



TOWN OF BLACK MOUNTAIN

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

Date: March 11, 2019

Time: 6:00 p.m.

Regular Session Minutes

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

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

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

*Should you need other assistance or accommodation for this meeting, please contact
Town Clerk Angela Reece at 419-9310, or by email at townclerk@townofblackmountain.org
(828) 419-9300 / TDD (800) 735-2962*

1. CALL TO ORDER

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

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

The following staff members were present:

Josh Harrold, Town Manager
Dean Luebbe, Assistant Town Manager/Finance Director
Angela Reece, Town Clerk
Ron Sneed, Town Attorney
John Wilson, Deputy Fire Chief
Rob Austin, Lieutenant

Mayor Don Collins welcomed everyone and led the Pledge of Allegiance. Pastor Brent Bolick of Mountain View 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.

Mayor Collins reminded citizens to turn off their cell phones and to remain quiet during meetings so everyone could hear.

2. PROCLAMATION AND AWARD RECOGNITION

- A. Litter Sweep Proclamation - Mayor Collins proclaimed April 6, 2019 as Spring Litter Sweep in the Town of Black Mountain. Mayor Collins encouraged citizens to take part in the town wide cleanup.
- B. Teacher of the Year Proclamation - Mayor Collins proclaimed March 11, 2019 as Heather Martin Day in the Town of Black Mountain. Mrs. Martin was recognized for receiving the 2019 Teacher of the Year Award from McDowell High School.

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.*

Elaine Loutzenheiser of Black Mountain addressed the Board of Aldermen requesting consideration of Padgettown Road repairs to be included in the FY2019-20 budget.

Susan Leive of Black Mountain addressed the Board of Aldermen regarding STR's (short term rentals) in town. Mrs. Leive stated the exact number of STR's in Black Mountain are unknown and said her concerns were for safety, equity and preserving neighborhood character and asked the Board of Aldermen to task the Planning Board to look at the STR issue and the potential impacts it could have on the town.

4. COMMUNICATIONS FROM BOARDS, COMMISSIONS & AGENCIES

A. Black Mountain Beautification Committee Annual Report – Libba Fairleigh

Libba Fairleigh presented the Annual Black Mountain Beautification Report to the Board of Aldermen which is attached to and made part of these minutes. Mayor Collins and the Board of Aldermen thanked the Beautification Committee for their hard work in making the town a beautiful place.

B. Black Mountain Public Works Annual Water Report- Jamey Matthews, Director
Public Works Director Jamey Matthews presented the annual Black Mountain Public Works Water Report which is attached to and made part of these minutes.

C. Black Mountain Pickle Ball Club– Jerry Bryson

Jerry Bryson presented a video presentation to the Board of Aldermen regarding pickle ball as a sport in Black Mountain asking the Board to consider funding a dedicated area for the Black Mountain Pickle Ball club to play.

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

A. Adoption of Minutes

Motion: *To adopt the minutes of February 2, 2019 (Special Call Meeting), February 7, 2019 (Agenda Session), February 7, 2019 (Closed Session), February 11, 2019 (Regular Session), and February 21, 2019 (Special Call Meeting).*

B. Budget Amendment for Flat Creek Greenway Repairs

#FY2019-13

Motion: *To approve Budget Amendment #FY2019-13 as submitted increasing expense account 1010-5400-040 (Professional Services) for \$5,100 and account 1010-5400-730 (Capital Outlay) by \$15,735 and increasing revenue account 1000-3905-900 (Fund Balance Appropriated) by \$20,835.*

Manager Harrold stated this amendment is necessary to begin the repairs and paving to the Flat Creek Greenway.

C. Budget Amendment for HR Attorney Services Provided (Roberts & Stevens) #FY2019-14

Motion: *To approve Budget Amendment #FY2019-14 as submitted increasing expense account 1000-4100-040 (Professional Services) for \$14,000 and increasing revenue account 1000-3905-900 (Fund Balance Appropriated) by \$14,000*

D. Budget Amendment for Swannanoa River Enhancements to Veterans Park #FY2019-15

Motion: *To approve Budget Amendment #FY2019-15 as submitted increasing expense account 1010-5400-040 (Professional Services) for \$33,000 and increasing revenue accounts 1010-3366-300 (Pigeon River Grant – Swannanoa River Enhancements) by \$28,000 and 1000-3905-900 (Fund Balance Appropriated) by \$5,000.*

Manager Harrold stated this amendment is necessary to begin the engineering to prepare for streambank restoration in Veterans Park.

E. Budget Amendment for Insurance Settlement Police Vehicle

#FY2019-16

Motion: *To approve Budget Amendment #FY2019-16 as submitted, increasing the expense accounts, 1010-5100-170 (M & R Auto) by \$8,215 and the revenue account, 1000-3840-800 (Insurance Settlements) by \$8,215.*

Manager Harrold stated this amendment is necessary to reflect an insurance settlement awarded to the Town resulting from damage to a police vehicle.

