



TOWN OF BLACK MOUNTAIN

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

Date: April 8, 2019 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 Mike MacDonald, Black Mountain United Methodist Church*
- Announcements – *Mayor Don Collins*

2. PROCLAMATIONS, AWARDS & RECOGNITION

- A. 100th Birthday – Mary Frances Stephens “Cissie”
- B. Tick-borne Diseases Awareness Month Proclamation

3. CITIZEN COMMENTS

Individuals wishing to address the Board are asked to sign in at the entrance to the board room, indicating the topic(s) or agenda item(s) you wish to discuss, so that the chair may group speakers according to topic. The chair will recognize individuals requesting to address the Board. Comments by any one speaker shall be limited to three (3) minutes. If the topic you wish to discuss pertains to a public hearing scheduled for this meeting, please reserve your comment for the applicable public hearing.

4. COMMUNICATIONS FROM BOARDS, COMMISSIONS & AGENCIES

- A. Black Mountain Recreation & Parks Annual Report – *Joshua Henderson, Director*
- B. Black Mountain Recreation Commission Annual Report – *Terry McElrath, Chair*

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 OF BLACK MOUNTAIN- REGULAR SESSION AGENDA

April 8, 2019

A. Adoption of Minutes

Motion: *To adopt the minutes of March 7, 2019 (Agenda Session), March 11, 2019 (Regular Session), March 11, 2019 (Closed Session), and March 20, 2019 (Special Call Meeting).*

B. Call for Public Hearing to Close a Platted Street known as Campbell Street #R-19-07

Motion: *To call for the public hearing to close a portion of an unopened, platted street known as Campbell Street to be held on Monday, June 10, 2019 at 6:00 p.m. or as soon thereafter as possible, in the Board Room of Town Hall at 160 Midland Avenue.*

C. Call for Public Hearing to Close the remainder of a Platted Street known as Campbell Street

#R-19-08

Motion: *To call for the public hearing to close the remainder of an unopened, platted street known as Campbell Street to be held on Monday, June 10, 2019 at 6:00 p.m. or as soon thereafter as possible, in the Board Room of Town Hall at 160 Midland Avenue.*

D. Call for Public Hearing –Christmas Parade

#O-19-07

Motion: *To call for a public hearing to adopt Ordinance O-19-07, for the road closure of State Street for the annual Christmas Parade in Black Mountain to be held on Monday, May 13, 2019 at 6:00 p.m. or as soon thereafter as possible, in the Board Room of Town Hall at 160 Midland Avenue.*

E. Call for Public Hearing –Veterans Day Parade

#O-19-08

Motion: *To call for a public hearing to adopt Ordinance #O-19-08, for the road closure of State Street for the annual Veteran's Day Parade in Black Mountain to be held on Monday, May 13, 2019 at 6:00 p.m. or as soon thereafter as possible, in the Board Room of Town Hall at 160 Midland Avenue.*

Consent Motion: *To approve consent items A-E 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.

TOWN OF BLACK MOUNTAIN- REGULAR SESSION AGENDA

April 8, 2019

7. UNFINISHED BUSINESS

Continued from 3-11-19 Regular Meeting

- A. **Public Hearing** for Text Amendments to Add Graffiti Ordinance **#O-19-05**

Motion:

1. To **reconvene** the public hearing on Ordinance #O-19-05 for Text Amendments to Add Graffiti Ordinance.
2. To close the public hearing.
3. To approve ***Ordinance #O-19-05*** as presented [or as amended].

8. NEW BUSINESS

- A. Asheville Design Center- Master Plan for Veterans Park & Children & Friends Daycare

- B. Interlocal Agreement - First Due Size-Up Software

- C. Capital Project Ordinance -Projects Fund Amendment for Riverwalk Greenway **#O-19-09**

Motion: *To approve the Riverwalk Greenway Capital Project Ordinance #O-19-09, Project Fund Amendment as presented.*

- D. Budget Amendment River Walk Greenway **#FY2019-19**

Motion: *To approve Budget Amendment #FY2019-19 as submitted, increasing expenditure and revenue accounts in fund 6400 (Riverwalk Greenway Capital Projects Fund) by \$1,928,750.*

- E. Hemphill Property Update – Attorney Ron Sneed

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.*

TOWN OF BLACK MOUNTAIN- REGULAR SESSION AGENDA

April 8, 2019

- A. Public Hearing for the Closure of the Remainder of and Unopened, Platted portion of First Street **#R-19-06**

Motion:

1. To open the public hearing for **Resolution #R-19-06** to Close Remaining Unopened, Platted Street known as First Street.
2. To close the public hearing.
3. To approve Resolution **#R-19-06** for the street closure.

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

Motion:

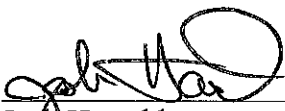
1. To open the public hearing on Ordinance **#O-19-06** for Text Amendments to Definitions Section (Bed and Breakfast Homes and Inns)
2. To close the public hearing.
3. To adopt the statement of consistency.
4. To approve Ordinance **#O-19-06** as presented [or as amended].

10. COMMUNICATION FROM STAFF

- A. Town Attorney – Ron Sneed
B. Town Manager – Josh Harrold

11. COMMUNICATION FROM MAYOR AND BOARD OF ALDERMEN

12. ADJOURNMENT



Josh Harrold
Town Manager

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: April 8, 2019

SUBJECT: Call for Public Hearing to Close a Portion of an Unopened, Platted Street Known as Campbell Street **#R-19-07**

AGENDA INFORMATION

Agenda Location:	CONSENT AGENDA
Item Number:	5B
Department:	Planning and Development Services
Contact:	Jessica Trotman, Planning Director
Presenter:	Jessica Trotman, Planning Director

BRIEF SUMMARY: Adjoining property owners are requesting to close a portion of an unopened, platted street known as Campbell Street that runs between their properties to allow for extra land. The space is not currently used for any access or utilities and the bottom part of the street was closed in 1986.

The Town has the authority to close dedicated but unopened streets within its jurisdiction on its own motion.

MOTION FOR CONSIDERATION: To call for the public hearing to close a portion of an unopened, platted street known as Campbell Street to be held on Monday, June 10, 2019 at 6:00 p.m. or as soon thereafter as possible, in the Board Room of Town Hall at 160 Midland Avenue.

FUNDING SOURCE: N/A

ATTACHMENTS: *Resolution of Intent #R-19-07*

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



TOWN OF BLACK MOUNTAIN

160 Midland Avenue
Black Mountain, NC 28711

BoA Regular Session
April 8, 2019
Agenda Item 5B

RESOLUTION OF INTENT # R-19-07

**RESOLUTION DECLARING THE INTENT OF THE BOARD OF ALDERMENT OF
THE TOWN OF BLACK MOUNTAIN TO CONSIDER THE CLOSING OF A PORTION
OF AN UNOPENED, PLATTED PORTION OF CAMPBELL STREET AND TO HOLD
A PUBLIC HEARING ON THIS ISSUE JUNE 10, 2019**

WHEREAS, G.S. 160A-299 authorizes the Board of Aldermen of the Town of Black Mountain to permanently close public streets or alleys; and

WHEREAS, The Town of Black Mountain has received a request from the adjoining property owners to close that unopened, platted portion of Campbell Street; and

WHEREAS, the Planning Board for the Town of Black Mountain, after reviewing petitioners' request, did recommend that the unopened portion of Campbell Street be closed; and

WHEREAS, the Board of Aldermen of the Town of Black Mountain must set a public hearing to consider any comments concerning the above referenced request before taking any action; and

WHEREAS, in accordance therewith, the Board of Aldermen of the Town of Black Mountain desires to take the following actions:

DESCRIPTION:

LYING AND BEING in the Town of Black Mountain, Black Mountain Township, Buncombe County, North Carolina:

BEGINNING at a point in the western edge of the right of way of Campbell Street, said point being the northeast corner of Lot 6, Block E, Plat Book 198 at Page 20, Buncombe County Registry; thence from said Beginning and with the eastern boundary of said Lot 6, Block E, South 2° 30' West 110 feet to a point in the western edge of Campbell Street; thence South 87° 30' East 40 feet to a point in the western boundary of Lot 6, Block F, Plat Book 198, Page 20, the southwest corner of that property described in Deed Book 899 at Page 303, Buncombe County Registry; thence with the western boundary of said Lot 6, Block F, North 2° 30' East 110 feet to the northwest corner of said Lot 6, Block F, thence with the southern edge of the right of way of Central Avenue North 87° 30' West 40 feet to the BEGINNING, being the northern portion of that part of Campbell Street lying between Central Avenue and Washington Avenue.

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

Section 1. Pursuant to G.S. 160A-299, the Board of Aldermen declares its intent to close the remainder of an unopened portion of Campbell Street.

TOWN OF BLACK MOUNTAIN

160 Midland Avenue
Black Mountain, NC 28711

Section 2. A public hearing on the question of closing said street is hereby called at Town Hall, 160 Midland Avenue, Black Mountain, N.C. 28711 on Monday, June 10, 2019 at 6:00 p.m.

Section 3. Following the public hearing called hereby, the Board of Aldermen shall consider the passage of an order closing the street identified above.

Section 4. The Town of Black Mountain Town Clerk is hereby directed to publish this Resolution once a week for four successive weeks in the Black Mountain News, or other newspaper of general circulation in the area.

Section 5. The Town of Black Mountain Zoning Administrator is hereby directed to transmit by registered or certified mail to each owner of property abutting upon that portion of said street a copy of this Resolution.

Section 6. The Town of Black Mountain Zoning Administrator is further directed to cause adequate notices of the proposed closing and of the public hearing to be posted as required by G.S. 160A-299.

I move the adoption of the foregoing resolution:

Alderman

READ, APPROVED AND ADOPTED, by a vote of ____ to ____ this the 8th day of April, 2019.

ATTEST:

Don Collins, Mayor

Angela Reece, Town Clerk

Josh Harrold, Town Manager

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: April 8, 2019

SUBJECT: Call for Public Hearing to Close the Remainder of an Unopened, Platted Portion of
Campbell Street **#R-19-08**

AGENDA INFORMATION

Agenda Location:	CONSENT AGENDA
Item Number:	5C
Department:	Planning and Development Services
Contact:	Jessica Trotman, Planning Director
Presenter:	Jessica Trotman, Planning Director

BRIEF SUMMARY: At their February 2019 meeting, the Planning Board voted to recommend the closure the remainder of the unopened, platted portion of Campbell Street that was left after recommending the closure of the unopened, platted portion of Campbell Street that was petitioned by Josh Scala.

The Town has the authority to close dedicated but unopened streets within its jurisdiction on its own motion.

MOTION FOR CONSIDERATION: To call for the public hearing to close the remainder of an unopened, platted street known as Campbell Street to be held on Monday, June 10, 2019 at 6:00 p.m. or as soon thereafter as possible, in the Board Room of Town Hall at 160 Midland Avenue.

FUNDING SOURCE: N/A

ATTACHMENTS: *Resolution of Intent #R-19-08*

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



TOWN OF BLACK MOUNTAIN

160 Midland Avenue
Black Mountain, NC 28711

BoA Regular Session
April 8, 2019
Agenda Item 5C

RESOLUTION OF INTENT # R-19-08

**RESOLUTION DECLARING THE INTENT OF THE BOARD OF ALDERMENT OF
THE TOWN OF BLACK MOUNTAIN TO CONSIDER THE CLOSING OF THE
REMAINDER OF AN UNOPENED, PLATTED PORTION OF CAMPBELL STREET
AND TO HOLD A PUBLIC HEARING ON THIS ISSUE JUNE 10, 2019**

WHEREAS, G.S. 160A-299 authorizes the Board of Aldermen of the Town of Black Mountain to permanently close public streets or alleys; and

WHEREAS, The Town of Black Mountain has received a request from the Planning Board to close that remainder of an unopened, platted portion of Campbell Street; and

WHEREAS, the Planning Board for the Town of Black Mountain, after reviewing petitioners' request, did recommend that the requested unopened portion of Campbell Street be closed; and

WHEREAS, the Board of Aldermen of the Town of Black Mountain must set a public hearing to consider any comments concerning the above referenced request before taking any action; and

WHEREAS, in accordance therewith, the Board of Aldermen of the Town of Black Mountain desires to take the following actions:

DESCRIPTION:

LYING AND BEING in the Town of Black Mountain, Black Mountain Township, Buncombe County, North Carolina:

BEGINNING at a point in the western edge of Campbell Street, said point being the southeast corner of Lot 3, Block E, Plat Book 198, Page 20, Buncombe County Registry; thence from said Beginning and with the western edge of the right of way of Campbell Street, North 2° 30' East 310 feet to a point in the eastern boundary of Lot 6, Block E; thence South 87° 30' East 40 feet to a point in the eastern edge of Campbell Street, the southwest corner of that property described in Deed Book 899 at Page 303, Buncombe County Registry; thence South 2° 30' East 310 feet to the southwest corner of Lot 3, Block F, Plat Book 198, Page 20; thence North 87° 30' West 40 feet to the BEGINNING, and being a portion of Campbell Street lying between Central Avenue and Washington Avenue.

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

Section 1. Pursuant to G.S. 160A-299, the Board of Aldermen declares its intent to close the remainder of an unopened portion of Campbell Street.

TOWN OF BLACK MOUNTAIN

160 Midland Avenue
Black Mountain, NC 28711

Section 2. A public hearing on the question of closing said street is hereby called at Town Hall, 160 Midland Avenue, Black Mountain, N.C. 28711 on Monday, June 10, 2019 at 6:00 p.m.

Section 3. Following the public hearing called hereby, the Board of Aldermen shall consider the passage of an order closing the street identified above.

Section 4. The Town of Black Mountain Town Clerk is hereby directed to publish this Resolution once a week for four successive weeks in the Black Mountain News, or other newspaper of general circulation in the area.

Section 5. The Town of Black Mountain Zoning Administrator is hereby directed to transmit by registered or certified mail to each owner of property abutting upon that portion of said street a copy of this Resolution.

Section 6. The Town of Black Mountain Zoning Administrator is further directed to cause adequate notices of the proposed closing and of the public hearing to be posted as required by G.S. 160A-299.

I move the adoption of the foregoing resolution:

Alderman

READ, APPROVED AND ADOPTED, by a vote of ____ to ____ this the 8th day of April, 2019.

ATTEST:

Don Collins, Mayor

Angela Reece, Town Clerk

Josh Harrold, Town Manager

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: April 8, 2019

SUBJECT: Road Closure for Christmas Parade, Call for a Public Hearing #O-19-07

AGENDA INFORMATION

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

BRIEF SUMMARY: Call for a public hearing to close State Street for the annual Christmas Parade. Last year staff learned the Christmas Parade was held on State Street without a proper permit from NC DOT. We learned about this while trying to secure a road closure for the Veteran's Day Parade. Through this process, staff learned a road closure request for State Street is unlikely to be approved by NC DOT because the available detour routes are not able to handle the same capacity of the street requesting to be closed. NC DOT, presented an alternative. Town events, and events sponsored by the town, can close State Street utilizing SS 20-169. In this process, the town alerts DOT to the potential road closure. This provides DOT the opportunity to inform the town of potential conflicts, such a maintenance or resurfacing work. After comments are received the town may adopt an ordinance.

MOTION FOR CONSIDERATION: To call for a public hearing to adopt Ordinance #O-19-07, for the road closure of State Street for the annual Christmas Parade in Black Mountain to be held on Monday, May 13, 2019 at 6:00 p.m. or as soon thereafter as possible, in the Board Room of Town Hall at 160 Midland Avenue.

