



TOWN OF BLACK MOUNTAIN

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

Date: July 8, 2019 Time: 6:00 p.m. Regular Session Minutes

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

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

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*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 - absent
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
Shawn Freeman, Police Chief
Scottie Harris, Fire Chief

Mayor Don Collins welcomed everyone and led the Pledge of Allegiance. Minister Jack Taylor of Mountain View Church, Black Mountain 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 addressed citizens regarding even year elections and stated Senator's Edwards, Hise, and VanDuyn as well as Representative's Ager, Fisher, and Turner were each mailed correspondence from the Office of the Mayor regarding even year elections. Mayor Collins read

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aloud from email exchanges with Representative Ager, Turner, and Edwards regarding the bills movement through the NC General Assembly. Mayor Collins thanked the 2019 Fireworks Sponsors for their donations.

2. PROCLAMATION AND AWARD RECOGNITION

A. Outgoing Boards & Commissions Members- Thank you for your service!

The Mayor and Board of Aldermen extend their thanks and appreciation to each advisory board and commission member for their service to the Town. Town Clerk Angela Reece presented certificates of appreciation to members who were present.

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.

***Julie White** of Black Mountain addressed the Board of Aldermen regarding the possibility of the Children & Friends Daycare Center proposal moving forward. Ms. White reminded the Board she sat on the Greenways Commission and gave input on the Master Plan with Asheville Design Center for combined use of the space on White Pine Drive.*

***Elaine Loutzenheiser** of Black Mountain addressed the Board of Aldermen regarding the possibility of the Children & Friends Daycare Center proposed lease. Ms. Loutzenheiser expressed her concern of transparency regarding this issue and referred to a memo from the Rotary Club soliciting funding and promising matching funding for the Daycare based on a promised lease with the Town of Black Mountain.*

Mayor Collis referred to a Memorandum of Understanding regarding the proposed daycare facility approved by the Board of Aldermen on December 14, 2017 where a public presentation was given and citizen comments were taken.

4. COMMUNICATIONS FROM BOARDS, COMMISSIONS & AGENCIES

A. ABC Board Annual Report – Bill Christy, Chair

Bill Christy presented the unaudited financial statements to the Board of Aldermen. Mr. Christy praised the ABC store staff and commended store manager, Randy Reece on his professionalism. Mr. Christy stated the renovations have been completed and the debt has been paid off. Mr. Christy stated sales have increased and could top \$3M by the end of the year. Mr. Christy again praised friendly staff and atmosphere for supporting the customer base. Mr. Christy stated the ABC Board looks forward to increasing distributions to the Town in the future. Mr. Christy presented an additional distribution check for \$37,500.00 to the Town.

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B. Greenways Commission Annual Report

Julie White presented the Greenways Commission Annual Report to the Board of Aldermen. Ms. White stated the Commission continued their public awareness activities and promotions during the Valentine Run, Greenway Challenge, and tailgate market. Ms. White stated the Commission continued fundraising activities and were able to raise \$333 at the Holiday Market. Ms. White advised the Greenway Challenge had 300 runners and 30 volunteers and netted \$7,168 and thanked Amy Parker for coordinating the event. Ms. White extended thanks and appreciation on behalf of the Greenway Commissioners to the sponsors that make their events possible. Ms. White thanked Leslie Temple and Fred Grogan for spearheading the Black Mountain Greenway Master Plan. Ms. White stated the Bike/Walk to School Day was a success again this year and said Commissioners look forward to hosting the event again next year. Ms. White spoke about greenway challenges and stated the Flat Creek Greenway has been repaired from the flooding in 2018. Ms. White also thanked Planning Director Trotman for welcoming the Greenways Commission members. Ms. White spoke about upcoming activities and events. For more information please visit the Town's website at www.townofblackmountain.org

C. Swearing in of Boards & Commissions Members

Town Clerk Angela Reece swore in Boards & Commissions members who were present.

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 June 6, 2019 (Agenda Session), June 10, 2019 (Regular Session), and June 6, 2019 (Closed Sessions).*

B. Call for Public Hearing to REZONE 300 Flat Creek Road from SR-2 (suburban residential) to TR-4 (town residential). **REZONING**

Motion: *To call for the public hearing to rezone 300 Flat Creek Road PIN #0710-51-3233.00000 from SR-2 (suburban residential) to TR-4 (town residential) to be held on Monday, August 12, 2019 at 6:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall at 160 Midland Avenue.*

Vice Mayor Maggie Tuttle moved to approve consent items A-B as presented.

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

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6. CITIZEN COMMENTS

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

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

There were no citizen comments.

7. UNFINISHED BUSINESS

A. Appointment to fill vacancies on Town Boards and Commissions

1. Greenways Commission – (1) unexpired term ending June 30, 2020

Alderman Larry B. Harris moved to appoint Brandon Moffitt to fill an unexpired term ending June 30, 2020 by a vote of 5-0.