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- F. Call for Public Hearing for Text Amendments to Definitions Section (Bed and Breakfast Homes and Inns) **#O-19-06**

Motion: *To call for the public hearing for text amendments to definitions to be held on Monday, April 8, 2019 at 6:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 160 Midland Avenue.*

Manager Harrold stated this amendment has been applied for by an individual in the community asking for amendments to this section.

- G. Authorizing Signer to Sign Payroll and Accounts Payable Checks **#R-19-05**

Motion: *To adopt Resolution #R-19-05 as presented.*

Alderman Larry B. Harris moved to approve consent items A-G as presented. The motion was approved by a vote of 5-0.

6. CITIZEN COMMENTS

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

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

There were no citizen comments.

7. UNFINISHED BUSINESS - NONE

8. NEW BUSINESS

- A. Selection of Accounting Firm to Conduct FY19 Audit

Manager Harrold stated the Town has utilized Gould Killian for a number of years and said the Town has received three proposals, Gould Killian, Mauldin Jenkins and Martin Starnes. Manager Harrold stated Mauldin & Jenkins was the lowest bid at \$21,000 followed by Martin Starnes at \$24,000 then Gould Killian at \$27,000. Manager Harrold and Assistant Town Manager Dean Luebbe stated their recommendation would be Mauldin & Jenkins. Alderman Larry B. Harris stated it is a healthy practice to rotate auditor services every few years and said he was in favor.

Vice Mayor Maggie Tuttle moved to approve terms of the contract for the FY18-19 auditing and financial reporting with Mauldin & Jenkins, LLC of Atlanta, GA in the amount of \$21,000 as presented, and to authorize the Mayor and Town Manager to execute the agreement on behalf of the Town. For audit years FY20 and FY21, the firm commits to provide these services for the not to exceed amounts of \$21,500 and 22,500 respectively. The motion was approved by a vote of 5-0.

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B. Property Inquiry, 206 Sutton Ave.

Manager Harrold stated the Town has received an inquiry regarding a small parcel (15'x50') of town owned property at 206 Sutton Ave. from Dennis Harvey. Mr. Harvey addressed the Board of Aldermen and stated he would like to purchase the property to enhance his business by placing chairs and tables in the space for patrons. Aldermen Larry B. Harris stated he feels there is always a reservation of selling public property and stated he was personally not inclined to sell the property. Alderman Harris encouraged Mr. Harvey to work with staff for any issues of tree trimming of the trees on the property in question. Alderman Carlos Showers concurred with Alderman Harris. The Board took no action regarding this inquiry.

C. 2019 Local Government General Records Retention & Disposition Schedule

Manager Harrold stated the NC Department of Cultural and Natural Resources has revised their schedule. The Town currently disposes of records according to this schedule and will need to adopt the amended schedule.

***Alderman Larry B. Harris moved to approve as presented.
The motion was approved by a vote of 5-0.***

D. I-40 Blue Ridge Road Interchange Design

Steve Cannon, Division Project Development Engineer with NCDOT presented the I-4409 Proposed Blue Ridge Road Interchange and Blue Ridge Road/ NC 9 Intersection Improvements presentation to the Board of Aldermen which is made part of and included in these minutes. Mr. Cannon discussed the feedback from the public input meetings and stated the majority of public comments indicated a preference for Alternate Design #2, citing less impacts and navigability. Mr. Clark stated Alternate Design #3 was the second choice. Mr. Cannon stated once the Board chooses their preferred design further engineering will be conducted to produce a final design. Board members discussed safety of roundabouts and inquired regarding the stop light at the US Highway 70/Blue Ridge Road intersection. Mr. Cannon stated the intersection will have a designated left turn lane onto Highway 70 for safety. Mr. Cannon stated this project is now slated for construction in 2022 due to funding. Alderman Larry B. Harris stated it was significant to him that the public comments aligned with Alternate Design #2 and said he supports their wishes and will endorse this design.

Alderman Ryan Stone inquired regarding sidewalk and pedestrian improvements within this project. Mr. Cannon stated the NCDOT will replace existing sidewalks at 100% cost and will partner with the Town to include sidewalks at 80/20 matching percentage. Mr. Cannon stated this project would cost the Town approximately \$20,000 to \$30,000 to include sidewalks and would need to be approved through a municipal agreement which will be included in the final design. Alderman Stone stated this is not an opportunity to pass up to expand our pedestrian services. Mayor Collins and fellow board members agreed.

Alderman Larry B. Harris moved to accept Alternate Design #2 including pedestrian and bicycle infrastructure.

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

The video presentation may be viewed by visiting the [Town's website](#) and selecting the video corresponding to this meeting. The presentation begins at 1:08 in the video.