FUNDING SOURCE: N/A

ATTACHMENTS: Draft Ordinance

MANAGER'S COMMENTS AND RECOMMENDATIONS:

**AN ORDINANCE DECLARING A ROAD
CLOSURE FOR A TOWN OF BLACK MOUNTAIN
CHRISTMAS PARADE**

#O-19-07

WHEREAS, the Board of Alderman of the Town of Black Mountain acknowledges a long tradition of supporting the Chamber of Commerce, local businesses and communities during the holiday season; and

WHEREAS, the Board of Aldermen acknowledges the annual parade requires approximately two (2) hours to install signing and traffic control, and also requires approximately one (1) hour for removing signs, traffic control, and litter;

NOW THEREFORE BE IT ORDAINED by the Board of Alderman of the Town of Black Mountain pursuant to the authority granted by G.S. 20-169 that they do hereby declare a temporary road closure during the day(s) and times set forth below on the following described portion of a State Highway System route:

Date(s): First Saturday in December (in case of inclement weather, the following Saturday will be used)

Times: 2:00 p.m. to 5:00 p.m.

Route Description: US 70 Hwy from Flat Creek Road to Cragmont Road

This ordinance to become effective when signs are erected giving notice of the limits and times of the event, and implementation of adequate traffic control to protect participants and to guide vehicles around the event route.

READ, APPROVED AND ADOPTED, by a vote of ____ to ____ on this the 8th day of April, 2019.

Don Collins, Mayor

ATTEST:

Angela L. Reece, Town Clerk

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: April 8, 2019

SUBJECT: Road Closure for Veteran's Day Parades, Call for a Public Hearing #O-19-08

AGENDA INFORMATION

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

BRIEF SUMMARY: Call for a public hearing to close State Street for the annual Veteran's Day Parade. Staff learned a road closure request for State Street is unlikely to be approved by NC DOT because the available detour routes are not able to handle the same capacity of the street requesting to be closed. NC DOT, presented an alternative. Town events, and events sponsored by the town, can close State Street utilizing SS 20-169. In this process, the town alerts DOT to the potential road closure. This provides DOT the opportunity to inform the town of potential conflicts, such a maintenance or resurfacing work. After comments are received the town may adopt an ordinance.

MOTION FOR CONSIDERATION: To call for a public hearing to alert NC DOT of the annual closure of State Street for the Veteran's Day Parade in Black Mountain to be held on Monday, May 13, 2019 at 6:00 p.m. or as soon thereafter as possible, in the Board Room of Town Hall at 160 Midland Avenue.

FUNDING SOURCE: N/A

ATTACHMENTS: Draft Ordinance #O-19-08

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

**ORDINANCE DECLARING A ROAD CLOSURE
FOR A TOWN OF BLACK MOUNTAIN
VETERNA'S DAY PARADE**

#O-19-08

WHEREAS, the Board of Alderman of the Town of Black Mountain acknowledges the dedication of the Veteran's in our community, and wishes to show honor, respect and gratitude on Veteran's Day; and

WHEREAS, the Board of Aldermen acknowledges the annual parade requires approximately one hour to organizing participants, twenty minutes to proceed through the route, and one hour to clean up.

NOW THEREFORE BE IT ORDAINED by the Board of Alderman of the Town of Black Mountain pursuant to the authority granted by G.S. 20-169 that they do hereby declare a temporary road closure during the day(s) and times set forth below on the following described portion of a State Highway System route:

Date(s): November 11

Times: 2:00 p.m. to 4:30p.m.

Route Description: US 70 Hwy from Ridgeway Avenue to Dougherty Street

This ordinance to become effective when signs are erected giving notice of the limits and times of the event, and implementation of adequate traffic control to protect participants and to guide vehicles around the event route.

READ, APPROVED AND ADOPTED, by a vote of _____ to _____ on this the 8th day of April, 2019.

Don Collins, Mayor

ATTEST:

Angela L. Reece, Town Clerk

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: March 11, 2019

SUBJECT: Public Hearing for Text Amendments to Add Graffiti Ordinance #O-19-05

AGENDA INFORMATION

Agenda Location:	PUBLIC HEARING
Item Number:	9A
Department:	Building, Planning and Zoning Services Department
Contact:	Jessica Trotman, Planning Director
Presenter:	Jessica Trotman, Planning Director

BRIEF SUMMARY: 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.

MOTION FOR CONSIDERATION:

1. To open the public hearing on Ordinance #O-19-05 for Text Amendments to Add Graffiti Ordinance.
2. To close the public hearing.
3. To adopt Ordinance #O-19-05 as presented [or as amended].

FUNDING SOURCE: N/A

ATTACHMENTS: Proposed Ordinance # O-19-05

MANAGER'S COMMENTS AND RECOMMENDATIONS: To adopt as presented [or as amended].



LEGAL NOTICE

BLACK MOUNTAIN BOARD OF ALDERMEN

PUBLIC HEARING

Monday, March 11, 2019 at 6:00 p.m.

The Black Mountain Board of Aldermen will meet on **Monday, March 11, 2019 at 6:00 p.m.** in the Board Room in the Town Hall Building, 160 Midland Avenue, Black Mountain, NC. The purpose of this meeting is to hold a public hearing to consider an ordinance to add text sections to Chapter 20, to ADD Article VII, GRAFFITI, to the Town of Black Mountain Code of Ordinances.

The meeting is open to the public.



Angela Reece
Town Clerk

The Town of Black Mountain is committed to providing accessible facilities, programs and services for all people in compliance with the Americans with Disabilities Act (ADA). Should you need assistance or a particular accommodation for this meeting please contact, Angela Reece, Town Clerk at 419-9310 or by email at townclerk@townofblackmountain.org.

*Posted to the Town Bulletin Board 02/13/19
Published in the Black Mountain News 02/28/19 and 03/07/19*

www.townofblackmountain.org

LEGAL NOTICE CHECKLIST

NOTICE TEXT: Legal Notice for Text Amendments - Graffiti

Legal Notice Prepared	☒	Date: 12/20/18	Initials: JT
Legal Notice Posted on Board	☒	Date: 02/13/19	Initials: AR
Legal Notice Sent to Jessica	☒	Date: 12/20/18	Initials: JT
Legal Notice Sent to Angela	☒	Date: 12/20/18	Initials: JT
Legal Notice Sent to Paper	☒	Date: 02/12/19	Initials: AR

Publish in Black Mountain News weeks of 02/28/19 and 03/07/19.

Affidavit of Publication Requested	☒	Date: 02/12/19	Initials: AR
Legal Notice Attached to Agenda	☒	Date: 03/07/19	Initials: AR
Received Affidavit of Publication	☐	Date:	Initials:

Legal Notice Publication Deadlines:

Citizen Times – 2:00 p.m. 2 days in advance – ads run Wednesday through Sunday

Black Mountain News – 12:00 noon Mondays for current week publication

Black Mountain News

Classified Ad Receipt
(For Info Only - NOT A BILL)

Customer: TOWN OF BLACK MOUNTAIN
Address: 160 MIDLAND AVE
BLACK MOUNTAIN NC 28711
USA

Ad No.: 0003406482
Pymt Method Invoice
Net Amt: \$123.68

Run Times: 2

No. of Affidavits: 1

Run Dates: 02/28/19, 03/07/19

Text of Ad:



LEGAL NOTICE

BLACK MOUNTAIN BOARD OF ALDERMEN

PUBLIC HEARING

Monday, March 11, 2019 at 6:00 p.m.

The Black Mountain Board of Aldermen will meet on **Monday, March 11, 2019 at 6:00 p.m.** in the Board Room in the Town Hall Building, 160 Midland Avenue, Black Mountain, NC. The purpose of this meeting is to hold a public hearing to consider an ordinance to add text sections to Chapter 20, to ADD Article VII, GRAFFITI, to the Town of Black Mountain Code of Ordinances.

The meeting is open to the public.

Angela Reece
Town Clerk

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Posted to the Town Bulletin Board
02/13/19
Published in the Black Mountain News
02/28/19 and 03/07/19

www.townofblackmountain.org

February 28, 2019 and March 7, 2019
0003406482

ORDINANCE NO. #O-19-05

AN ORDINANCE TO ADD TEXT SECTIONS TO CHAPTER 20, TO ADD ARTICLE VII, GRAFFITI, TO THE TOWN OF BLACK MOUNTAIN CODE OF ORDINANCES

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

WHEREAS, the North Carolina General Statutes make the placing of graffiti on public and private buildings and property; and

WHEREAS, it is the interest of the citizens of and visitors to Black Mountain that the Town actively pursue both the prevention and removal of graffiti.

NOW, THEREFORE, BE IT RESOLVED that Chapter 20 of the Town of Black Mountain Code of Ordinances is amended to add the following Article VIII:

ARTICLE VIII - GRAFFITI

Sec. 20-371 – General.

(a) Purpose. Graffiti is destructive of the rights and values of public and private property owners as well as the entire community. Unless the board of aldermen acts to enforce removal of graffiti from public and private property, the graffiti tends to remain. Other properties then become the target of graffiti, entire neighborhoods are affected and become less desirable places in which to live, work and visit, all to the detriment of the town; and is hereby declared a public nuisance. The board of aldermen intends through adoption of this article to provide additional enforcement tools to protect public and private property from acts of graffiti vandalism and defacement.

(b) Definitions.

Graffiti: Writings, drawings, inscriptions, figures or marks of paint, ink, chalk, dye or other similar substances on public or private buildings, sidewalks, streets, structures, or places which are not authorized or permitted by the property owner or possessor, defacing the property upon which such markings are placed. For the purposes of this chapter, graffiti shall include drawings, writings, markings or inscriptions regardless of the content or nature of materials used in the commission of the act. Provided however, this definition shall not be construed to prohibit temporary, easily removable chalk or other water soluble markings which are used in connection with traditional children's activities such as drawings of bases for ball games, hopscotch and similar activities, nor does it include temporary, easily removable markings used in connection with any lawful business or public purpose or activity and markings used to denote the location of underground utility infrastructure and those used in conjunction with establishing survey control data and location points by survey crews. Perpetrator: The person who engages in creating or putting graffiti on public or private real and personal property.

Person: Any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

Perpetrator: Any person who places graffiti or causes graffiti to be placed on any public or private real or personal property.

Property owner: The owner of the property, such property owner's agent or any person in lawful control or possession of the property.

(c) Use of public funds. Whenever the town becomes aware of or is notified and determines that graffiti is located on publicly or privately owned property viewable from a public or quasi-public place, the town shall be authorized to use public funds to assist in the removal, painting, obscuring or repairing of the graffiti.

Sec. 20-372 – Graffiti prohibited.

(a) It shall be unlawful for any person to place graffiti upon the surface of any public or private property, real or personal.

(b) Any person who applies graffiti upon the surface of any public or private property is guilty of a misdemeanor and shall be subject to prosecution in accordance with G.S. 14-127, 14-127.1 and G.S. 14-160. In addition to criminal prosecution, such person shall be subject to the additional enforcement provisions set forth herein.

(c) It shall be the responsibility of the person who places the graffiti on any public or private property, or the parents of the person who places such graffiti on any public or private property if the perpetrator is a minor, to remove the graffiti.

(d) It shall be unlawful for any property owner to permit property that is defaced with graffiti to remain defaced; such property owner shall be subject to the civil enforcement provisions herein.

(e) It is the specific intent of this article to regulate the placement of graffiti both as a criminal violation and civil violation, and to regulate the failure to remove graffiti as a civil violation only and not as a criminal violation. Nothing herein is intended to prevent, restrain or prohibit the criminal prosecution of graffiti perpetrators under the laws of the State of North Carolina.

Sec. 20-373 – Removal required.

(a) Immediate removal. It is the responsibility of the perpetrator to immediately remove any graffiti created or caused by the perpetrator, but if the perpetrator fails to remove such graffiti, it is the responsibility of the property owner to promptly remove graffiti from the property owner's property. The property owner should not wait for the town to send a notice to remove or notice of defacement, but shall take immediate and prompt action to remove the

graffiti when applied.

(b) Removal by property owner. It shall be unlawful for any property owner to fail to take the necessary steps to remove or effectively obscure any graffiti upon property they own within ten (10) days after receiving written notice from the town to remove such graffiti (“notice to remove” or “notice of defacement”). The property owner shall be deemed to have taken such necessary steps if the property owner has contracted with others to remove or obscure the graffiti and the party contracted with has provided a reasonable estimate of time when the work will be done. Notice to the property owner shall be served by personal delivery or by certified or registered mail, return receipt requested in conjunction with regular mail. If the regular mail is not returned as undeliverable within ten days, service shall be deemed sufficient. Additionally, service hereunder may be made in accordance with Rule 4 of the North Carolina Rules of Civil Procedure. The notice to remove shall provide:

- (1) The street address or other description of the property sufficient for property identification;
- (2) A description and general location of the graffiti;
- (3) A statement that the property is a public nuisance due to the existence of the graffiti;
- (4) Statement that the graffiti must be removed or effectively obscured within ten days after receiving notice to remove and that if the nuisance is not so abated within that time, the town may abate the public nuisance at the cost of the property owner as set forth herein;
- (5) Information identifying any graffiti removal assistance available through the town.

(c) Removal by town. If the town has provided notice to remove under subsection (b) above, and property owner fails and/or refuses to remove or effectively obscure graffiti upon the property owner’s property, the town, may, after compliance with the requirements contained herein below, go upon the private property and remove the graffiti at the expense of the property owner. The town shall not clean, paint or obscure or repair any property containing graffiti more extensively than where the graffiti itself is located. The town shall not be required to restore the area that contained graffiti, or any obscured area, to its original condition including conditions of color, texture, and finish. The cost of obtaining compliance with the requirements of this article shall be a lien in accordance with G.S. 160A-193. Provided however nothing herein shall require the town to remove graffiti from private property or from property designated as historic property under federal or state laws.

Sec. 20-374 – Right of entry to private property.

Prior to entering upon private property or property owned by a public entity other than the town for the purpose of graffiti removal, the town shall attempt to secure the consent of the property owner and release of the town from any and all claims arising out of the removal. If the property owner fails to remove the graffiti within the time specified in the notice to remove, or the town has requested consent to remove or paint over the graffiti and the property owner has refused consent and/or refused to grant the town a release of liability, the town may seek

remedies as set forth in G.S. 160A-175, including injunctive relief, an order of abatement or other relief in the appropriate court of law. Provided however, nothing herein shall prevent the town from summarily removing graffiti when there is an imminent threat to life or property.

Sec. 20-375 – Enforcement/remedies.

(a) Civil penalties – against perpetrator.

(1) In addition to the graffiti perpetrator being subject to criminal prosecution under the laws of the State of North Carolina, the perpetrator shall also be subject to the assessment of a civil penalty under this Article in the amount of \$200.00. In the event there is more than one violation, then the civil penalty shall be increased for each additional violation as set forth below:

- a. Second violation: \$250.00;
- b. Third violation: \$500.00;
- c. Fourth violation: \$750.00;
- d. Fifth and any subsequent violation within a 12-month period: \$1,000.00.

(2) The civil penalty shall be forgiven for a first or second violation if the perpetrator removes the graffiti within fifteen (15) days after receipt of notice of the violation and imposition of the civil penalty.

(b) Civil penalties – against property owner.

(1) In addition to the remedies stated above, the Town may also impose a civil penalty of \$10.00 per day, with such penalty to begin accruing at least ten days after notice of the violation and the requirement to remove the graffiti has been given to the property owner as provided in Section 20-373 and ten days after notice of the imposition of this penalty is given to the property owner. Each day that the graffiti remains will be a separate and distinct offense. Such penalties may be collected by the Town in a civil action in the nature of a debt as provided in N.C.G.S Sec. 160A-175©.

(c) Trust Fund.

