facility.

G. Screening.

The entire perimeter of the data processing facility will be screened from adjoining properties by a wall that is at least eight feet high or evergreen vegetation growing to a height of eight feet high wo within three years.

H. Utility approval.

No grid-connected data processing system will be installed until evidence has been provided by the operator that installation of the system has been approved by the electric utility provider and by the water utility provider. Off-grid systems will be exempt from this requirement.

I. Signage.

No signage will be permitted for data processing facilities, with the exception of one (1) sign, per frontage, not to exceed 32 square feet each, that displays the name, address, and emergency contact information of the facility as well as appropriate warning signs and will otherwise comply with the Town's sign ordinance.

J. Noise.

The amount of noise generated by the data processing facility will not exceed 55 decibels at any property line between the hours of 8:00 a.m. to 7:00 p.m. and will not exceed 50 decibels at any property line between the hours of 7:00 p.m. to 8:00 a.m.

K. Abandonment.

It is the responsibility of the property owner to notify the Town of Black

<u>Mountain and to remove all obsolete or unused systems. Any structure or equipment associated with the data processing facility that is not operated for a continuous period of one hundred and eighty (180) days will be considered abandoned, and the Town may require the owner to remove such structures and equipment within 90 days after notice from the Town. If the abandoned structure or equipment is not removed within 90 days, the Town may remove it and recover its costs from the owner. If the owner of the abandoned structure or equipment cannot be located or is no longer in business, the requirements of this section will be the responsibility of the landowner on whose property the structure or equipment is located.</u>

READ, APPROVED AND ADOPTED, by a vote of **<u>5 to 0</u>** on this the 11th day of May 2026.

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10. CITIZEN COMMENTS.

11. UNFINISHED BUSINESS – NONE.

12. NEW BUSINESS.

12.A. Review of Electronic Payments & Associated Fees and Consideration of Policy.

Greta Gibson, Customer Service & Revenue Supervisor, gave a presentation to the Council. The following Town Departments currently accept electronic payments through the use of several vendors. For Planning and Development, they use GovWell and the fees go straight to GovWell without passing through the Town's accounts. For the Pool and Special Events for the Police Department, they use Square Plus. The Town is currently absorbing the merchant processing fees. For the month of July, 2025, the Town absorbed just over $570 in fees. Parks and Recreation uses RecDesk and the Town absorbs the fees. For the month of July, 2025, the Town absorbed just over $377 in fees. The Golf Course uses GolfNow and the Town absorbs the merchant processing fees. For the month of July, 2025, the Town absorbed just over $1,712 in fees. The Town's Utilities Department, Fire and Police use Tyler/Encode and Cognito and the Town absorbs the fees. For the month of July, 2025, the Town absorbed just over $4,052 in fees and from July 1, 2025 through January 31, 2026, the Town had absorbed just over $28,352 in fees. Based on the current fees, the Town will more than likely absorb more than $50,000/year in electronic payment fees. This is a benefit that is only provided to people that choose to pay by debit or credit card, but the cost is borne by all of the ratepayers and taxpayers. Staff is recommending that the Town change its current policy and transfer the fees to the consume, and to create an official policy indicating such. Interim Manager Hicks recommends that Town Council authorize staff to proceed with the creation of an Electronic Payment Policy and associated fees, which will be brought back to Council for formal approval at the June meeting.

Town Council Member Alice Berry made a motion to authorize staff to proceed with creation of an Electronic Payment Policy and associated fees and present a draft to the Council at the June 8,

2026 meeting. A vote of 5-0 in favor.

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12.B. Presentation and Consideration of Street Dedication Application & Policy.

Planning Director Michelle Kennedy stated the Planning Department has developed a Street Dedication Application & Policy. The Council has delayed action on the Brookhaven Drive acceptance, pending the approval of the new Application & Policy. Some discussion ensued among Council and staff. ***Town Council Member Alice Berry made a motion to approve the Street Dedication Application & Policy with the amendment stating, "the final determination is made by Town Council." A vote of 5-0 in favor.***

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12.C. Consideration of naming the Lake Tomahawk Tennis Courts after Judy Eubanks.