**There will be one unexpired term vacancies left open pending new applications.*

2. Planning Board – (1) vacancy/ 3-yr term ending June 30, 2022

Alderman Carlos Showers moved to appoint Jesse Gardner to fill a 3 year term ending June 30, 2022 by a vote of 5-0.

3. Zoning Board of Adjustment – 3rd Alternate term

Alderman Larry B. Harris moved to appoint Gregory Feightner to fill the 3rd Alternate seat. The motion was approved by a vote of 5-0.

8. NEW BUSINESS

A. Greenways Master Plan & Presentation – Jessica Trotman, Planning Director

Planning Director Trotman introduced Leslie Temple for her work in preparing the Greenways Master Plan document. Director Trotman praised Ms. Temple and the Greenways Commission for their time and effort in producing the updated Master Plan document. Ms. Temple stated one of the goals of the Commission was to have a planning document that would allow the Commission and staff to seek out and apply for grants. A copy of the document is available on the Town's website at www.townofblackmountain.org

Vice Mayor Maggie Tuttle moved to adopt the Greenways Master Plan as presented.

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

B. River Walk Greenway Update- Josh Harrold, Town Manager

Manager Harrold stated the Greenway project is ready to move into the design phase and discussed the following options with the Board of Aldermen. Manager Harrold presented a map including various options and estimated costs for construction on Phase II of the River Walk Greenway. Option 1 is outlined in the color yellow (Black Mountain Ave. to Dillingham to Vance) and would utilize right of ways and multi-use paths. Option 2 (most expensive) utilizes the Hampton Inn Hotel property and would require construction of a pedestrian bridge to cross the Swannanoa River. Option 3 (least expensive) is outlined in the color green and purple and would utilize right of ways on Town owned property along 304 Black Mountain Ave. but would require relocation of a salt bin storage area and fence. Option 4 mainly utilizes Terry Estate Drive and would require modifications to the traffic pattern on that portion such as making the street a one-way street or installation of some type of buffers. Manager Harrold stated that option could be complicated. Alderman Larry B. Harris stated he would like to see a list of pro's and con's for each option presented to the Board with input from the Greenways Commission before a decision is made.

C. Fourth Street Traffic Study Update – Josh Harrold, Town Manager

Manager Harrold discussed the traffic study completed in 2014 as well as recent concerns regarding traffic on Fourth Street. Manager Harrold stated staff have placed speed signs and flags as well have striped Forth Street to make it more visible as was recommended by the study. Manager Harrold stated other engineer recommendations in the study included installation of speed humps, rumble strips, curbing, and even a traffic island. Manager Harrold stated the data collected from the speed sign recorded 3,211 speeds and said that 70% of the speeds were below the posted speed of 20MPH between 3:00 p.m. and 5:00 p.m. and said 20% of the speeds were above the speed limit. Manager Harrold inquired as to the Boar's preference in moving forward with additional traffic calming measures and suggested a special assessment as allowed by NC GS 160A-216. Manager Harrold stated this would be petition based on requests of the majority of the property owners as required by law. Attorney Sneed stated the Town may also finance the improvements and allow the property owners to pay over time. Alderman Larry B. Harris stated he feels the issue has been pursued in an appropriate manner. No additional action was taken.

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.

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A. Public Hearing to implement System Development Fees

#O-19-15

Additional Information: <https://www.townofblackmountain.org/2424/System-Development-Fees-Study>

Vice Mayor Maggie Tuttle moved to open the public hearing on Ordinance #O-19-15, to implement System Development Fees consistent with Article 8, System Development Fees “Public Water and Sewer System Development Fee Act”. (2017-138, s.1.), NC G.S. 162A-Article 8.

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

Manager Harrold recalled previous conversations regarding System Development Fees as required by the NC Legislature. Manager Harrold explained in order to comply with legislation, each municipality must follow a process in determining a calculation to charge development fees. Manager Harrold stated the maximum fee calculation, which was determined with the assistance of the engineer is \$14.78 per gallon of water, per day. Manager Harrold stated the fees are based on town water system assets, future assets, and capacity and clarified that the fee is essentially a buy in to the system for new users in order to pay for capital improvements to the system. Manager Harrold stated he recommends charging 60% or \$8.87 per gallon of water, per day of the maximum fee. Manager Harrold stated he researched other jurisdictions and advised they were charging anywhere from 40% to 60% of the maximum fee and clarified size of a municipality was not a factor but rather the overall condition of the water system and lines. Board members clarified the fee is based off of gallons per usage and not by type of use. Manager Harrold confirmed the fees are based off of NC Administrative Code. Manager Harrold also advised if there was a use not listed in the Code then this ordinance requires the developer to provide an engineering report to determine the appropriate calculation based on the Code. Alderman Larry B. Harris stated the Town has been fortunate in maintaining the water system which is valued at approximately \$13M and stated he feels this approach is rational and necessary to continue maintaining the system.