There is hereby created an Anti-Graffiti Trust Fund. Civil penalties assessed against and collected from perpetrators and property owners shall be placed in this fund, along with any monetary donations received. The Board of Aldermen shall direct the expenditures of monies in the fund. Such expenditures shall be limited to the payment of the cost of graffiti removal from public property, or advanced for payment for removal of graffiti from private property pending reimbursement by the perpetrator or the owner of the private property.

(d) Notice of violation.

(1) Against the perpetrator. Whenever any town official charged with the duty of enforcing the regulations in this article has reasonable cause to believe that a person has violated any of the provisions herein, that official shall notify the violator of the violation and assess the civil penalty set forth herein above. The violator shall have seven days to pay the civil penalty. Failure to pay any assessed civil penalty shall subject the violator to the remedies set forth in G.S. 160A-175.

(2) Against the property owner. Whenever any town official charged with the duty of enforcing the regulations in this article has reasonable cause to believe that a property owner has failed and refused to remove graffiti from the property owner's property, that official shall notify the property owner of the violation, providing up to ten days to correct the violation. Upon failure to comply with the violation notice, the violator will be subject to injunctive relief and/or an order of abatement as set forth in G.S. 160A-175, and the civil penalty set out above.

This ordinance shall become effective on June 10, 2019, to allow time for notice of the adoption and effect of the ordinance to be publicized and to provide a grace period for property owners to come into compliance.

READ, APPROVED AND ADOPTED by a vote of _____ to _____ this the 11th day of March, 2019.

Don Collins, Mayor

ATTEST:

Angela L. Reece, Town Clerk

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: April 8, 2019

SUBJECT: Interlocal Agreement - First Due Size-Up software

AGENDA INFORMATION

Agenda Location:	NEW BUSINESS
Item Number:	8B
Department:	Fire Department
Contact:	John Wilson, Fire Chief
Presenter:	Ronald E. Sneed, Town Attorney

BRIEF SUMMARY: Buncombe County negotiated to acquire First Due Size-Up software which allows interdepartmental communications and situation information to be more readily available to fire and rescue workers, but left part of the payment to the separate departments to pay. Weaverville took the lead to purchase the software and the agreement provides for each department to pay a share of that cost, with the cost to Black Mountain for the first six months of the license being \$911.58, reimbursing Weaverville. The software is part of the 911 system and will also benefit the Black Mountain Police Department.

MOTION FOR CONSIDERATION: To approve the Interlocal Agreement and to direct the Town Manager to execute the agreement for the town.

FUNDING SOURCE: General fund

ATTACHMENTS: Interlocal Agreement

MANAGER'S COMMENTS AND RECOMMENDATIONS:

STATE OF NORTH CAROLINA

INTERLOCAL AGREEMENT

COUNTY OF BUNCOMBE

THIS INTERLOCAL AGREEMENT ("Agreement") is entered into as of the 1st day of March, 2019, by and between the **TOWN OF WEAVERVILLE** ("Town"), and **BUNCOMBE COUNTY RESCUE SQUAD, FAIRVIEW FIRE DEPARTMENT, BLACK MOUNTAIN FIRE DEPARTMENT, WEST BUNCOMBE FIRE DEPARTMENT, SWANNANOA FIRE DEPARTMENT, WEAVERVILLE FIRE DEPARTMENT, REYNOLDS FIRE DEPARTMENT, ENKA FIRE DEPARTMENT, RICEVILLE FIRE DEPARTMENT, UPPER HOMINY FIRE DEPARTMENT, REEMS CREEK FIRE DEPARTMENT, BARNARDSVILLE FIRE DEPARTMENT, JUPITER FIRE DEPARTMENT, LEICESTER FIRE DEPARTMENT, FRENCH BROAD FIRE DEPARTMENT, WOODFIN FIRE DEPARTMENT, SKYLAND FIRE DEPARTMENT, BROAD RIVER FIRE DEPARTMENT, AND GARREN CREEK FIRE DEPARTMENT** (collectively "the departments");

WHEREAS, First Due Size-Up is a software program that provides immediate and valuable information to aid fire and rescue workers during emergency situations;

WHEREAS, all of the fire departments operating within Buncombe County and the Buncombe County Rescue Squad have determined that First Due Size-Up is a program that will have a significant benefit to emergency response in Buncombe County and the safety of the emergency responders ("Program");

WHEREAS, the City of Asheville Fire Department is already using the program and the remaining fire departments and Buncombe County Rescue Squad, all of which are a party to this Agreement, wish to implement the program so that it is available and in use throughout Buncombe County;

WHEREAS, at the urging of the Buncombe County Emergency Management Director, Buncombe County was attempting to secure the Program but has recently delayed its funding despite a well-negotiated and reasonable quote from Locality Media, Inc. and grant funds in the amount of \$7,000;

WHEREAS, the fire departments and Buncombe County Rescue Squad (collectively "the departments") wish to obtain the program at the discounted amount offered by Locality Media, Inc., but the discounted cost and grant funding apply only to a single invoice which cannot be broken out into separate invoices for each department;

WHEREAS, the Town of Weaverville has agreed to act as purchasing agent and secure the program for use by the fire departments upon the condition that the departments agree to reimburse the Town of Weaverville for such payment as set forth in this Agreement;

NOW, THEREFORE, the parties hereby agree to the following terms and conditions:

1. The Town of Weaverville agrees to act as a purchasing agent and enter into a contract with Locality Media, Inc. d/b/a First Due Size-Up, for the initial term and for an additional 6 month term at the same or lower rate should Buncombe County not take over the purchasing of the program, subject to the right of the Town of Weaverville to terminate at any time in its sole discretion.
2. The contract amount of the First Due Size-Up Program for the initial term is \$24,320 which will be broken down into an invoice to be paid by the Town of Weaverville on behalf of the departments in the amount of \$17,320.00 and a separate invoice reflecting the grant in the amount of \$7,000.
3. The departments agree that they will each equally share in the amount to be paid by the Town of Weaverville with the amount of \$911.58 being due from each for the initial term.
4. Based on such agreement the Town of Weaverville will secure the Program on behalf of the departments upon the condition that each department pay its equal share by reimbursing the Town of Weaverville.
5. Each department must make payment to the Town of Weaverville within 30 days of receiving a request for payment. If payment is not received within 30 days then a late penalty of \$50.00 will be due and payable along with the original amount due.
6. Failure of a department to pay as set forth in this Agreement will be deemed a default and the Town of Weaverville has the right to pursue any and all legal and equitable remedies including bringing a legal action for money owed and costs associated with the default, including reasonable attorney's fees.
7. Each department will use its best efforts to encourage Buncombe County to include the cost of the renewal of this Program within its budget or to increase fire tax rates for each department in order to cover the cost of the Program.
8. This Agreement will automatically expire and terminate on December 31, 2019, however, the Town of Weaverville reserves the right to terminate early in its sole discretion.
9. This Agreement represents any and all agreements between the parties and contains all of the agreements on this matter. This Agreement may be executed in one or more counterparts, each of which may be deemed an original, but all of which constitute one and the same instrument. Facsimile or electronic versions of this agreement shall have the same legal effect as an original. This Agreement cannot be amended unless the amendment is reduced to writing and signed by all parties.
10. This Agreement is binding upon and inure to the benefit of the parties, their successors and assigns. Nothing in this Agreement is intended, nor deemed, to confer any benefits on any third party nor shall such person or entity have any right to seek, enforce or recover any right or remedy under this Agreement.

IN WITNESS WHEREOF, the parties have signed this Interlocal Agreement as of the effective date written above.

TOWN OF WEAVERVILLE

By: *Selena D. Coffey*
SELENA D. COFFEY, Town Manager

By signing below, you acknowledge that you have the authority to enter into this Agreement on behalf of your department and/or non-profit corporation under which your department operates and to obligate your department to the terms contained herein:

BUNCOMBE COUNTY RESCUE SQUAD: *Phil P. Kelly*

FAIRVIEW FIRE DEPARTMENT: *C. Jeff Auger*

BLACK MOUNTAIN FIRE DEPARTMENT: *Fran V. Wilson*

WEST BUNCOMBE FIRE DEPARTMENT: *[Signature]*

SWANNANOA FIRE DEPARTMENT: *Ronald W. Highlands*

WEAVERVILLE FIRE DEPARTMENT: *Phil William*

REYNOLDS FIRE DEPARTMENT: *Paul A. Smith PRESIDENT*

ENKA-CANDLER FIRE DEPARTMENT: *Howard V. Belyk for ECFR for \$911.58 first due package.*

RICEVILLE FIRE DEPARTMENT: *[Signature]*

3/14/19
HB

REEMS CREEK FIRE DEPARTMENT: *Michelle Q. Winslow, President*

UPPER HOMINY FIRE DEPARTMENT: *[Signature] - Fire Chief*

BARNARDSVILLE FIRE DEPARTMENT: *Kevin Mundy*

JUPITER FIRE DEPARTMENT: *John D. Allen*

LEICESTER FIRE DEPARTMENT:

Christopher J. Brown

FRENCH BROAD FIRE DEPARTMENT:

Matthew Sh...

WOODFIN FIRE DEPARTMENT:

Jeff Angel

SKYLAND FIRE DEPARTMENT:

[Signature]

BROAD RIVER FIRE DEPARTMENT:

Brent Hayner

~~GARDEN CREEK FIRE~~

DEPARTMENT:

Z:\Fire\Interlocal Agreement - First Due Size-Up Program - February 2019.docx

2

Garner

This Interlocal Agreement identifies the Black Mountain Fire Department as a party, but the Black Mountain Fire Department is a department of the Town of Black Mountain, which is the proper entity to enter into this interlocal agreement.

The Town of Black Mountain, acting through its Board of Aldermen, has approved this Agreement and directed its Town Manager to execute the agreement on behalf of the Town.

Date: _____

JOSH HARROLD, Town Manager

CAPITAL PROJECT ORDINANCE #O-19-09
RIVERWALK GREENWAY CAPITAL PROJECTS FUND AMENDMENT

BE IT ORDAINED by the Governing Board of the Town of Black Mountain, North Carolina, that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby amended:

Section 1. The project authorized involves constructing a new multi-use path from the existing Flat Creek Greenway trailhead to the existing Riverside Greenway (behind the Bi-Lo store) and an extension west near NC Highway 9, which ultimately will connect with the Oaks Trail and Veterans Park.

Section 2. The officers of this unit are hereby directed to proceed with the capital project within the terms of the agreement documents, and the budget contained herein.

Section 3. At this time, the following amounts have been appropriated and expended for the project:

	BUDGET	ACTUAL
Professional Services	<u>\$230,000</u>	<u>\$163,257</u>
TOTAL	<u>\$230,000</u>	<u>\$163,257</u>

Section 4. And, the following revenues have been budgeted and actuals received:

	BUDGET	ACTUAL
NCDOT Grant – EB-5547	\$120,000	\$118,297
Town Matching Fund	<u>\$110,000</u>	<u>\$270,000</u>
TOTAL	<u>\$230,000</u>	<u>\$388,297</u>

Section 5. The Town has an agreement in place with the NCDOT (Project EB-5547) (see attachment) to provide an additional \$1,607,000 in grant funding for this project. This agreement requires the Town to contribute \$401,750 as a match (20% of the total \$2,008,750). The following Capital Projects Fund budget amendment is needed to update the Project.

EXPENDITURE BUDGET

Professional Services	\$720,000
Capital Outlay	<u>\$1,208,750</u>
TOTAL	<u>\$1,928,750</u>

REVENUE BUDGET

NCDOT Grant – EB-5547	\$1,607,000
Contribution from Buncombe County	\$133,000
Town Matching Funds	<u>\$188,750</u>
TOTAL	<u>\$1,928,750</u>

Section 6. The Finance Officer is hereby directed to maintain within the Capital Project Fund (Fund 6400, Riverwalk Greenway Capital Projects Fund) sufficient specific detailed accounting records to satisfy the requirements of the funding agency and their agreements. The term of the agreement also shall be met.

Section 7. The Finance Officer is directed to report, on a quarterly basis, on the financial status of each project element in Section 3 and on the total grant revenues received or claimed.

Section 8. The Budget Officer is directed to include a detailed analysis of past and future costs and revenues on this grant project in every budget submission made to this Board.

Section 9. Copies of this capital project amendment shall be furnished to the Clerk to the Governing Board, and to the Budget Officer and Finance Officer for direction in carrying out this project.

Adopted this 8th day of April, 2019

Don Collins, Mayor

Josh Harrold, Town Manager

Dean Luebbe, Assistant Town Manager/Finance Director

ATTEST:

Angela Reece, Town Clerk

NORTH CAROLINA
BUNCOMBE COUNTY

SUPPLEMENTAL AGREEMENT

DATE: 3/9/2017

NORTH CAROLINA DEPARTMENT OF
TRANSPORTATION

TIP #: EB-5547

AND

WBS ELEMENTS: PE 51045.1.1

ROW 51045.2.1

TOWN OF BLACK MOUNTAIN

CON 51045.3.1

OTHER FUNDING:

FEDERAL-AID #: STPDA-1302(62)

CFDA #: 20.205

TOTAL SUPPLEMENTAL FUNDS [NCDOT PARTICIPATION] \$1,607,000

THIS AGREEMENT is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the "Department", and the Town of Black Mountain, hereinafter referred to as the "Municipality."

WITNESSETH:

WHEREAS, the Department and the Municipality on 11/9/2015, entered into a certain Project Agreement for the original scope: constructing a new multi-use path from existing Flat Creek Greenway trailhead to existing Riverside Greenway near Riverside Park and an extension west near NC 9 and existing culvert, programmed under Project EB-5547; and,

WHEREAS, the Municipality has requested reimbursement for eligible ROW and Construction costs and extend the completion date of the Project.

NOW THEREFORE, the parties wish to supplement the aforementioned Agreement whereby the following provisions are amended:

2. SCOPE OF PROJECT

The Project consists of constructing a new multi-use path from existing Flat Creek Greenway trailhead to existing Riverside Greenway near Riverside Park and an extension west near NC 9 and existing culvert.

The Department's funding participation in the Project shall be restricted to the following eligible items:

- Design
- Environmental Documentation
- Right of Way
- Utilities
- Construction

3. FUNDING

The Department's original participation was \$120,000. The Department agrees to reimburse the Municipality eighty-percent (80%) of eligible costs up to an additional \$1,607,000 of STP-DA funds. The Municipality will provide \$401,750 as the non-federal match for the additional funds. The Municipality shall also provide all costs that exceed the total estimated costs per the revised funding table below:

REVISED FUNDING TABLE

Fund Source	Federal Funds Amount	Reimbursement Rate	Non-Federal Match \$	Non-Federal Match Rate
Original Agreement (STP-DA)	\$120,000	80%	\$30,000	20%
Supplemental Agreement (STP-DA)	\$1,607,000	80%	\$401,750	20%
Total Estimated Cost		\$2,158,750		

4. PERIOD OF PERFORMANCE

The Municipality has five (5) years to complete all work outlined in the Agreement from the date of PE authorization, or 10/14/2021. Completion for this Agreement is defined as completion of all construction activities or implementation activities, acceptance of the project, and submission of a final reimbursement package to the Department.

IRAN DIVESTMENT ACT

Pursuant to G.S. 147-86.59, any person identified as engaging in investment activities in Iran, determined by appearing on the Final Divestment List created by the State Treasurer pursuant to G.S. 147-86.58, is ineligible to contract with the State of North Carolina or any political subdivision of the State. The Iran Divestment Act of 2015, G.S. 147-86.55 *et seq.* requires that each vendor, prior to contracting with the State, certify that the contracting party meets the requirements of the Iran Divestment Act. The State Treasurer's Final Divestment List can be found on the State Treasurer's website at the address www.nctreasurer.com/Iran and will be updated every 180 days.