E. Budget Amendment for Contract Services (Benchmark Planning)

#FY2019-17

Manager Harrold stated the intent of the budgeted funding was to hire someone to assist the building inspector and to prepare for succession planning in the future. Manager Harrold stated it has proven difficult to find a qualified individual for this amount of funding and said he recommended utilizing this funding for code enforcement to assist planning staff during the busy spring time. Manager Harrold stated he will be recommending additional funding to hire a part time building inspector in the new budget. Alderman Ryan Stone inquired if hiring outside code enforcement was absolutely necessary to assist planning staff at this time. Manager Harrold stated staff could get by without it but said it would help. Alderman Stone stated he favors succession planning and supports a part time building inspector.

Alderman Carlos Showers to approve Budget Amendment #FY2019-17 as submitted increasing expense account 1010-5400-040 (Professional Services) for \$10,000 and reducing expense account 1010-5400-021 (Part Time Salaries) by \$10,000.

The motion was approved by a vote of 4-1 with Alderman Stone voting against.

F. Black Mountain Ave. Sidewalk

Manager Harrold recalled discussions in the agenda meeting regarding the cost to construct sidewalks on Black Mountain Avenue stating the rough estimate is approximately \$51,000 without a curb and with a curb would be \$61,000. Manager Harrold stated the project could begin as soon as funds are allocated and weather permits pending Board approval. Alderman Carlos Showers confirmed the sidewalk would be installed on the less invasive side of the road and would tie into the sidewalk section already in place across the bridge to the new hotel. Alderman Larry B. Harris stated he was in favor of proceeding with sidewalks in that area to improve and link all of downtown together. The board directed Manager Harrold to bring back estimates for approval.

G. Cheshire Lighting Contract

Attorney Ron Sneed stated he has prepared an agreement to provide lighting in Cheshire only to the extent that would be provided elsewhere in town which is a light at each intersection and a light every 600 feet. The agreement is attached to and made part of these minutes.

Vice Mayor Maggie Tuttle moved to approve the Cheshire Lighting Contract as presented.

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

H. Employee Water Benefit

Manager Harrold address the Board of Aldermen stating he became aware of a situation where the town may be operating outside its authority by offering free water to 16 employees who live within town limits and one non-employee. Manager Harrold offered a solution to provide this benefit in an equitable manner to all full time employees by allocating a \$20.52 raise. Manager Harrold stated the cost would be \$21,125. Manager Harrold confirmed the employees receiving free water were paying MSD sewer fees. Vice Mayor Tuttle inquired how long this benefit has been given in this manner and as far as anyone could recollect at least 40 years. Manager Harrold stated he was unable to find any documentation or policy regarding it. Alderman Stone stated it was not the Manager's intent or the Board's intent to take away a benefit and said he was pleased of the proposal to make the employees whole. Mayor Collins stated he agreed and feels it is more equitable to all employees in an appropriate manner. The Board directed Manager Harrold to bring a budget amendment back before the Board for approval. Alderman Stone discussed continuing to provide the benefit as is until the budget amendment was approved in the coming weeks. Alderman Larry B. Harris disagreed citing the legal advice from the Town Attorney and UNC School of Government to discontinue offering this benefit in the current manner. Town Attorney Ron Sneed recommending holding a special call meeting to address this issue. *(A special call meeting was held on Wednesday March 20, 2019 at 5:30 p.m.)*

Mayor Collins briefly recessed the meeting at 7:45 p.m. The meeting was reconvened at 7:52 p.m.

9. PUBLIC HEARING

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

A. Public for Text Amendments to Add Graffiti Ordinance

#O-19-05

***Alderman Carlos Showers moved to open the public hearing on Ordinance #O-19-05 for Text Amendments to Add Graffiti Ordinance.
The motion was approved by a vote of 5-0.***

Planning Director Jessica Trotman stated provide accountability and responsibility to perpetrators to offenders as well as property owners. Director Trotman stated currently the Town has no ordinances specific to graffiti. This ordinance clearly states graffiti is an illegal activity and can result in prosecution. It also states property owners are responsible for removing or obscuring graffiti. If a property owner does not comply, they will receive a notice of violation and be required to do so using the same notification standards and processes applicable to other nuisance violations. Director Trotman stated care was taken to be considerate of property owners who have been victimized by graffiti and said language contained in the ordinance allows the property owners additional time for cleanup if they are seeking out resources to assist them. Board members discussed property owner consent of the perpetrator to come remove graffiti. Attorney Sneed stated he would revise the draft to include this provision. Police Chief Shawn Freeman asked if requiring restitution could be added.

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Lisa Milton of Black Mountain addressed the Board of Aldermen with concerns of removal of graffiti by the perpetrator and obtaining consent from property owners for entry onto the property by the perpetrator to clean up the graffiti. Ms. Milton stated her concern was having language inserted to protect the victim of the crime and asked the Board to remove the option for the perpetrator to remove the graffiti and instead add language to assess the perpetrator a cost of removal. Ms. Milton also discussed the removal of the civil penalty upon cleanup and stated she feels perpetrators intentionally vandalize property by placing graffiti on it and she said she feels penalties should never be forgiven. Ms. Milton also requested a clearer definition of “violation”. Ms. Milton stated this ordinance has provisions to forgive the perpetrator and not the property owner.