The Black Mountain Tennis Association has asked to name the Lake Tomahawk Tennis Courts the "Judy Eubanks Tennis Courts" for all the hard work Judy Eubanks has done in Black Mountain for tennis. She retired from the Tennis Association this year, and the Association would like to pay Judy respect for all she has done by naming the courts after her. A sign has been created and if the Council approves it, the Association will work with Recreation & Parks to get the sign installed. ***Vice Mayor Archie Pertiller made a motion to approve naming the Lake Tomahawk Tennis Courts after Judy Eubanks as recommended. A vote of 5-0 in favor.***

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12.D. Acceptance of Water Line Infrastructure within Sweet Birch Commons for Public (Town) Ownership & Maintenance.

This item is for Town Council to consider acceptance of ownership and maintenance responsibility of the completed water line infrastructure located within the Sweet Birch Commons Subdivision. The water system has been designed and constructed in accordance with all applicable municipal standards, engineering specifications, and regulatory requirements. All required inspections have been successfully completed, and the infrastructure has been assessed to ensure proper operation, safety, and compliance. Staff recommends that Council approve the acceptance of the water line infrastructure, thereby transferring ownership and ongoing maintenance responsibilities to the municipality. Discussion ensued among Council members, staff, and the attorney. **The item was tabled to let the attorney review. No action taken.**

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12.E. Lower Watershed Dam - Repair Options Discussion.

The engineering firm, S&ME, hired by the Town to design the repairs to the Lower Watershed Dam has suggested that the Town may be able to breach the dam as a less costly alternative. Their summation of the dam breach alternative is outlined in the attachment to this agenda item. Staff would like directions from Town Council on whether to pursue this alternative as a preferred method of repair with FEMA liaisons. A lengthy discussion ensued and the consensus was to not do anything with this repair, but to check on any liabilities with engineers that may exist by pursuing this method.

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12.F. 2026 Audit Contract and Audit Engagement Letter.

This item requests board approval and authorization of Town Manager & Mayor to execute the audit contract of accounts and engagement letter for the fiscal year ending June 30, 2026. At the end of each fiscal year, General Statue 159-34 requires the Town to have a third-party independent audit performed.

Attached is the standard Contract to Audit Accounts (LGC-205 Form A) and the Town of Black Mountain Fiscal Year 2026 Audit Engagement Letter, as provided by Gould Killian, CPA Group, P.A. The audit contract fee not to exceed amount is $57,900, which includes:

Primary Government Unit	Town of Black Mountain
Audit Fee (financial and compliance if applicable)	$ 41,400
Fee per Major Program (if not included above)	$ 4,500 (NTE amount includes 2 major programs)
Additional Fees Not Included Above (if applicable):	
Financial Statement Preparation (incl. notes and RSI)	$ 7,500
All Other Non-Attest Services	$
TOTAL AMOUNT NOT TO EXCEED	$ 57,900
Discretely Presented Component Unit	
Audit Fee (financial and compliance if applicable)	$
Fee per Major Program (if not included above)	$
Additional Fees Not Included Above (if applicable):	
Financial Statement Preparation (incl. notes and RSI)	$
All Other Non-Attest Services	$
TOTAL AMOUNT NOT TO EXCEED	$

The Local Government Commission (LGC) must approve the contract prior to the audit work beginning.

Town Council Member Alice Berry made a motion to approve the 2026 Audit Contract and Audit Engagement Letter as recommended. A vote of 5-0 in favor.

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13. CLOSED SESSION.

The Town Council would now enter into closed session pursuant to N.C.G.S. § 143-318.11 (a)(3): To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. ***Council Member Larry Harris made a motion to enter into Closed Session pursuant to NCGS 143-318.11 (a)(3). A vote of 5-0 in favor. The time was 9:08 p.m. The Council returned from Closed Session at 9:18 p.m.***

14. ADJOURNMENT.

With no further business to be discussed, Mayor C. Michael Sobol adjourned the meeting.

C Michael Sobol Mayor

C. Michael Sobol, Mayor

Attest: ______________________

Wesley M. Barker, Town Clerk