By execution of this Agreement each Party certifies that neither it nor its Agents or Contactors/Subcontractors are on the Final Divestment List of entities that the State Treasurer has determined engages in investment activities in Iran; and neither Party shall utilize on any contract with the State agency any subcontractor that is identified on the Final Divestment List. Furthermore, each Party that the undersigned are authorized by the Parties to make this Certification.

During the term of this Agreement, should the Parties receive information that a person is in violation of the Act as stated above, the Department will offer the person an opportunity to respond and the Department will take action as appropriate and provided for by law, rule, or contract. Should this Act be voided by NC General Statute, this Agreement will remain valid; however this certification will no longer be required.

Except as hereinabove provided, the Agreement heretofore executed by the Department and the Municipality on 11/9/2015, is ratified and affirmed as therein provided.

IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Municipality by authority duly given.

L.S. ATTEST:

TOWN OF BLACK MOUNTAIN

BY: Angela Recce

BY: C. Michael Sobol

TITLE: Town Clerk

TITLE: Mayor

DATE: March 23, 2017

DATE: 3-23-2017

NCGS 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

Approved by C. Michael Sobol, Mayor (Governing Board) of the Town of Black Mountain as attested to by the signature of Angela Recce, Clerk of the Town of Black Mountain (Governing Board) on 3-23-2017 (Date)



This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

C. Michael Sobol, Mayor
(FINANCE OFFICER) Debra

Federal Tax Identification Number

56-600-1182

Remittance Address:

Town of Black Mountain

160 Midland Ave.

Black Mountain, NC 28711

DEPARTMENT OF TRANSPORTATION

BY: Michael H. H.

(CHIEF ENGINEER)

DATE: 4/12/17

APPROVED BY BOARD OF TRANSPORTATION ITEM O: 4-6-2017 (Date)

EXPENDITURES

		6400-5400-040		6400-5400-730	
		Prof Serv		Capital	
		Budget	Actual	Budget	Actual
FY16	10/23/2015				
FY17	8/16/2016	150,000		-	
FY17	9/28/2016				
FY17	12/31/2016		147,871		-
FY17	6/13/2017	80,000		-	
FY18	3/6/2018				
FY19	11/27/2018				
FY19	3/14/2019		15,386		-
		230,000	163,257	-	-

FY19	4/8/2019	720,000	1,208,750
(proposed budget amendment)			
FY19	4/8/2019	950,000	1,208,750
(balances after budget amendment)			
Project totals			2,158,750

REVENUES

6400-3710-709 NCDOT Grant		6400-3915-936 Contribution from Bunc C		6400-3915-935 Transfer from GF	
Budget	Actual	Budget	Actual	Budget	Actual
					30,000
120,000				30,000	
	118,297				80,000
				80,000	
					80,000
					80,000
120,000	118,297	-	-	110,000	270,000

1,607,000	133,000	188,750
1,727,000	133,000	298,750
		2,158,750

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: April 8, 2019

SUBJECT: Budget Amendment for Riverwalk Greenway #FY2019-19.

AGENDA INFORMATION

Agenda Location: New Business
Item Number: 8D
Department: Finance
Contact: Dean Luebbe, Assistant Town Manager/Finance Director
Presenter: Josh Harrold, Town Manager

BRIEF SUMMARY: The Town has recently resumed activity on the Riverwalk Greenway project. The proposed project amendment updates the project as of April 8, 2019, with all approved agreements. It should be noted that an additional supplemental agreements exists for \$2,730,000, which the Town is working with the NCDOT to be combined with the existing approved agreement of \$2,158,750.

MOTION FOR CONSIDERATION: To approve Budget Amendment #FY2019-19 as submitted, increasing expenditure and revenue accounts in fund 6400 (Riverwalk Greenway Capital Projects Fund) by \$1,928,750.

FUNDING SOURCE: N/A

ATTACHMENTS: Budget Amendment #FY2019-19.

MANAGER'S COMMENTS AND RECOMMENDATIONS: Adopt as presented.

Budget Amendment # 2019-19
Fiscal Year 2018-2019

Dept.	Account #	Account Name	Debit	Credit	Comments
	6400-5400-040	Prof Serv	720,000		Budget update to Riverwalk
	6400-5400-730	Capital Outlay	1,208,750		Greenway CPF
	6400-3710-709	NCDOT Grant		1,607,000	at 4-8-19.
	6400-3915-936	Contribution from BC		133,000	
	6400-3915-935	Transfer from GF		188,750	

Totals:	1,928,750	1,928,750
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BD #

Entered By:

Journal #

Fiscal Yr

Approved By:

Date

Date

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: April 8, 2019

SUBJECT: Public Hearing to Close the Remainder of an Unopened, Platted Portion of First Street
#R-19-06

AGENDA INFORMATION

Agenda Location:	PUBLIC HEARING
Item Number:	9A
Department:	Planning and Development Services
Contact:	Jessica Trotman, Planning Director
Presenter:	Jessica Trotman, Planning Director

BRIEF SUMMARY: At their September 2018 meeting, the Planning Board voted to recommend the closure the remainder of the unopened, platted portion of First Street that was left after recommending the closure of the unopened, platted portion of First Street that was petitioned by Andrew Bobilya.

The Town has the authority to close dedicated but unopened streets within its jurisdiction on its own motion.

MOTION FOR CONSIDERATION:

1. To open the public hearing for **Resolution #R-19-06** to Close Remaining Unopened, Platted Street known as First Street.
2. To close the public hearing.
3. To approve **Resolution #R-19-06** for the street closure.

FUNDING SOURCE: N/A

ATTACHMENTS: **Resolution #R-19-03**, Map, Planning Board Petition

MANAGER'S COMMENTS AND RECOMMENDATIONS: To approve **Resolution #R-19-06** as presented.

Town of Black Mountain
North Carolina

Date: Sept 24, 2018

TO THE BOARD OF ALDERMEN OF THE
TOWN OF BLACK MOUNTAIN

We, the undersigned, being ~~(some)~~ the Town of Black Mountain Planning Board ~~(all)~~ of the owners of the property adjoining the street or alley described below, do hereby petition the Board of Aldermen of the Town of Black Mountain, to close the following described street or alley:

the remaining un-opened portion of First Street (off of Blue Ridge Assembly Drive)

75' x 40'

The undersigned petitioners do certify that the closing of the above described street or alley will not be contrary to the public interest and that no individual owning property in the vicinity of said street or alley, and if it is located in a subdivision, no individual owning property in said subdivision, will be deprived of reasonable means of ingress and egress to his/her property.

The following persons, in addition to the petitioners, own property adjoining the above described street or alley:

<u>NAME</u>	<u>ADDRESS</u>
<u>Andrew & Kirsten Bobilya</u>	<u>34 Blue Ridge Assembly Dr</u>
<u>Charles & Katherine Clegg</u>	<u>9999 Blue Ridge Assembly Dr</u>
<u>Charles & Katherine Clegg</u>	<u>9999 Blue Ridge Assembly Dr</u>
<u>Karen Groves</u>	<u>9999 Laurel Avenue</u>
<u>Max & Edith Penky</u>	<u>15 Laurel Lane</u>

WHEREFORE, your petitioners respectfully request the Board of Aldermen of the Town of Black Mountain to adopt a resolution ordering the closing of the above described street or alley.

Witness our signatures the day and year first above written.

<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE #</u>
<u>The Town of Black Mtn Planning Board</u>		
<u>For</u>	<u>Against</u>	
<u>Peter Vazquez</u>	<u>Lisa Milton</u>	
<u>Jennifer Willet</u>		
<u>Pam Norton</u>		
<u>Jesse Gardner</u>		
<u>Michael Raines</u>		
<u>Scott Reed</u>		

1:1,128

MSD GIS Staff
Sources: Esri, I

RESOLUTION #R-19-06

RESOLUTION TO CLOSE REMAINING UNOPENED, PLATTED PORTION OF FIRST STREET, PLAT BOOK 19, PAGE 45

WHEREAS, the Town of Black Mountain has received a request from the Town of Black Mountain Planning Board to close the remaining unopened, platted portion of First Street; and

WHEREAS, the Planning Board for the Town of Black Mountain did recommend that the remainder of the street be closed; and

WHEREAS, the Town of Black Mountain has the authority to close dedicated streets within its jurisdiction on its own motion pursuant to N.C.G.S. 160A-299; and

WHEREAS, the remaining unopened, platted portion of First Street to be closed is more particularly described as follows:

LYING AND BEING in the Town of Black Mountain, Black Mountain Township, Buncombe County, North Carolina:

BEGINNING at a No. 5 rebar set in the northern edge of First Street as said street is shown on that plat recorded in Plat Book 19 at Page 45, Buncombe County Registry, said No. 5 rebar being located North 08° 12' 36" East 20.00 feet from the southeast corner of Lot B as shown on that plat recorded in Plat Book 195 at Page 30, Buncombe County Registry; thence from said Beginning South 85° 42' 59" East 74.58 feet to a No. 5 rebar set in the western boundary of Lot 56 as shown on that plat recorded in Plat Book 19 at Page 45, Buncombe County Registry; thence with the western boundary of said lot South 07° 30' 53" West 41.36 feet to a metal fence post; thence North 84° 38' 40" West 75.00 feet to a No. 5 rebar; thence North 08° 12' 36" East 39.99 feet to the BEGINNING, being the remaining unclosed eastern portion of First Street as shown on the plat recorded in Plat Book 19 at Page 45, Buncombe County Registry.

WHEREAS, the Board of Aldermen of the Town of Black Mountain considered the above referenced request at its regular meeting at 6:00 p.m. on the 11th day of February, 2019 and for good cause shown, the Board of Aldermen declared its intent to close the described remaining unopened, platted portion of First Street; and

WHEREAS, a copy of the resolution adopted by the Board of Aldermen at their February 11, 2019 meeting was published in the Black Mountain News for four (4) consecutive weeks; and

WHEREAS, notice of the adoption of the resolution of intent and the public hearing on the closing of the described remaining unopened, platted portion of First Street was posted at two prominent places along said street no later than February 20, 2019; and

WHEREAS, the Planning Board, by a vote of 6-1, joined in the petition to close the remaining unopened, platted portion of First Street; and

WHEREAS, a public hearing was held to received public comment at the regular meeting of the Board of Aldermen in the Board meeting room in the Town Hall Building on Monday, April 8, 2019 at 6:00 p.m.; and

WHEREAS, it appears to the satisfaction of the Board of Aldermen that closing the described remaining unopened, platted portion of First Street is not contrary to the Town, and that no individual owning property in the vicinity of said remaining unopened, platted portion of First Street would be hereby deprived of reasonable means of ingress or egress; but

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

1. Pursuant to the North Carolina General Statute Section 160A-299, that unopened, platted portion of First Street described shall be permanently closed to public use.
2. The closing is subject to the retention by the Town of easements for any existing water, sewer, or other existing utility lines.
3. Pursuant to North Carolina General Statute Section 160A-299, a certified copy of this resolution and order shall be filed in the Office of the Register of Deeds for Buncombe County, North Carolina, if and at such time as the contingencies set out above are met.

I move the adoption of the foregoing resolution:

Alderman

READ, APPROVED AND ADOPTED, this the 8th day of April, 2019.

ATTEST:

Don Collins, Mayor

Angela Reece, Town Clerk

Josh Harrold, Town Manager



TOWN OF BLACK MOUNTAIN

160 Midland Avenue
Black Mountain, NC 28711

BoA Regular
Session
February 11, 2019

RESOLUTION OF INTENT # R-19-03

**RESOLUTION DECLARING THE INTENT OF THE BOARD OF ALDERMENT OF
THE TOWN OF BLACK MOUNTAIN TO CONSIDER THE CLOSING OF THE
REMAINDER OF AN UNOPENED, PLATTED PORTION OF FIRST STREET AND TO
HOLD A PUBLIC HEARING ON THIS ISSUE APRIL 8, 2019**

WHEREAS, G.S. 160A-299 authorizes the Board of Aldermen of the Town of Black Mountain to permanently close public streets or alleys; and

WHEREAS, The Town of Black Mountain has received a request from the Planning Board to close that remainder of an unopened, platted portion of First Street; and

WHEREAS, the Planning Board for the Town of Black Mountain, after reviewing petitioners' request, did recommend that the unopened portion of First Street be closed; and

WHEREAS, the Board of Aldermen of the Town of Black Mountain must set a public hearing to consider any comments concerning the above referenced request before taking any action; and

WHEREAS, in accordance therewith, the Board of Aldermen of the Town of Black Mountain desires to take the following actions:

DESCRIPTION:

LYING AND BEING in the Town of Black Mountain, Black Mountain Township, Buncombe County, North Carolina:

BEGINNING at a No. 5 rebar set in the northern edge of First Street as said street is shown on that plat recorded in Plat Book 19 at Page 45, Buncombe County Registry, said No. 5 rebar being located North 08° 12' 36" East 20.00 feet from the southeast corner of Lot B as shown on that plat recorded in Plat Book 195 at Page 30, Buncombe County Registry; thence from said Beginning South 85° 42' 59" East 74.58 feet to a No. 5 rebar set in the western boundary of Lot 56 as shown on that plat recorded in Plat Book 19 at Page 45, Buncombe County Registry; thence with the western boundary of said lot South 07° 30' 53" West 41.36 feet to a metal fence post; thence North 84° 38' 40" West 75.00 feet to a No. 5 rebar; thence North 08° 12' 36" East 39.99 feet to the BEGINNING, being the remaining unclosed eastern portion of First Street as shown on the plat recorded in Plat Book 19 at Page 45, Buncombe County Registry.

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

Section 1. Pursuant to G.S. 160a-299, the Board of Aldermen declares its intent to close the remainder of an unopened portion of First Street.

TOWN OF BLACK MOUNTAIN

160 Midland Avenue
Black Mountain, NC 28711

Section 2. A public hearing on the question of closing said street is hereby called at Town Hall, 160 Midland Avenue, Black Mountain, N.C. 28711 on Monday, April 8, 2019 at 6:00 p.m.

Section 3. Following the public hearing called hereby, the Board of Aldermen shall consider the passage of an order closing the street identified above.

Section 4. The Town of Black Mountain Town Clerk is hereby directed to publish this Resolution once a week for four successive weeks in the Black Mountain News, or other newspaper of general circulation in the area.

Section 5. The Town of Black Mountain Zoning Administrator is hereby directed to transmit by registered or certified mail to each owner of property abutting upon that portion of said street a copy of this Resolution.

Section 6. The Town of Black Mountain Zoning Administrator is further directed to cause adequate notices of the proposed closing and of the public hearing to be posted as required by G.S. 160A-299.

I move the adoption of the foregoing resolution:

Alderman Larry. B. Harris

READ, APPROVED AND ADOPTED, by a vote of 5 to 0 this the 11th day of February, 2019.

ATTEST:

Don Collins, Mayor



Angela Reece, Town Clerk

Josh Harrold, Town Manager

Published in Black Mountain News weeks of 02/21/19, 02/28/19, 03/07/19, 03/14/19

LEGAL NOTICE CHECKLIST

NOTICE TEXT: Resolution of Intent to Close Remaining Portion of First Street

Legal Notice Prepared	☒	Date: 01/29/19 Initials: JT
Legal Notice Posted on Board	☒	Date: 02/13/19 Initials: AR
Legal Notice Sent to Jessica	☒	Date: 01/29/19 Initials: JT
Legal Notice Sent to Angela	☒	Date: 01/29/19 Initials: JT
Legal Notice Sent to Paper	☒	Date: 02/12/19 Initials: AR

Publish in Black Mountain News weeks of 02/20/19, 02/27/19, 03/07/19, 03/14/19

Affidavit of Publication Requested	☒	Date: 02/12/19 Initials: AR
Legal Notice Attached to Agenda	☒	Date: 04/07/19 Initials: AR
Received Affidavit of Publication	☐	Date: Initials:

Legal Notice Publication Deadlines:

Citizen Times – 2:00 p.m. 2 days in advance – ads run Wednesday through Sunday

Black Mountain News – 12:00 noon Mondays for current week publication

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: April 8, 2019

SUBJECT: Public Hearing for Text Amendments to Definitions for Bed and Breakfast Homes and Inns **#O-19-06**

AGENDA INFORMATION

Agenda Location: PUBLIC HEARING
Item Number: 9B
Department: Planning and Development Services
Contact: Jessica Trotman, Planning Director
Presenter: Jessica Trotman, Planning Director

BRIEF SUMMARY: The current definitions for bed and breakfast homes and inns do not meet the same definitions as the state statutes and the Town definitions allow for fewer rooms than the state statute allows. A citizen has requested that the definitions be amended to follow the state statute.