Attorney Sneed defined a violation as any one marking in total is a violation. Police Chief Shawn Freeman stated criminal damage to property does not distinguish between one single letter versus a moniker across the entire building and said it is one charge per occurrence. Alderman Larry B. Harris stated he was not comfortable with the language requiring the perpetrator back onto property even with consent. Alderman Harris also made a suggestion to include a clause in the ordinance to create a trust fund to match fines collected to assist the property owners in cleanup costs. Attorney Sneed stated he will revise the proposed draft.

Alderman Larry B. Harris moved to recess the public hearing until the next regularly scheduled meeting to be held on Monday April 8, 2019 at 6:00 p.m. at 160 Midland Ave. Black Mountain.

The motion was approved by a vote of 5-0

10. COMMUNICATION FROM STAFF

A. Town Attorney – None at this time.

B. Josh Harrold - Manager Harrold reminded the public to attend the Blue Ridge Road Small Area Plan meeting at Meadowbrook Baptist Church on Thursday March 14, 2019 at 5:30 p.m. and 6:00 p.m. Manager Harrold also reminded the public of the upcoming budget workshop on April 25, 2019 at 8:30 a.m.

11. COMMUNICATION FROM MAYOR AND BOARD OF ALDERMEN

Alderman Larry B. Harris commented on the earlier budget amendment regarding HR Attorney services and stated the Board maintains full confidence in the Town Attorney and said it is a highly specialized area in which the Board thought it prudent to engage services to update the personnel policy manual.

12. ADJOURNMENT

Alderman Carlos Showers moved to enter into closed session to consult with the town attorney, as permitted in NCGS § 143.318.11(a)(3) at 8:20 p.m.

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

Alderman Carlos Showers moved to return to open session at 8:27 p.m.

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

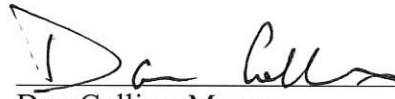
Alderman Larry B. Harris moved to direct the Town Attorney to proceed with any and all legal avenues to remedy and correct the dilapidated building belonging to Mr. Rick Watson located at 1599 Grovestone Rd. Black Mountain NC 28711

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

There being no further business, on a motion made by Vice Mayor Maggie Tuttle and with a vote of 5-0, Mayor Don Collins adjourned the meeting at 8:29 p.m.

ATTEST:


Angela L. Reece, Town Clerk


Don Collins, Mayor

**Presentation to the Board of Alderman
March 11, 2019**

Thank you for inviting us to give our annual Black Mountain Beautification Committee report.

The Beautification Committee has been serving the Black Mountain community for 19 years. Our mission and vision statement guides us and inspires us through all our activities. Our Mission Statement says it all: *The people of Black Mountain possess a cherished tradition of honoring the natural beauty of the surrounding mountains, all the while seeking to reflect that beauty on the streets and in the lives of its citizens.*

As our committee works around town either in garden sites or tending to plant containers, we often receive praise from locals and visitors on how nice the Town looks. We are often asked, How do we get so much accomplished? That person may only see us as one committee, but we have the support from all of you, Public Services, and a strong support system throughout this community.

We have a growing committee membership of over 60 Black Mountain residents. Our committee members are active in many ways, whether it's attending our monthly board meeting, maintaining garden sites, fulfilling officer roles or working on other projects. Our members are the backbone of the Beautification Committee and without them, our ideas would not take root.

The following are some our accomplishments this fiscal year:

- 1) We take great pride in maintaining the 20 public garden sites in the historic district. One or more members are assigned to care for a site by planting, weeding, mulching, and watering the beds. Each site has a new custommade aluminum garden sign which displays our active community spirit.
- 2) Twelve members of the committee are dedicated to maintaining the garden beds at Town Square by planting, weeding, and mulching. In addition, we ask all our committee members to come to our spread-the-mulch party in Spring, to weed extra in June so that Town Square has a weed free 4th of July, and to help in Fall with a general cleanup of the beds.
- 3) Twice a year, we re-design the gardens in the 42 plant containers in downtown of Black Mountain. With the help from Public Services who water the containers, members maintain the containers weekly.

raised goes to the Fuel Fund for the Swannanoa Valley Christian Ministry. Our tree was in the top five money raisers.

- 13) Annually, we sponsor the Seed Money Award which is granted to people and organizations that focus on gardening related projects in town that add a little something special. Applications are still being received; winners will be announced this month. Proceeds for this award come directly from our fundraising at the Black Mountain Garden Show & Sale.

We are so fortunate to have members who desire to make this town a better place, are inspired by these projects, and make it happen. All of these activities take time, energy, and financial support. Our time cannot be measured by just hands in the soil alone. We all know that beauty doesn't just happen, it takes a lot of time and energy to achieve the desired goal. Giving an hourly count to the work we do is difficult. But when you count all that we have listed and all of our members, our closest count is about 4500 hours. At minimum wage the town is saving over \$32,000. At \$10.00 an hour we save the town over \$45,000.