Attorney Sneed went ahead and discussed Item B (Resolution to Adopt Updates to the Water Rate and Fee Schedule for the Town of Black Mountain #R-19-14) as it amends the fee schedule once the ordinance is passed to establish the fee. Attorney Sneed clarified that going forward it will be necessary to revisit the resolution to set future fees without having to change the ordinance. The ordinance and resolution are included in, and made part of these minutes.

Mayor Collins asked what happens if the town chooses not to adopt this fee. Manager Harrold advised the only source of revenue for capital improvements to the water system would have to come from increasing water rates or property taxes. Mayor Collins clarified these methods affect everyone and not just new construction. Manager Harrold stated the rates would go into effect upon adoption.

There were no citizen comments.

***Vice Mayor Maggie Tuttle moved to close the public hearing.
The motion was approved by a vote of 5-0***

Oaks Connector Options

Oaks Connector Option Analysis

Write a description for your map.



AN ORDINANCE TO ADOPT SYSTEM DEVELOPMENT FEES FOR THE WATER AND SEWER SYSTEM AS AUTHORIZED BY ARTICLE 8 OF CHAPTER 162A OF THE NORTH CAROLINA GENERAL STATUTES.

WHEREAS, the North Carolina General Assembly has enacted Session Law 2017-138 (HB 436), known as the "Public Water and Sewer System Development Fee Act" amending Chapter 162A of the General Statutes to add a new Article 8, titled System Development Fees; and

WHEREAS, said statutes authorize the procedures and methods for the calculation and authorization of system development fees to be charged by local governments; and

WHEREAS, the Town of Black Mountain contracted with professional consulting engineers McGill Associates, to perform the system development fee analysis per the requirements of Session Law 2017-138, having posted public notice and written analysis on its website beginning May 23, 2019 and also provided means to solicit comments both through the website and via written means through the U.S. Mail, and has held a properly advertised public hearing on July 8, 2019, to receive additional public comments; and

WHEREAS, said statutes define a System Development Fee as a charge or assessment for service imposed with respect to new development to fund costs of capital improvements necessitated by and attributable to such new development, to recoup the costs of existing facilities which serve such new development, or a combination of those costs; and

WHEREAS, said statutes provide that System Development Fees may be collected for new development which increases the capacity necessary to serve that development as further described below.

(A) (1) System development fees shall be charged with respect to new development to fund costs of capital improvements to recoup a combination of costs consisting of the cost of existing facilities which serve such new development and the incremental cost of capital assets required for preserving and/or providing additional system capacity. System development fees shall be charged consistent with the requirements of G.S. Ch. 162A, Article 8 as such may be amended from time to time. Terms used in this section shall have the same meanings as set forth in G.S. Ch. 162A, Article 8.

(2) For purposes of this section, **NEW DEVELOPMENT** includes any of the following occurring after April 8, 2019 (the date the town began the written analysis process required by G.S. § 162A-205) that increases the water and/or sewer capacity necessary to serve that development:

- (a) The subdivision of land;
- (b) The construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure which increases the number of service units; or
- (c) Any use or extension of the use of land which increases the number of service units.

ORDINANCE NO. O-19-15

(B) Beginning on the effective date of this section, system development fees shall apply to all new development except for fire line connections.

(C) System development fees shall not include and separate charges may be assessed for:

(1) A charge or fee to pay administrative, plan review, or inspection costs associated with permits required for development.

(2) Tap or hookup charges for the purpose of reimbursing the town for the actual costs of connecting the service unit to the system.

(3) Availability charges.

(4) Dedication of capital improvements onsite, adjacent, or ancillary to a development absent a written agreement providing credit or reimbursement to the developer pursuant to G.S. §§ 160A-320, 160A-499 or G.S. Ch. 160A, Art. 19, Part 3D as the same may be amended from time to time.

(5) Reimbursement to the town for its expenses in constructing or providing for water or sewer utility capital improvements adjacent or ancillary to the development if the owner or developer has agreed to be financially responsible for such expenses; however, such reimbursement shall be credited to any system development fee charged as required per G.S. § 162-207(c).

(D) System development fees will not be charged on buildings or other improvements constructed to replace like buildings provided that the replacement will not result in any increased capacity requirements over that required to serve the replaced building. System development fees are transferable between locations on different parcels of property as long as the parcels are contiguous or separated only by a street or alley and part of a single or multi-phased project shown on an approved site plan at the time of issuance of a building permit.