MOTION FOR CONSIDERATION:

1. To open the public hearing for ***Ordinance #0-19-06*** for amendments to definitions of bed and breakfast homes and inns.
2. To close the public hearing.
3. To adopt the Statement of Consistency as presented [or as amended].
4. To adopt ***Ordinance #O-19-06*** as presented [or as amended].

FUNDING SOURCE: N/A

ATTACHMENTS: ***Ordinance #O-19-06***, Statement of Consistency, Text Amendment Application, Planning Board Statement of Consistency

MANAGER'S COMMENTS AND RECOMMENDATIONS: To adopt ***Ordinance #O-19-06*** as presented [or as amended].



LEGAL NOTICE

BLACK MOUNTAIN BOARD OF ALDERMEN

PUBLIC HEARING

Monday, April 8, 2019 at 6:00 p.m.

The Black Mountain Board of Aldermen will meet on **Monday, April 8, 2019 at 6:00 p.m.** in the Board Room in the Town Hall Building, 160 Midland Avenue, Black Mountain, NC. The purpose of this meeting is to hold a public hearing for text amendments to definitions (bed and breakfast homes and inns).

The meeting is open to the public.



Angela Reece
Town Clerk

The Town of Black Mountain is committed to providing accessible facilities, programs and services for all people in compliance with the Americans with Disabilities Act (ADA). Should you need assistance or a particular accommodation for this meeting please contact, Angela Reece, Town Clerk at 419-9310 or by email at townclerk@townofblackmountain.org

*Posted to the Town Bulletin Board 03/18/19
Published in the Black Mountain News 03/28/19 and 04/04/19*

www.townofblackmountain.org

Classified Ad Receipt
(For Info Only - NOT A BILL)

Customer: TOWN OF BLACK MOUNTAIN
Address: 160 MIDLAND AVE
BLACK MOUNTAIN NC 28711
USA

Ad No.: 0003458910
Pymt Method Invoice
Net Amt: \$115.58

Run Times: 2

No. of Affidavits: 0

Run Dates: 03/28/19, 04/04/19

Text of Ad:



LEGAL NOTICE

BLACK MOUNTAIN BOARD OF ALDERMEN

PUBLIC HEARING

Monday, April 8, 2019 at 6:00 p.m.

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The meeting is open to the public.

Angela Reece
Town Clerk

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Posted to the Town Bulletin Board
03/18/19
Published in the Black Mountain News
03/28/19 and 04/04/19

www.townofblackmountain.org
0003458910

ORDINANCE NO. #O-19-06

AN ORDINANCE TO AMEND CHAPTER 1, SECTION 1.2.3, DEFINITIONS

WHEREAS, the Town of Black Mountain Planning Board is charged with reviewing and updating land use planning, zoning and subdivision regulations; and

WHEREAS, the Planning Board made a commitment to the Board of Aldermen to review the text of the Land Use Code in the years since its adoption to address any residual inconsistencies in the text and to look for opportunities to clarify and improve text; and

WHEREAS, the following text amendments are required to carry out vision statement nine: community planning of the 2014 Comprehensive Plan;

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

1. Chapter 1 – Structure and Administration
Section 1.2.3 - Definitions

Bed and breakfast home: A private, owner-occupied residences with ~~one to four~~ ***no more than six*** guest rooms where overnight accommodations and a morning meal are provided to transients for compensation, and where the bed and breakfast use is subordinate and incidental to the main residential use of the building. The home owner shall reside on site and employment shall not exceed the equivalent of one full-time employee in addition to the owner.

Bed and breakfast inn: A private, owner-occupied business with ~~five to twelve~~ ***at least seven but not more than 12*** guest rooms where overnight accommodations and a morning meal are provided to transients for compensation and where the bed and breakfast inn is operated primarily as a business. The home owner shall reside on site and employment shall not exceed the equivalent of three full-time employees in addition to the owner.

READ, APPROVED AND ADOPTED, by a vote of _____ to _____ on this the 8th day of April, 2019.

Don Collins, Mayor

ATTEST:

Angela L. Reece, Town Clerk

TOWN OF BLACK MOUNTAIN
PLANNING BOARD
CONSISTENCY STATEMENT

To: The Board of Aldermen for the Town of Black Mountain

From: The Planning Board for the Town of Black Mountain

Date: February 25, 2019

Subject: Zoning Text Amendment

Description: Amend definition of bed and breakfast home and inn

Address: N/A

The Planning Board hereby adopts and recommends to the Board of Aldermen the following statements:

___ü___ The zoning amendment is approved and is consistent with the Town's comprehensive plan and is reasonable and in the public interest because:

How consistent with plan: Supports local business owners

Why is it reasonable and in the public interest: Encourages regulated businesses in residential districts and maintains the integrity of neighborhoods

_____ The zoning amendment is rejected because it is inconsistent with the Town's comprehensive plan and/or is not reasonable and in the public interest because:

How inconsistent with the plan: _____

Why is it not reasonable and in the public interest: _____

_____ In addition to approving this zoning amendment, this approval is also deemed to be an amendment to the Town's comprehensive plan. The change in conditions taken into account amending the zoning ordinance to meet the development needs of the community and why this action is reasonable and in the public interest are as follows:

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

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

WHEREAS, the Town of Black Mountain has the authority, pursuant to Part 3 of Article 19 of Chapter 160A of the North Carolina General Statutes, to adopt land development regulations, clarify such regulations, and may amend regulations from time to time in the interest of public health, safety and welfare; and

WHEREAS, the proposed text amendment has been reviewed by the Planning Board and recommends its enactment to the Board of Aldermen; and

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

- Encourages regulated businesses in residential districts.
- Maintains the integrity of neighborhoods.

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

- Vision Statement 9: Community Planning – supports local business owners while allowing mixed-uses in neighborhoods.

WHEREAS, after notice duly given, a public hearing was held on April 8, 2019 as part of the regularly scheduled Board of Aldermen meeting at 6:00 p.m. in the Board Room of Town Hall, 160 Midland Avenue.

NOW, THEREFORE, THE BOARD OF ALDERMEN APPROVE THIS STATEMENT OF CONSISTENCY, by a vote of ____ to ____ on this the 8th day of April, 2019.

Don Collins, Mayor

ATTEST:

Angela L. Reece, Town Clerk



Town of Black Mountain

160 Midland Avenue ♦ Black Mountain, North Carolina ♦ 28711

Phone: 828-419-9300 ♦ Fax: 828-669-2030

OFFICE OF THE ZONING ADMINISTRATOR

APPLICATION FOR A CHANGE TO ZONING CODE

Date: 1/28/2019

To: TOWN OF BLACK MOUNTAIN
ZONING ADMINSTRATOR

THE SECTION OF THE ZONING CODE YOU ARE REQUESTING TO BE CHANGED:

5.5.1 text change to North Carolina definition
of bed and breakfast and inns, 130A-247 5a + b

AN APPLICATION FOR A CHANGE TO THE ZONING CODE HAS BEEN APPLIED FOR BY:

Name: Theresa Fuller Phone: 828-357-8525
Company: Arbor House of Black Mountain Bed (if applicable)
Address: 207 Rhododendron Ave and Breakfast
Black Mountain, NC 28711

THE APPLICANT BELIEVES THE ZONING CHANGE SHOULD BE GRANTED FOR THE FOLLOWING REASONS:

The code has not been addressed since April
26, 1999, back when 4 rooms or less did not owe
occupancy tax. The code is not up to date.
The NC code was changed 3 times since 1999.
The latest change was 2 years ago. The NC
code is more depicted by what is actually set
in Black Mountain

SIGNATURE

DATE: 1/28/2019

Zoning and Ordinances Discussion for Arbor House of Black Mountain

Bed and Breakfast

As of August 2, 2018 Arbor House is a Neighborhood mixed use district (UR-8) with conditional permitting to be a Bed and Breakfast House.

Black Mountain Ordinances

<https://library.municode.com/search?stateId=33&clientId=8128&searchText=bed%20and%20breakfast&contentType=d=CODES>

5.1.1 - Purpose.

The Town of Black Mountain finds that there are certain uses that exist which may be constructed, continued, and/or expanded provided they meet certain mitigating requirements specific to their design and/or operation. Such additional requirements ensure compatibility with other uses and conformance to the town's comprehensive plan or other adopted plans. This chapter specifies those requirements that must be met by all the uses listed in the uses permitted with additional requirements section for each district in chapter 4.

Each use shall be permitted in compliance with all additional requirements listed for the use in this chapter. Certain uses are also classified as *conditional uses* or *special uses* and require board of adjustment approval per chapters 6 and 7.

5.5.1 - Bed and breakfast homes and inns.

The maximum number of guest rooms shall be four for a bed and breakfast home and 12 for a bed and breakfast inn.

The bed and breakfast shall be operated by a resident manager. For bed and breakfast homes, there shall be a maximum of one full-time employee in addition to the owner. For bed and breakfast inns, there shall be a maximum of three full-time employees in addition to the owner.

The use shall contain only one kitchen facility. Meals served on the premises shall be only for overnight guests and residents of the facility.

5.20.4 - Temporary use requirements for bed and breakfast homes or inns in residential districts.

This section only applies to bed and breakfast home and/or inns located within residential districts.

Temporary uses or special events on these properties shall comply with the following conditions:

A permit shall be issued by the zoning administrator for a time period of up to three days (72 hours).

Parking for special events shall be restricted to the premises of the bed and breakfast homes. However, should off premises parking be necessary, written permission from the owner of the property used for off premise parking shall be required. Said written permission shall be turned in with the application.

Special events or caterings shall be limited to one per month.

Any excessive noise, excessive traffic, inconvenience to neighbors, or failure to comply with any of the other guidelines shall be cause for revocation of the permit.

Failure to comply with the established guidelines after the second written warning within 12 months will result in the permit being revoked and a new temporary permit shall not be issued for a period of 12 months.

No temporary banners or signs shall be displayed in conjunction with the event.

Buncombe County Ordinances

<https://www.buncombecounty.org/common/planning/zoning/zoning-ordinance.pdf>

<https://library.municode.com/nc/buncombe-county/codes/code-of-ordinances>

No real definition of a Bed and Breakfast Home, just Inn.

North Carolina General Assembly

<https://www.ncleg.net/>

130A-247. Definitions.

The following definitions shall apply throughout this Part:

- (1) "Establishment" means (i) an establishment that prepares or serves drink, (ii) an establishment that prepares or serves food, (iii) an establishment that provides lodging, (iv) a bed and breakfast inn, or (v) an establishment that prepares and sells meat food products as defined in G.S. 106-549.15(14) or poultry products as defined in G.S. 106-549.51(26).
- (1a) "Permanent house guest" means a person who receives room or board for periods of a week or longer. The term includes visitors of the permanent house guest.
- (2) "Private club" means an organization that (i) maintains selective members, is operated by the membership, does not provide food or lodging for pay to anyone who is not a member or a member's guest, and is either incorporated as a nonprofit corporation in accordance with Chapter 55A of the General Statutes or is exempt from federal income tax under the Internal Revenue Code as defined in G.S. 105-130.2(1) or (ii) meets the definition of a private club set forth in G.S. 18B-1000(5).
- (3) "Regular boarder" means a person who receives food for periods of a week or longer.
- (4) "Establishment that prepares or serves drink" means a business or other entity that prepares or serves beverages made from raw apples or potentially hazardous beverages made from other raw fruits or vegetables or that otherwise puts together, portions, sets out, or hands out drinks for human consumption.
- (5) "Establishment that prepares or serves food" means a business or other entity that cooks, puts together, portions, sets out, or hands out food for human consumption.
- (5a) **"Bed and breakfast home" means a business in a private home of not more than eight guest rooms that offers bed and breakfast accommodations for a period of less than one week and that meets all of the following criteria:**
 - a. Does not serve food or drink to the general public for pay.
 - b. Serves the breakfast meal, the lunch meal, the dinner meal, or a combination of all or some of these three meals, only to overnight guests of the home.
 - c. Includes the price of breakfast in the room rate. The price of additional meals served may be added to the room rate at the conclusion of the overnight guest's stay.
 - d. Is the permanent residence of the owner or the manager of the business.
- (6) **"Bed and breakfast inn" means a business of at least nine but not more than 12 guest rooms that offers bed and breakfast accommodations for a period of less than one week, and that meets all of the following requirements:**
 - a. Does not serve food or drink to the general public for pay.
 - b. Serves the breakfast meal, the lunch meal, the dinner meal, or a combination of all or some of these three meals only to overnight guests of the business.
 - c. Includes the price of breakfast in the room rate. The price of additional meals served may be added to the room rate at the conclusion of the overnight guest's stay.
 - d. Is the permanent residence of the owner or the manager of the business.
- (7) "Limited food services establishment" means an establishment as described in G.S. 130A-248(a4), with food handling operations that are restricted by rules adopted by the Commission pursuant to G.S. 130A-248(a4) and that prepares or serves food only in conjunction with amateur athletic events. Limited food service establishment also includes lodging facilities that serve only reheated food that has already been pre-cooked.
- (8) "Temporary food establishment" means an establishment not otherwise exempted from this part pursuant to G.S. 130A-250 that (i) prepares or serves food, (ii) operates for a period of time not to exceed 21 days in one location, and (iii) is affiliated with and endorsed by a transitory fair, carnival, circus, festival, or public exhibition. (1983, c. 891, s. 2; 1987, c. 367; 1991, c. 733, s. 1; 1993, c. 262, s. 1; c. 513, s. 12; 1995, c. 123, s. 12; c. 507, s. 26.8(f); 1999-247, ss. 3, 4; 2013-360, s. 12E.1(a); 2013-413, ss. 7, 11(a); 2014-115, s. 17; 2014-120, s. 21(a); 2017-211, ss. 4(a), (b).)

Minutes Follow
this Section



TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
AGENDA WORKSHOP MEETING MINUTES
March 7, 2019

THE BLACK MOUNTAIN BOARD OF ALDERMEN held an agenda workshop on Thursday, March 7, 2019 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, March 11, 2019 at 6:00 p.m.

1. CALL TO ORDER

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

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

The following staff members were present:

Josh Harrold, Town Manager
Dean Luebbe, Assistant Town Manager
Angela L. Reece, Town Clerk
Ron Sneed, Town Attorney

Shawn Freeman, Police Chief
John Wilson, Deputy Fire Chief
Jessica Trotman, Planning Director
Joshua Henderson, Recreation Director

The Board reviewed the items that were proposed for the March 11, 2019 regular session and made the following changes. Item 5H, Budget Amendment for Contract Services (Benchmark Planning) #FY2019-17 was moved to NEW BUSINESS as new Item 8E. New Item 8F, Black Mountain Ave. Sidewalk. New Item 8G, Cheshire Lighting Contract. New Item 8H, Employee Water Benefit.

Mayor Don Collins opened the meeting. Assistant Town Manager, Dean Luebbe presented the proposed agenda to the Board of Aldermen. Deacon Levon Lindsey of Mills Chapel will give the invocation.