We thank you for your financial support as we do our work in town and we hope that we have been good stewards of your trust. However, not all the work we do is funded through your donation. We have learned to be creative with our fund raising and here are some of the ways that we raise other funds to help enhance the beauty of Black Mountain.

- Remember how Town Square used to look. Fast Forward 6 years. Joyce Black-Woerz recently released beautiful paintings of Town Square capturing the Spring, Summer, Fall, and Winter seasons. We are selling the note cards series and prints from the series.
- Our Holiday Greenery Fundraiser was successful as it paid for all the Holiday greenery and bows throughout the Town.
- The 14h Annual Garden Show and Sale will be for two days this year, Friday May 17 & Saturday 18. The garden sale begins on Friday at 4:00. Fees from the vendors and the ever-popular clothes line sale help to pay for our work in town. In addition, this year we will be having a raffle that we expect will bring in additional revenue.
- A note about the very popular Clothes Line Sale. Gardeners know to come to the Clothes Line Sale first before looking at plants as these special services, are sold quickly. We are offering unique services such as weeding your garden, floral arrangement, blue bird houses, homemade dinners, and so much more.
- Being an affiliate organization of the Parks and Greenways Foundation has enhanced our fundraising opportunities by allowing friends and community members to give us tax-deductible donations.

Letters and emails from local residents

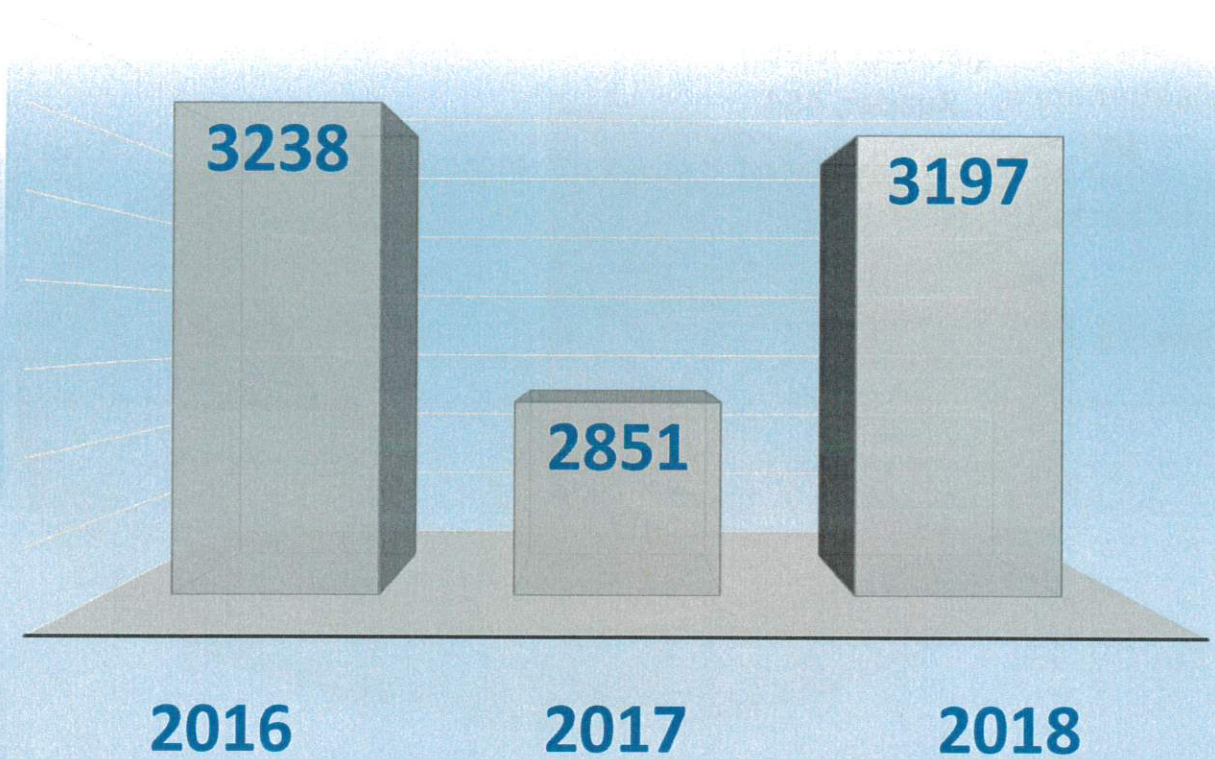
We receive many thanks from the community, business leaders, and visitors.

In the November issue of The Laurel of Asheville, our member, Joyce Black-Woerz, received recognition for painting The Mural on Cherry Street. It was especially striking to see her amazing mountain mural gracing the page of this magazine.

Our devotion to bringing beauty into our public areas that gives joy to the community and visitors is what makes our committee special. In this day and age, the inclusiveness of our community is unique and a gift to all of us. This is why we all call Black Mountain our home and we would like to thank you for your continued support.

Respectfully Submitted,
Kate Ramsey
Lyndell Noyes-Brownell
Co-Chairs
Black Mountain Beautification

Total Work Orders





NORTH CAROLINA

Department of Transportation

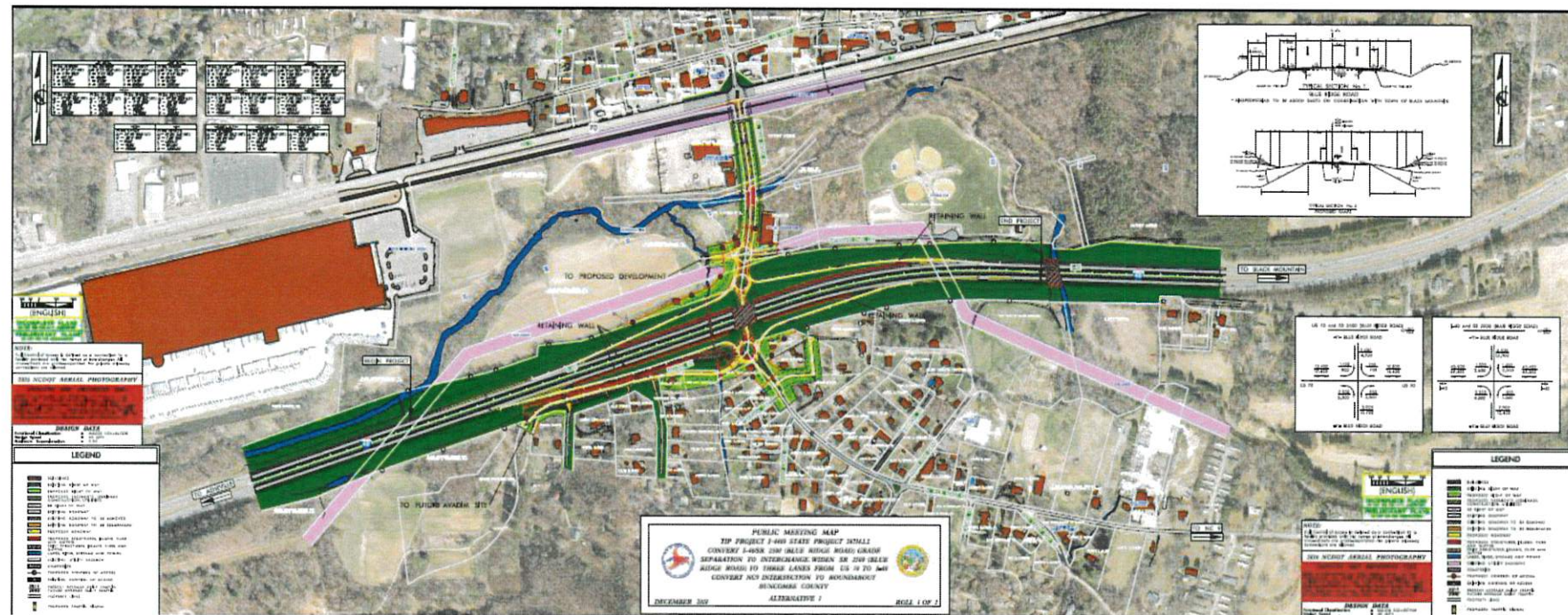


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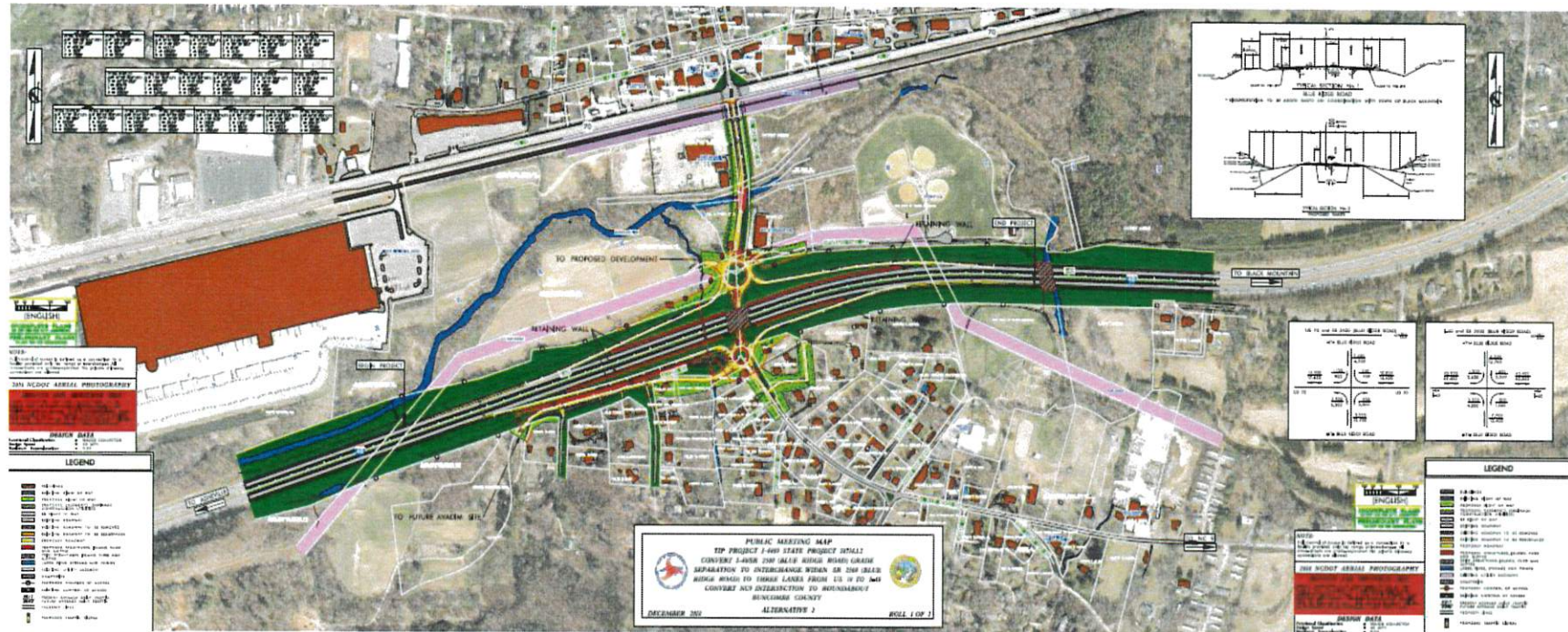
Proposed Blue Ridge Road Interchange and Blue Ridge Road / NC 9 Intersection Improvements