Town Manager, Josh Harrold discussed **Item 5C**, Budget Amendment for HR Attorney Services (Roberts & Stevens) #FY2019-14 stating this amendment is necessary to reflect payment made to the firm for work completed on the employment policy. Manager Harrold stated the Attorney and staff have been working on the updated policy and plan to submit it to the Board at their April meeting.

Black Mountain Board of Aldermen
Agenda Workshop Minutes –March 7, 2019

Town Manager, Josh Harrold discussed **Item 5D**, Budget Amendment for Swannanoa River Enhancements to Veterans Park FY2019-15 stating this amendment is necessary to reflect the grant match payment for engineering services to correct streambank erosion at Veterans Park. Manager Harrold reminded everyone the Town received a Pigeon River Grant and stated the Town's match was \$5,000.

Town Manager, Josh Harrold discussed **Item 5F**, Call for Public Hearing for Text Amendments to Definitions Section (Bed and Breakfast Homes and Inns) stating this amendment is being petitions by a bed & breakfast owner requesting the number of guest rooms be increased to 6 rooms.

Town Manager, Josh Harrold discussed **Item 5G**, Resolution Authorizing Signer to Sign Payroll and Accounts Payable Checks stating this resolution is necessary to authorize this activity moving forward.

Town Manager, Josh Harrold discussed **Item 5H**, Budget Amendment for Contract Services (Benchmark Planning) stating there is a line item in the current budget allocating \$10,000 for a part time building inspector. Manager Harrold stated it has been difficult to find a person or firm to perform this type of work on a contract type basis. Manager Harrold stated Benchmark Planning contracts zoning enforcement services and recommended utilizing the budgeted funding to assist with zoning enforcement this spring. Alderman Ryan Stone recalled conversations with the former manager and board regarding the need for a part time position in the Planning Department and stated he feels this item should be discussed under New Business. Alderman Stone stated he still favors the part time position and said he envisioned the position as someone who could learn from the current building inspector, learn the ins and outs of the community, and achieve the certifications to fill the full time building inspection position when available. This will be **NEW Item 8E**.

Town Manager, Josh Harrold discussed **Item 8A**, Selection of Accounting Firm to conduct Fiscal Year 2019 Audit. Manager Harrold stated the Town has utilized Gould Killian for a number of years and said it is good practice to bid out the service. Manager Harrold stated the Town has received three proposals and Gould Killian was one of them along with 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.

Town Manager, Josh Harrold discussed **Item 8B**, Property Inquiry at 206 Sutton Ave. stating the gentleman who owns the building at that location has inquired if the Town would have interest in selling a small section of property abutting his building. Manager Harrold stated he did advise any property sales would be public and subject to bidding. Alderman Larry B. Harris stated he has reservations about selling any green space but would like to ensure the vegetation is trimmed to accommodate the building owner.

Town Manager, Josh Harrold discussed **Item 8C**, 2019 Local Government Records Retention & Disposition Schedule stating the General Local Records Retention Schedule has been universally updated in March. Manager Harrold stated the update supersedes previous standards on **all** local schedules published prior to March 1, 2019. The complete retention and disposition schedule can be viewed and downloaded on the State Archives of NC website.

Black Mountain Board of Aldermen
Agenda Workshop Minutes –March 7, 2019

Town Manager, Josh Harrold discussed **Item 8D**, I40 Blue Ridge Road Interchange Design stating representatives from NCDOT will present information from the public input meeting to the Board and seek direction as to which design is the most preferred. Alderman Ryan Stone requested sidewalk information to be provided during the presentation as well.

Town Manager, Josh Harrold presented a request from the Swannanoa Valley Museum requesting to install a compass in one of the vacant tree wells in front of the Museum in the sidewalk at their expense. A photo of the design was shared with the Board and Manager Harrold stated this information is being presented to the Historic Preservation Commission for their comments. Board members agreed to allow the compass to be placed in the sidewalk pending no objection from the Historic Preservation Commission.

Town Manager, Josh Harrold stated it was time to schedule budget workshops and the Board agreed to hold their first workshop on ***Thursday April 25, 2019 at 8:30 a.m. at 160 Midland Ave. Black Mountain NC 28711.***

Town Manager, Josh Harrold discussed information regarding the River Walk Phase II Greenway design as it relates to sidewalks on Black Mountain Ave. Manager Harrold stated the Greenway Project is roughly about \$300,000 and the Town's match is approximately \$60,000. Manager Harrold stated the rough estimate for sidewalk installation on Black Mountain Ave. is approximately \$51,000 without a curb and with a curb would be \$61,000. Manager Harrold stated the Greenway project would allow a wider path and different route and is dependent on the project timeframe. Manager Harrold stated if the Board prefers a quicker method for access to the downtown area the sidewalk is an option. Mayor Collins and Alderman Larry B. Harris stated they are in favor of proceeding with a sidewalk to provide access to the downtown area sooner rather than later. Board members agreed to add this as **NEW Item 8F** to discuss.

Town Manager, Josh Harrold discussed information regarding an annexation request off of Red Plum Lane (Black Mountain Estates) stating this location is in the East Buncombe Fire District and we currently provide fire services. Manager Harrold stated annexing the property would produce approximately \$21,486 in property tax revenue but said we would lose \$7,800 in fire tax revenue and another \$2,200 for garbage pickup. Alderman Larry B. Harris stated he has concerns maintenance of the steep roadway and snow removal. Board members agreed. Manager Harrold stated he will notify the requestor the Board is not in favor of annexing but will advise them they may proceed with a petition if they choose.

Town Manager, Josh Harrold presented information regarding a lighting contract with Cheshire Master Association Inc. stating Interim Manager Ron Moore began discussions regarding this contract which has been in place since 2003 which has automatically renewed each year without Board action. Interim Ron Moore notified the Cheshire Association that the Town will no longer continue to pay for their street lighting per that contract as it is contradictory to the street lighting policy that is currently in place. Manager Harrold stated the street lighting policy has been in place since 1998 and said it would be equitable to reimburse street lighting at the cost the Town would pay per the policy. Attorney Ron Moore stated the concern at the time this agreement was terminated by Interim Manager Moore was maintenance of the fixtures that were installed which were above and beyond the minimum lighting standards as well as the number of lights. Attorney Sneed stated Cheshire was installing nicer lights and poles closer together than the 600 feet the policy allows and discussed with the Board the intent of the policy stating language is necessary to clarify what the Town will pay for. Mayor Collins and Alderman Larry B. Harris stated the

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policy should mirror what the street lighting policy allows for to ensure equity to the tax payers. Board members agreed to discuss this further in New Business as **NEW Item 8G**.

Alderman Ryan Stone discussed a letter from the Town Manager to town employees regarding a water benefit for employees who reside in town stating it has come to his attention that the Manager has notified some employees that their free water benefit was being terminated in April. Alderman Stone stated he would like to know what prompted the action, what responses were received from the School of Government, and if any alternatives were being considering for employees who live in town. This item was added under NEW Business as **New Item 8H**.

Alderman Larry B. Harris moved to adopt the agenda as amended.

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

There was no further discussion on the agenda.

There being no further discussion, on a motion by Vice Mayor Maggie Tuttle with a vote of 4-0 Mayor Don Collins adjourned the meeting at 6:41 p.m.

ATTEST:

Angela L. Reece, Town Clerk

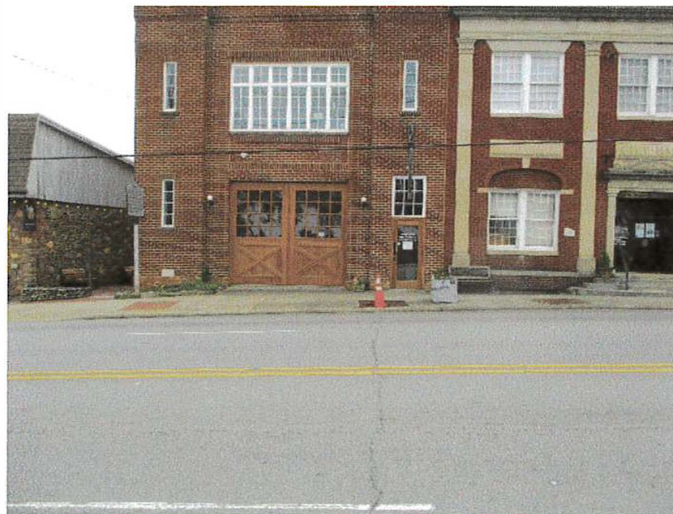
Don Collins, Mayor

Request from the
Swannanoa Valley Museum & History Center

Old tree pocket in front of museum



Picture from across the street







TOWN OF BLACK MOUNTAIN

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

Date: **March 11, 2019**

Time: **6:00 p.m.**

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*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.

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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.

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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.

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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.

- 4) This past fall we partnered with the Horticultural program from the Swannanoa Correctional Center for Women. Several women from this class were honored to be selected to design and plant 2 of the containers. These containers are by The Dripolator and Trailhead Restaurant.
- 5) We have a monthly column in Black Mountain News. We have knowledgeable gardening writers who educate and encourage others to garden. Our articles are getting additional coverage by being published in the Asheville Citizen-Times and on other websites. Our web site is at www.blackmountainbeautification.org. Our articles are posted monthly to the site. In addition, all of the information you would ever want to know about us is on this web page.
- 6) We also use Facebook to publicize our upcoming events and what's new in town. so please go to our Facebook page and like us!
- 7) In August, we finalized our grant requirements with the Appalachian Regional Commission. We enjoyed partnering and working with you on this grant. Now with the installation of 42 plant containers, personalized town benches, and a watering cart that Public Works designed, our vision is realized in the historic district.
- 8) In September Joyce Black-Woerz and Pat Ward, two of our members, revamped the Cherry Street public restroom building and garden site. Pat Ward gave a fresh coat of paint to the exterior wood of the building. The wood served as a canvass for Joyce Black-Woerz to paint her amazing mountain scene mural which now brings additional beauty to Cherry Street. They generously donated their time and talent to give this gift of beauty to all of us who live, work, or visit our town.
- 9) Two Saturdays a year, you may noticed a large number of orange bags around town. This is a community effort as we partner with Kiwanis Club and other local organizations to clean-up our town during our Spring and Fall Litter Sweep events. The next Litter Sweep is Saturday, April 6.
- 10) Most people think it's fall when the leaves change colors. But we see it as when Rocky & Rockettee, the funcrows, and the spider make an appearance in Town Square. These fall figures are created by our talented committee. We also partnered with the teachers and children at the Black Mountain Primary School who created five funcrows. They were displayed at garden sites, Town Square, and welcome areas.
- 11) Before the Holly Jolly weekend started, we decked the garden sites, Town Square, and welcome areas with greenery, roping, and bows to bring the spirit of the holidays into the community.
- 12) We rounded out the year by joining local businesses and organizations at Deck the Trees. This was our first year designing, creating ornaments, and decorating a tree for this special event. As you know, all the money

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 14th 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.

Here is what's on our committee "to do" list for this coming year:

- Continue ALL of the projects previously mentioned
- Working with the VFW, SVCM, Urban Forestry and other organizations in town
- We will be celebrating our 20th committee anniversary in 2020. We are calling it 20-2020 and we are already working on something special to commemorate this milestone.

We always say that our committee works well with others and we could not do all of this without:

- Mayor Don Collins, besides being the Mayor, we would not have a spider at Town Square without you
- Vice-Mayor Maggie Tuttle
- and The Board of Aldermen
- Employees of the Town of Black Mountain
- Jamey Matthews and his crew at Public Services
- Historic Preservation Commission
- Urban Forestry Commission
- Dr. John Wilson Community Garden
- Former Mayor Mike Sobol
- Jeff Seitz, Appalachian Creek Nursery
- Swannanoa Correctional Center for Women
- Kiwanis Club
- Walter Tolley
- Julia Burr
- Dan and Tekla Howachyn
- Blue Ridge Assembly
- Black Mountain News
- Black Mountain Primary School
- The Monte Vista Hotel
- Businesses of Black Mountain
- Rainbow Recycling
- Chamber of Commerce

These are just some of the folks that immediately come to mind but please accept our apologies if we inadvertently left anyone out.

We have received recognition for our work in many forms:
Being thanked and recognized at the commission appreciation luncheon.

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



Town of Black Mountain
Public Works Department
Annual Water Operations Report 2018

- **2018 Water Operations Projects**
 - Replaced taps on Cherry Street
 - Replaced 2" water line on S Ridgeway Ave
 - Replaced and extended 2" water line on Taft Street
 - Replaced Well Pumps #4 and #18
 - Generators at booster stations (Hemphill, Chapel, Old Toll)
 - Montreat Rd Valves