TOWN OF BLACK MOUNTAIN
MARCH 11, 2019

ALTERNATIVE 1

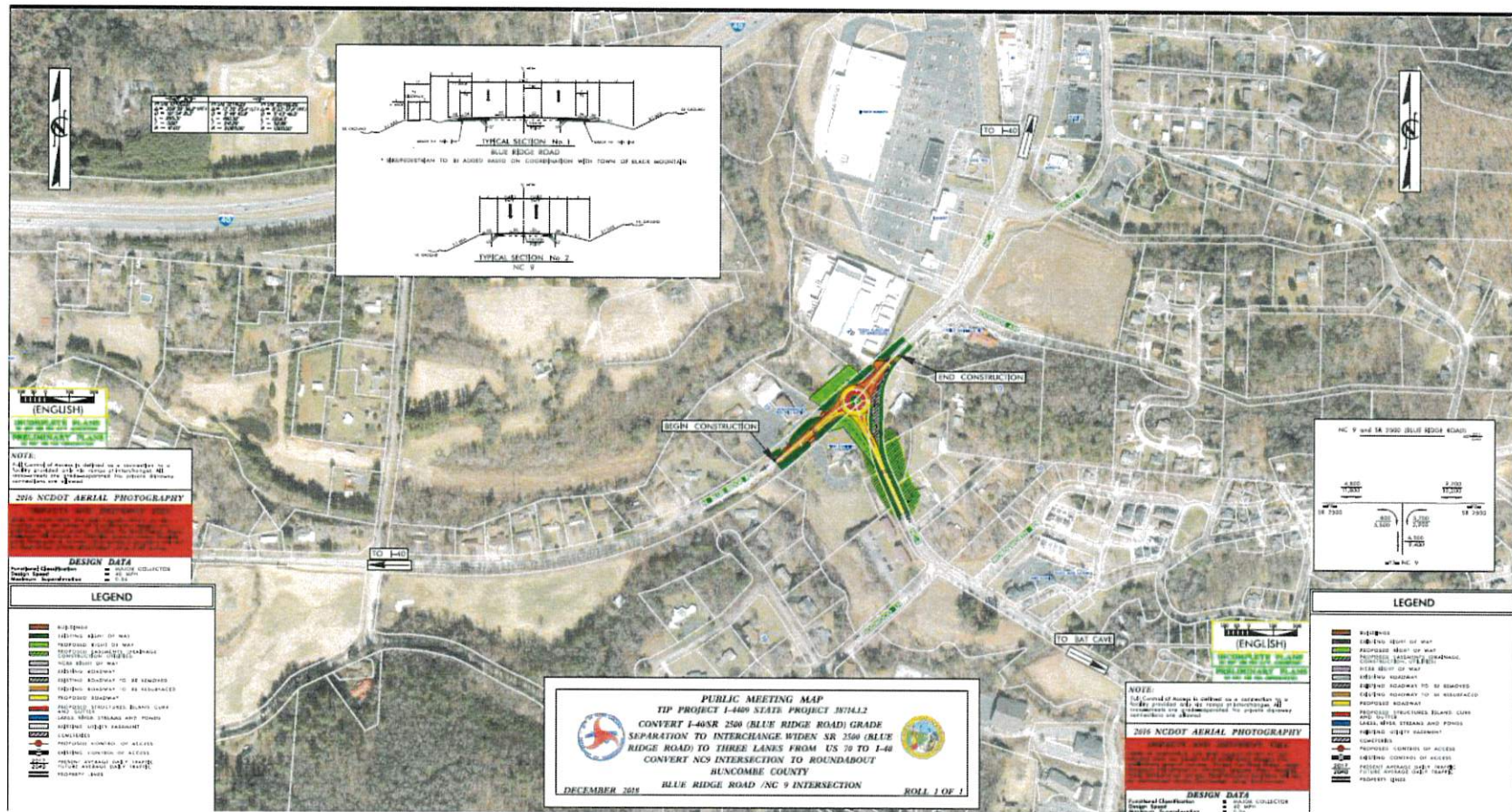


ALTERNATIVE 2





NC 9 / BLUE RIDGE RD INTERSECTION



AGREEMENT FOR PARTIAL REIMBURSEMENT OF STREET LIGHTING COSTS

Between

THE TOWN OF BLACK MOUNTAIN
102 Montreat Road, Black Mountain, N.C. 28711

And

CHESHIRE MASTER ASSOCIATION, INC.
1 Cheshire Drive, Black Mountain, N.C. 28711

Effective Period: _____, 2019 through June 30, 2020

This agreement, entered into on the part of the Town of Black Mountain (the “Town”) and Cheshire Master Association, Inc. (the Association), is designed to set forth the parameters for reimbursement of costs associated with the operation of streetlights located on public streets within the development known as Cheshire, A Mountain Village (“Cheshire”). By entering into this agreement the Town recognizes the unique nature of the design of the Cheshire development and the desire of both the developers and the homeowners in that subdivision to have streetlights that are not in keeping with those normally offered and installed by Duke Energy Progress and its predecessors on the behalf of the Town. The Town, in consideration of the increased property values resulting from an enhanced street lighting system and the resulting increased tax basis for the Town, agrees to enter into this agreement to partially reimburse the Association for the electrical costs associated with the operation of said lights. Such cost shall not exceed the amount the Town would pay for the operation of street lights it would have installed pursuant to its Street Lighting Policy.

Partial reimbursements for costs associated with the operation of streetlights shall be made in accordance with the following guidelines.

1. Reimbursements for eligible costs associated with street lighting under this agreement shall be made only for lighting that has been installed and is located on publicly dedicated, accepted, and maintained streets within the Cheshire development.
2. Costs eligible for reimbursement shall be based upon calculations made by the Town regarding the number of streetlights that would have been placed on the public rights-of-way in accordance with the Town's interpretation and application of the provisions of the Town of Black Mountain Street Lighting Policy that is in effect at the time this agreement is signed by both parties (copy attached hereto as Appendix I). The monthly pole charge¹ charged by Duke Energy Progress to the Town for the shall then be multiplied by the number of lights that would have been provided in