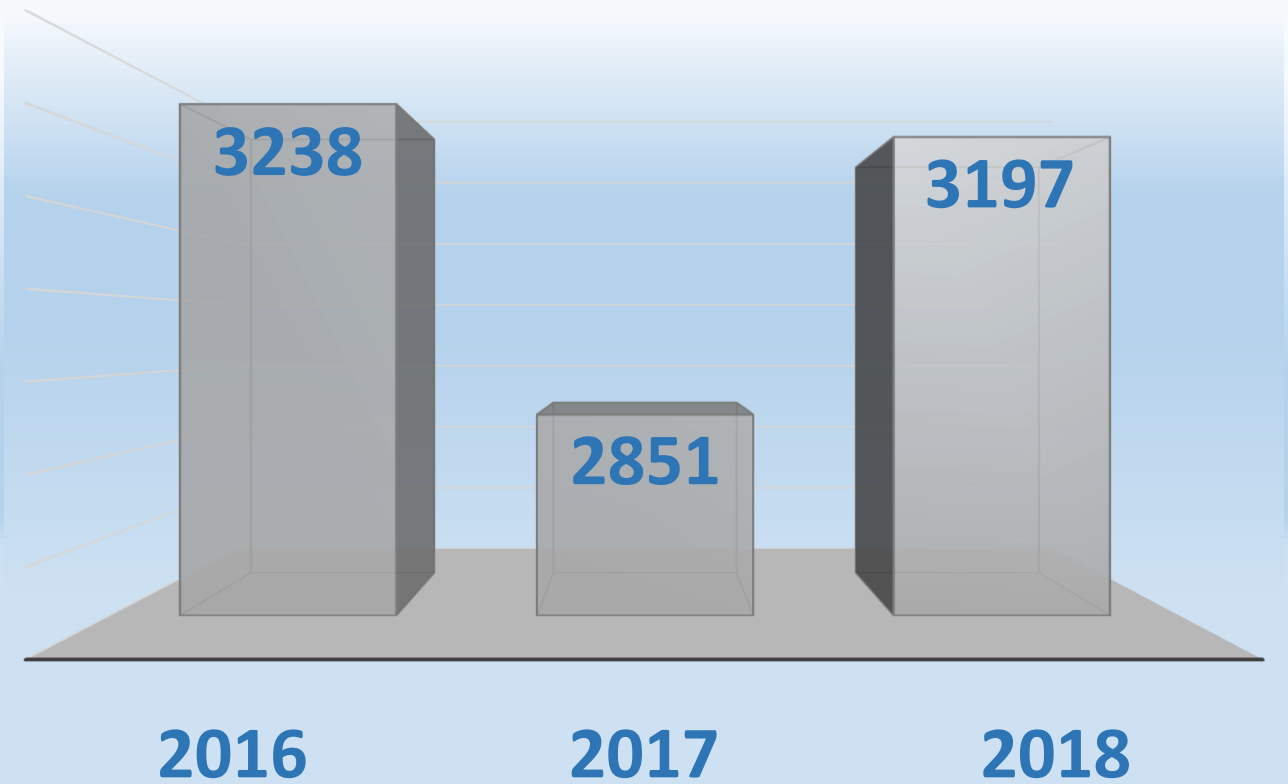
- **Work Orders Completed**

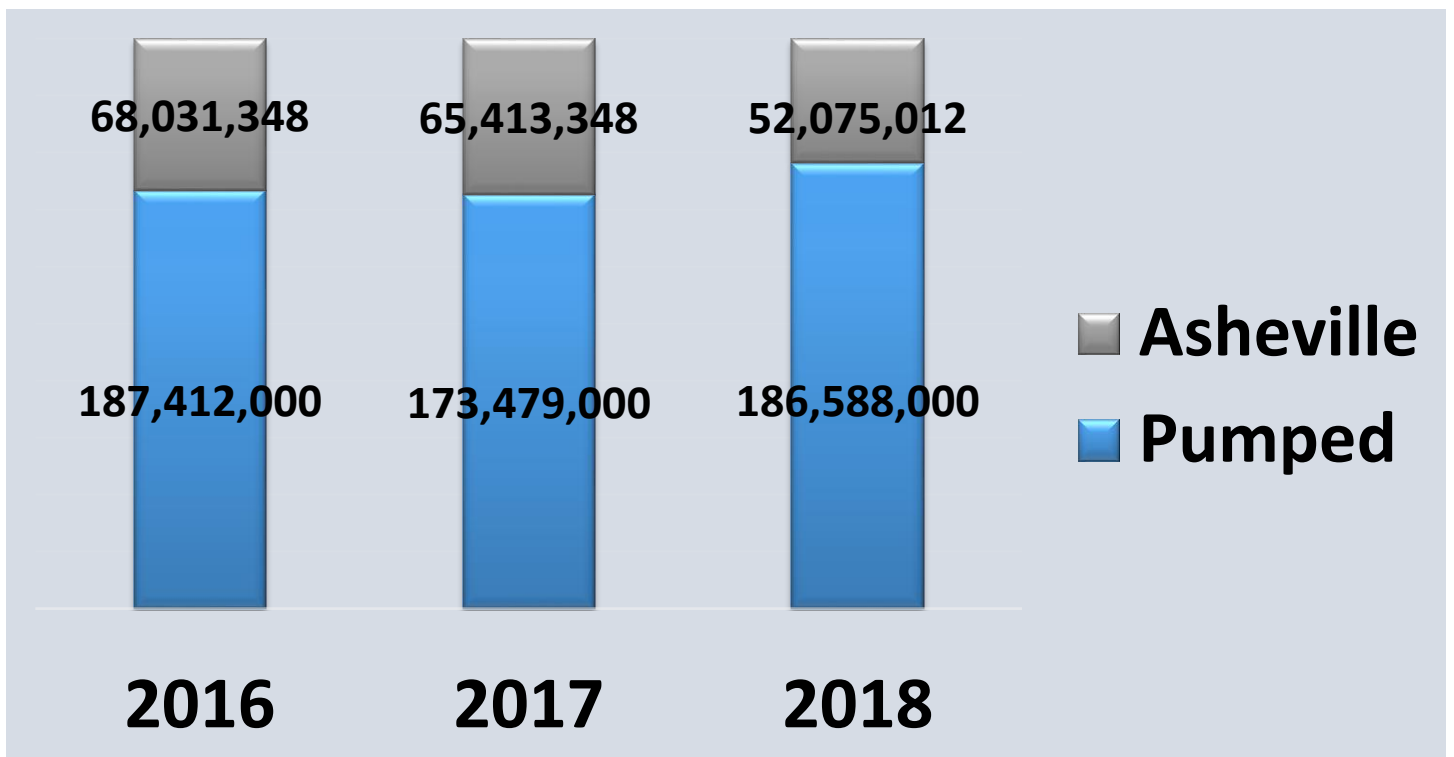
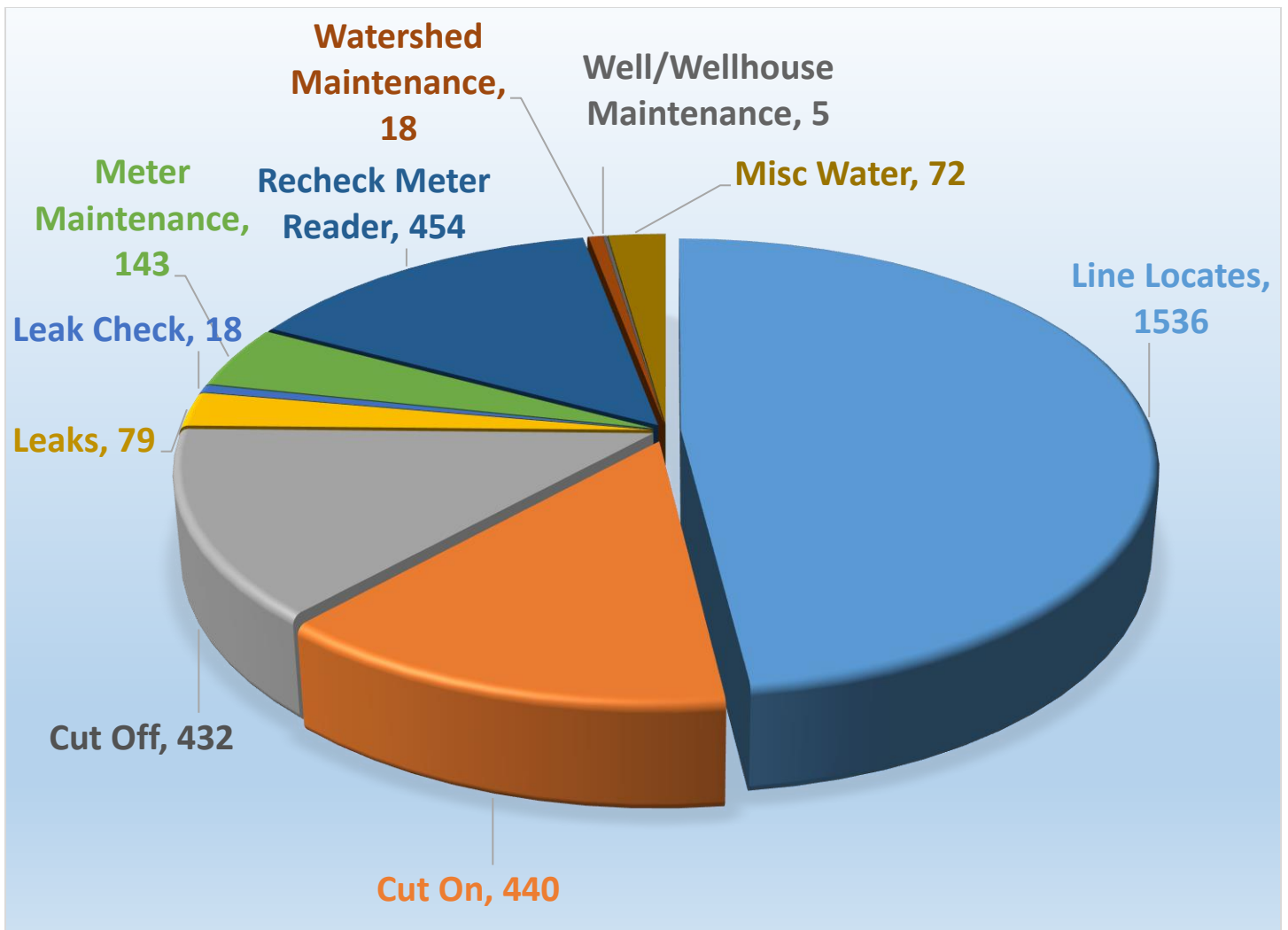
During 2018, the Public Works Department completed a total of 3197 water operations work orders. Below is a breakdown of the work orders completed.

Description

Line Locates	1536
Cut On	440
Cut Off	432
Leaks	79
Leak Check	18
Meter Maintenance	143
Recheck Meter Reading	454
Watershed Maintenance	18
Well/Wellhouse Maintenance	5
Misc. Water	72
Total	3197

Total Work Orders







NORTH CAROLINA

Department of Transportation



I-4409

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

TOWN OF BLACK MOUNTAIN

MARCH 11, 2019

I-4409 COMMENT SUMMARY

PROPOSED I-40/BLUE RIDGE RD (SR 2500) INTERCHANGE,
WIDENING OF BLUE RIDGE RD, &
ROUNDBOUT AT BLUE RIDGE RD/NC 9
Buncombe County
STIP No. I-4409, WBS 46388.1.1

PROJECT INFORMATION SUMMARY
JANUARY 23, 2019

Project Description

- Length: 0.23 miles
- Project limits: I-40 from just south of US 70 to Access Road, Blue Ridge Road/NC 9 intersection
- Right of Way Date: FY 2019
- Let Date: FY 2021

Purpose and Need

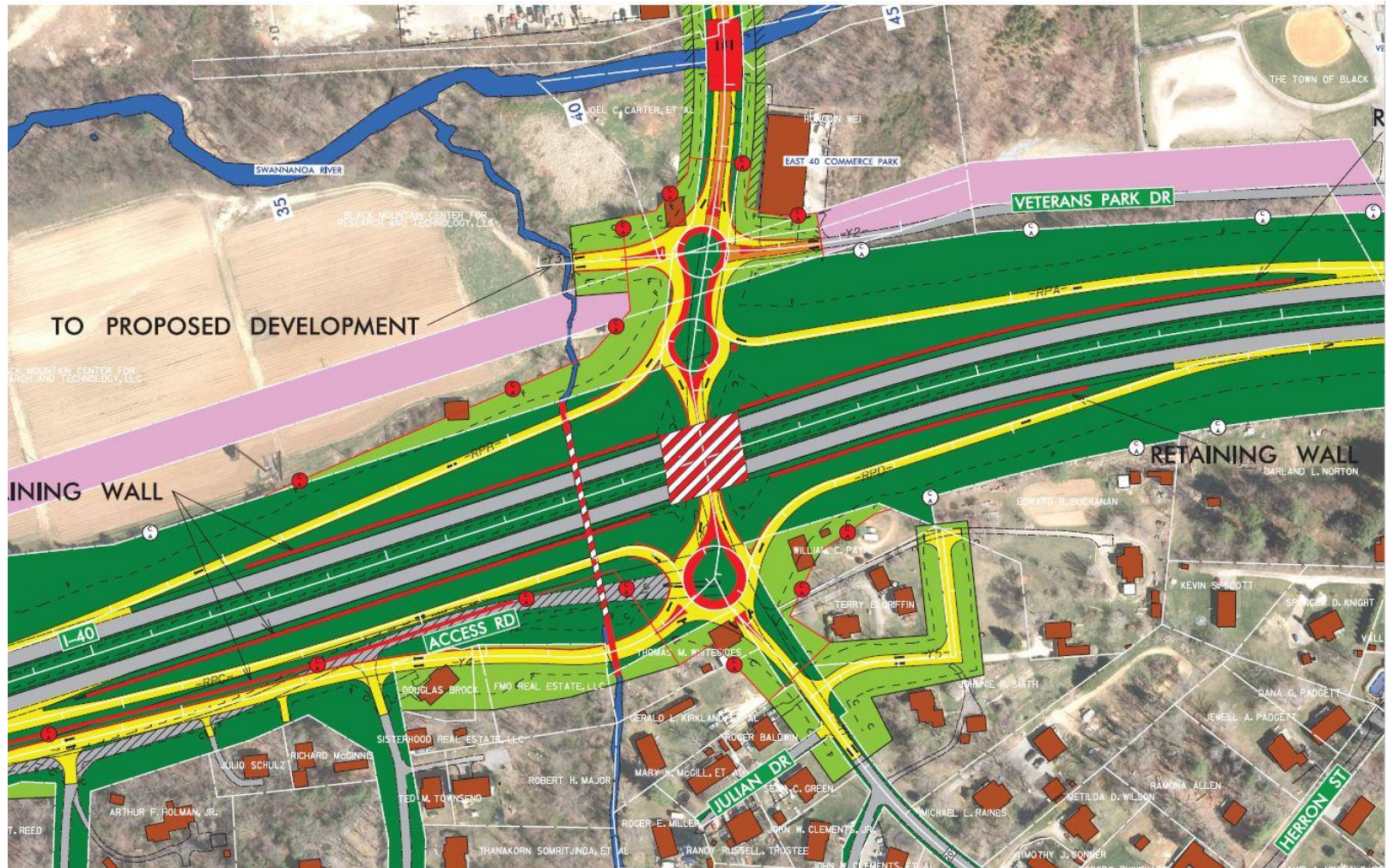
The purpose of this project is to provide increased connectivity, access, and mobility in the Black Mountain area. The project's need is based on projected traffic volumes and growth trends in the area. The project will help reduce congestion and truck volumes in downtown Black Mountain and reduce congestion at the nearby NC 9 interchange with I-40.

Public Comment Summary

- A total of 33 written comments were received from the public following the I-4409 December 13, 2018 public meeting.
 - 14 (42%) favor Alternative 2, citing less impacts and navigability
 - 7 (21%) favor Alternative 3, citing concerns about safety and Veteran's Park. However, of the 7, 3 noted Concept 2 was their next choice.
 - 12 (36%) miscellaneous comments (general support of the project, noise and aesthetic concerns, construction concerns, and property impacts)
- 13 (39%) of the 33 total comments expressed support for bicycle, pedestrian, and greenway facilities throughout the corridor, particularly connecting to Veteran's Park and the future Avadim facility.

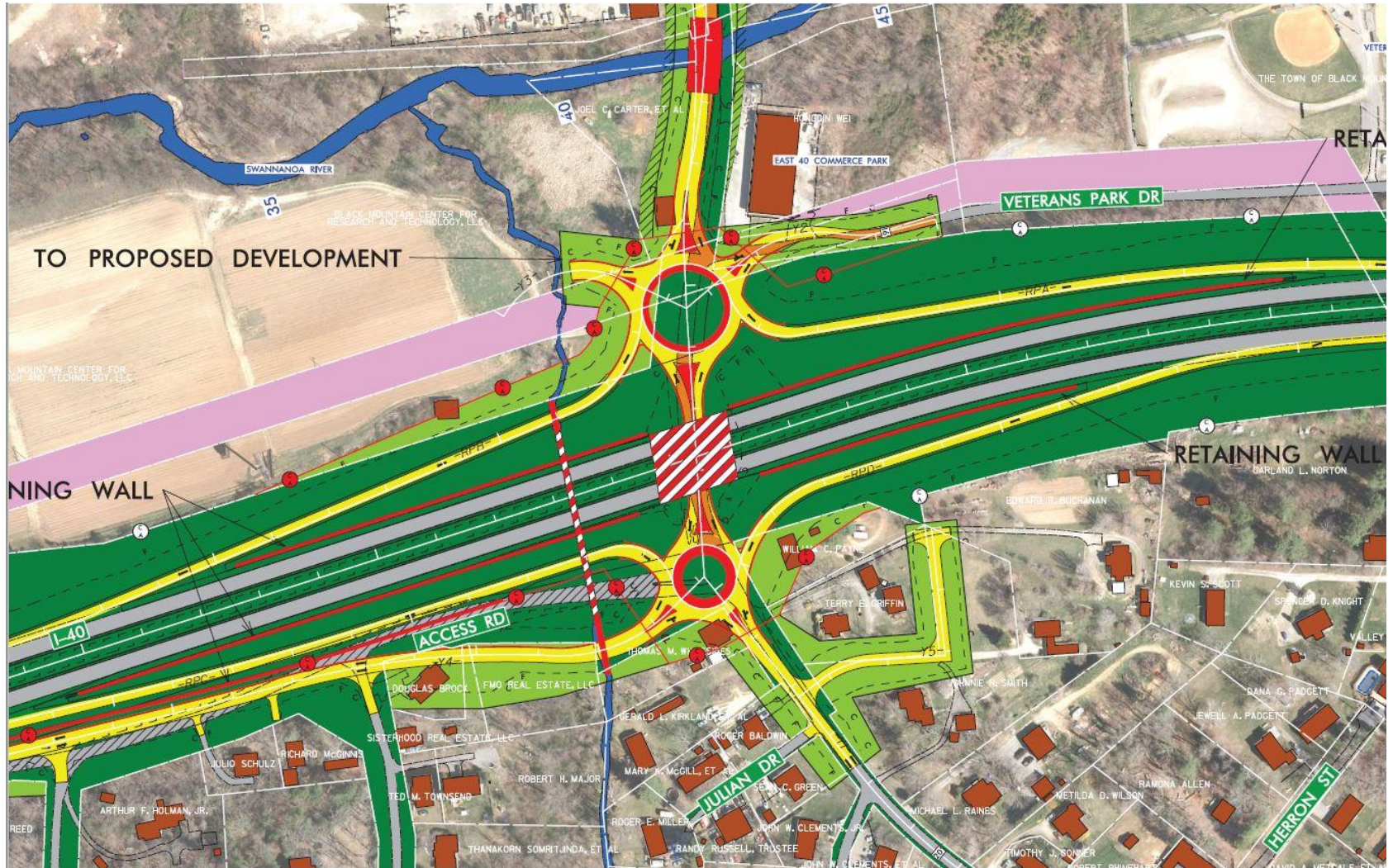


ALTERNATIVE 1(cont.)