¹ The “pole charge” is the amount Duke Energy Progress charges each month for each pole it installs for the placement of street lights as requested by the Town where there is no previously existing power pole that can be used.

accordance with the Town's interpretation of that policy, and that amount will be reimbursed to the Association. In addition, each month the Town will reimburse the Association an amount for electricity usage for streetlights equal to the average charge per streetlight the Town pays to Duke Energy Progress for electricity for the streetlights paid for by the Town for the number of streetlights in Cheshire the Town would have installed pursuant to its Street Lighting Policy. The resultant figure shall be paid to the Association monthly.

The terms of this agreement shall not be construed to include reimbursement of costs associated with, or responsibility for, maintenance of the streetlights within this subdivision. For the purposes of this agreement maintenance of the streetlights shall include but not necessarily be limited to the repair or replacement of any poles, wiring, fixture features, or light bulbs.

Streetlights selected for placement in the Cheshire subdivision shall meet all Town standards for the display of outdoor lighting fixtures. In addition, the design of said fixtures shall meet with the approval of the Town prior to installation within the Cheshire subdivision.

This agreement shall be effective _____, 2019 and shall remain in effect until June 30, 2020, and shall be renewed automatically from year to year unless superceded, modified, or terminated by either party upon 30 days written notice.

If any developer or builder completes, extends or constructs streets within Cheshire and adds streetlights, the Town will begin reimbursements for such additional lights that are within the guidelines of the Street Lighting Policy at such time as the lights are installed and operational and the streets upon which they are located have been dedicated to public use and accepted by the Town of Black Mountain.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers on the dates set out.

THE TOWN OF BLACK MOUNTAIN

CHESHIRE MASTER ASSOCIATION, INC.

By: _____
Josh Harrold
Town Manager

By: _____

President