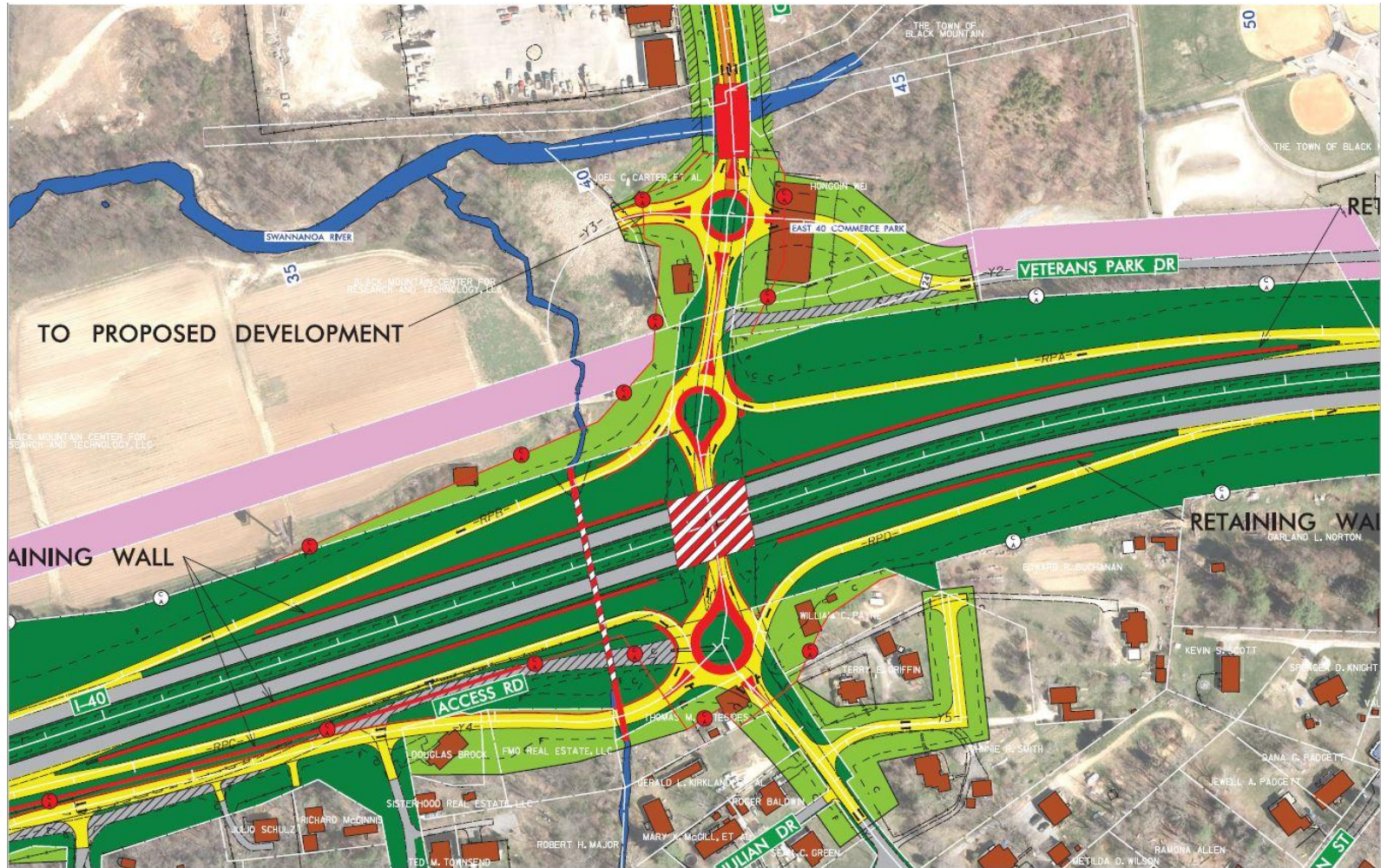


ALTERNATIVE 2(cont.)





ALTERNATIVE 3(cont.)





Project Contacts

Brendan Merithew, PE
NCDOT Division Team Lead
(828) 250-3000
bmerithew@ncdot.gov

Michael Clark
NCDOT Division Project Engineer
(828)250-3000
mgclark@ncdot.gov



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



TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
SPECIAL CALL MEETING MINUTES
March 20, 2019

THE BLACK MOUNTAIN BOARD OF ALDERMEN, held a special called meeting on Wednesday March 20, 2019 at 5:30 p.m. in the board room of Town Hall, 160 Midland Avenue, Black Mountain NC. The purpose of this meeting was for the Board of Aldermen to discuss a budget amendment regarding employee benefits and to determine the effective date for the Cheshire Lighting Contract that was approved by the Board at their March 11, 2019 regular session meeting.

1. CALL TO ORDER

Mayor Collins called the special meeting to order at 5:30 p.m. with the following members present:

Mayor Don Collins
Vice Mayor Maggie Tuttle
Alderman Larry Harris
Alderman Carlos Showers
Alderman Ryan Stone – arrived at 5:32 p.m.
Alderman Tim Raines

The following staff members were present:

Josh Harrold, Town Manager
Dean Luebbe, Assistant Town Manager
Angela Reece, Town Clerk
Ron Sneed, Town Attorney

Discussions regarding the employee free water benefit were continued from the March 11, 2019 regular session meeting. It has been the practice of the Town of Black Mountain for at least the past 40 years to provide free water to employees who resided within the town limits. As of the date of these minutes the Town employs 74 full-time employees. Manager Harrold provided information to the Board and advised a total of 16 full-time employees and 1 non-employee were receiving free water (not sewer). Manager Harrold distributed letters on February 28, 2019 to the employees receiving this benefit advising that the Town will no longer provide free water effective April 1, 2019. The letter is attached to and made part of these minutes. Manager Josh Harrold stated he discovered this practice may not comply with current law and he took action to remove of the benefit after speaking with the Town Attorney and UNC School of Government.

Mayor Collins opened the meeting for discussion. Town Manager, Josh Harrold presented a budget amendment in the amount of \$21,125.79 to increase all eligible full-time employees' salaries by \$20.25 per month retroactive from July 2018 and moving forward to compensate for

Black Mountain Board of Aldermen
Special Call Meeting Minutes – March 20, 2019

the discontinuance of the employee free water benefit. Employees who received the actual free water benefit will not receive the retroactive amount. Board members Manager Harrold clarified the retroactive benefit check is approximately \$180.00 per employee who did not receive the free water benefit over the last nine months of the current fiscal year. Manager Harrold stated this change complies with law, making the benefit is taxable and is the most equitable way to compensate all full-time employees.

Alderman Harris stated that it was his hope that the employees could understand that the town cannot continue the practice of providing free water services to town employees who reside within the city limits. Legal counsel at the NC School of Government and the Town Attorney both have advised the Board of Aldermen that this practice should be discontinued. Alderman Harris stated legal counsel at the School of Government and the Town Attorney has advised free water cannot be provided in the manner in which it has been. Board members discussed the budget amendment with the Town Attorney. Alderman Tim Raines clarified the amendment figure was based on the average water usage. Attorney Sneed clarified the amendment will give all full-time employees a \$20.52 monthly raise. Assistant Manager Dean Luebbe stated after taxes the amount would equate to approximately \$9.00. Alderman Harris clarified that the non-employee was removed from the benefit and will not receive any further benefit.

Alderman Larry B. Harris moved to approve Budget Amendment #FY2019-19 as submitted, increasing personnel and benefit expense accounts in each department that pays full-time employees by a total of \$21,125.79.

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

The Board of Aldermen discussed the Agreement for Partial Reimbursement of Street Lighting Costs with Cheshire Master Association. Attorney Sneed clarified this contract was approved at the March 11, 2019 regular meeting but no effective date was decided. Board members agreed to make the contract effective beginning May 1, 2019.

Alderman Carlos Showers moved to approve the effective date of May 1, 2019 for the Agreement for Partial Reimbursement of Street Lighting Costs with Cheshire Master Association

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

Town Manager Harrold reminded everyone the first budget workshop meeting would take place on Thursday, April 25, 2019 at 8:30 a.m. at Town Hall. No further business was discussed.

There being no further business, on a motion made by Alderman Larry B. Harris and with a vote of 5-0, Vice Mayor Maggie Tuttle adjourned the meeting at 5:37 p.m.

ATTEST:

Angela L. Reece, Town Clerk

Don Collins, Mayor



Attachments to 3-20-19 Special Call Minutes

PUBLIC NOTICE

BLACK MOUNTAIN BOARD OF ALDERMEN

SPECIAL CALL MEETING

Wednesday March 20, 2019 at 5:30 p.m.

The Black Mountain Board of Aldermen will meet in special call meetings on **Wednesday, March 20, 2019 at 5:30 p.m.** in the Board Room in the Town Hall Building, 160 Midland Avenue, Black Mountain, NC. The purpose of this meeting is for the Board of Aldermen to discuss a budget amendment regarding employee benefits and to determine the effective date for the Cheshire Lighting Contract that was approved by the Board at their March regular session meeting.

The meeting is open to the public.



Angela L. Reece
Town Clerk

The Town of Black Mountain is committed to providing accessible facilities, programs and services for all people in compliance with the Americans with Disabilities Act (ADA). Should you need assistance or a particular accommodation for this meeting please contact, Angela Reece, Town Clerk at 419-9310 or by email at townclerk@townofblackmountain.org

Posted to the Town Bulletin Board 3/14/19

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: March 20, 2019

SUBJECT: Budget Amendment #FY2019-18

AGENDA INFORMATION

Department: Finance
Contact: Dean Luebbe, Assistant Town Manager/Finance Director
Presenter: Josh Harrold, Town Manager

BRIEF SUMMARY: At the March 11, 2018 regularly scheduled Board meeting, discussion took place regarding the policy the Town has had in place for at least twenty years that allowed full time employees that resided within Town limits the right to have the water portion of their monthly bill from the Water Department to be waived. This averaged out to be approximately \$20.52 per employee per month. Currently, there are sixteen employees receiving this benefit. Initially, the Town Manager recommended eliminating this benefit, but after some discussion the Board decided upon an alternative solution. Moving forward, all employees will pay the full water and sewer charges. The Board has decided to give all eligible full-time employees a \$20.52 per month increase in salary to compensate for the water benefit. This increase will be retroactive back to July 1st, 2018. The employees who received the actual benefit from July of 2018 through March of 2019 will not receive the retroactive amount.

MOTION FOR CONSIDERATION: To approve Budget Amendment #FY2019-19 as submitted, increasing personnel and benefit expense accounts in each department that pays full time employees by a total of \$21,125.79.

FUNDING SOURCE: N/A.

ATTACHMENTS: N/A.

MANAGER'S COMMENTS AND RECOMMENDATIONS: Adopt as presented.

Budget Amendment # 2019-18
Fiscal Year 2018-2019

[illegible]

Totals:

BD #

Entered By:

Journal #

Fiscal Yr

Approved By:

Date

Date

Number of months	12
Monthly	\$ 20.52
Biweekly	\$ 9.47

Number of employees

Admin	4	1000-4200-0	20 FT Salaries	984.96
		1000-4200-0	50 FICA	75.35
		1000-4200-0	70 LGERS	151.68
		1000-4200-0	80 401K	49.25
Police	20	1010-5100-0	20 FT Salaries	4,924.80
		1010-5100-0	50 FICA	376.75
		1010-5100-0	70 LGERS	758.42
		1010-5100-0	80 401K	246.24
Fire	16	1010-5300-0	20 FT Salaries	3,939.84
		1010-5300-0	50 FICA	301.40
		1010-5300-0	70 LGERS	606.74
		1010-5300-0	80 401K	196.99
Planning	2	1010-5400-0	20 FT Salaries	492.48
		1010-5400-0	50 FICA	37.67
		1010-5400-0	70 LGERS	75.84
		1010-5400-0	80 401K	24.62
PW Admin	2	1020-5550-0	20 FT Salaries	492.48
		1020-5550-0	50 FICA	37.67
		1020-5550-0	70 LGERS	75.84
		1020-5550-0	80 401K	24.62
Streets	7	1020-5600-0	20 FT Salaries	1,723.68
		1020-5600-0	50 FICA	131.86
		1020-5600-0	70 LGERS	265.45
		1020-5600-0	80 401K	86.18
Rec	3	1080-6190-0	20 FT Salaries	738.72
		1080-6190-0	50 FICA	56.51
		1080-6190-0	70 LGERS	113.76
		1080-6190-0	80 401K	36.94
Rec	1	1082-6190-0	20 FT Salaries	246.24
		1082-6190-0	50 FICA	18.84
		1082-6190-0	70 LGERS	37.92
		1082-6190-0	80 401K	12.31
		1000-3905-900	Fund Balance Approp	17,342.07

Water - Customer Serv	2	3091-7200-0	20 FT Salaries	492.48	
		3091-7200-0	50 FICA	37.67	
		3091-7200-0	70 LGERS	75.84	
		3091-7200-0	80 401K	24.62	
Water - Ops	7	3091-8100-0	20 FT Salaries	1,723.68	
		3091-8100-0	50 FICA	131.86	
		3091-8100-0	70 LGERS	265.45	
		3091-8100-0	80 401K	86.18	
		3091-3905-900	Fund Balance Approp		2,837.79
Golf - Operations	2	5092-6210-0	20 FT Salaries	492.48	
		5092-6210-0	50 FICA	37.67	
		5092-6210-0	70 LGERS	75.84	
		5092-6210-0	80 401K	24.62	
Golf -Pro Shop	1	5092-6310-0	20 FT Salaries	246.24	
		5092-6310-0	50 FICA	18.84	
		5092-6310-0	70 LGERS	37.92	
		5092-6310-0	80 401K	12.31	
		5092-6210-150	MR Buildings Grounds		945.93
	67.00	TOTAL		21,125.79	21,125.79

February 28, 2019

Letter given to employees by Town Manager

Please let this letter serve as notice that as of the April 1, 2019 billing cycle the Town will begin charging you for your water usage. After consulting with attorneys at the UNC School of Government, the town does not have the authority to provide this service free of fees. I realize this is a service that's been provided to town employees for a number of years and I hesitate to remove this benefit from you; however, I feel it is in the town's best interest to do so in order to comply with North Carolina laws.

In Public Service,

Josh Harrold
Town Manager

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

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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