(E) (1) For new development involving the subdivision of land, the system development fee shall be collected at the later of the time of plat recordation, or when water or sewer service is committed by the town.

(2) For all other new development, system development fees are due at the earlier of the time of application for connection of the individual unit of development to the service or facilities, or when water or sewer service is committed by the town.

(3) For purposes of this section, water service shall be deemed committed by the town at such time as the Public Works Department has approved the connection and building permit(s) for the development are issued. Fees shall be assessed based on the schedule of fees in effect at the time the fees are collected.

(F) Additions, alterations to or replacements or change in use of existing buildings shall be required to pay a system development fee based on the rates applicable at the time of connection or at the time such addition, alteration, replacement or change in use is placed into service. When a change in use occurs, the new use will pay the difference calculated between the existing use and the proposed use.

(G) Buildings that contain more than one use shall have the system development fee calculated from the sum of each use in the building.

(H) (1) The system development fee shall be paid for connections to the town municipal water system based on the customer's calculated anticipated daily flow rate in gallons per day (GPD), in an amount not to exceed the calculated charge based on the cost per gallon development costs as defined herein multiplied by the daily flow rate set out in the North Carolina Administrative Code sections referenced herein. The system development fee shall be the same regardless of the customer's location inside or outside the municipal limits of the town. At the time of adoption of this Ordinance, the calculated cost per gallon as determined by McGill Associates is \$14.78.

(2) System development fees shall be based on the calculated (GPD) flow rate of the anticipated use or increase in use of the proposed structure. Flow rates shall be determined in accordance with the flow rates established in the North Carolina Administrative Code, 15A NCAC 2T.0114 and 15A NCAC 18C.0409 as such may be amended from time to time. A licensed professional engineer is required to calculate flow rates for other uses not included within the North Carolina Administrative Code, 15A NCAC 2T.0114 and 15A NCAC 18C.0409. The Town of Black Mountain shall not incur any expense associated with this requirement.

(I) In calculating system development fees with respect to new development, the town will credit the value of costs in excess of the development's proportionate share of connecting facilities required to be oversized for use of others outside of the development. No credit shall be applied, however, for water or sewer capital improvements on-site or to connect new development to water or sewer facilities.

(J) All system development fees collected by the town shall be deposited to the town's water capital reserve funds and expended as provided by G.S. § 162A-211, as such may be amended from time to time.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE TOWN OF BLACK MOUNTAIN THAT:

The Water System Development Fee Study prepared by McGill Associates, and published May, 23 2019, is adopted to assist in establishing Black Mountain's Water System Development Fee Charges, which shall be established annually and published as part of the Town's fee schedule within the Annual Budget Ordinance.

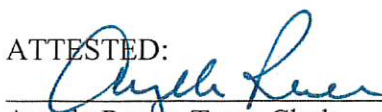
These System Development Fees shall be effective July 8, 2019, and shall be published annually in the Town's budget, or associated fee schedule. The system development fee calculation shall be updated at least every five (5) years or as required by G.S. Ch. 162A, Article 8.

I move the adoption of the foregoing ordinance.


Alderman

READ, APPROVED AND ADOPTED, by a vote of 5 to 0 this the 8th day of July, 2019.

ATTESTED:


Angela Reece, Town Clerk


Don Collins, Mayor

RESOLUTION #R-19-14

RESOLUTION TO ADOPT FEE UPDATES TO THE WATER RATE AND FEE SCHEDULE FOR THE TOWN OF BLACK MOUNTAIN, NORTH CAROLINA PERSUANT TO NC GS 162A

WHEREAS, the North Carolina General Assembly enacted House Bill 436 in July 2017, amending Chapter 162A of the North Carolina General Statutes by adding "Article 8 System Development Fees; and; and

WHEREAS, said statute authorizes the procedures and methods for the calculation and authorization of system development fees to be charged by local governments; and

WHEREAS, the statute authorizes a local government to adopt a system development fee calculated based upon a written analysis prepared by a financial professional or licensed professional engineer; and

WHEREAS, the Town of Black Mountain contracted with professional engineering firm McGill Associates, a qualified and licensed professional engineer and consulting firm to perform a system development fee analysis; and:

WHEREAS, McGill Associates prepared a computerized calculator which will determine System Development Fees for water and sewer based on the Cost per Gallon per Day Calculation table by using water and sewer demands as defined by NC Administrative Code 15A NCAC 18C .0409 and 15A NCAC 02T .0114.

WHEREAS, the Town of Black Mountain has taken all required steps pursuant to Article 8 of NCGS 162A, including posting of the fee analysis study on the Town's website for forty-five (45) days and solicited public comments regarding the same; conducted a public hearing on July 8, 2019 to receive additional public comment, which was properly noticed through advertisement; and adoption of this resolution to include the determination of the system development fees;

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

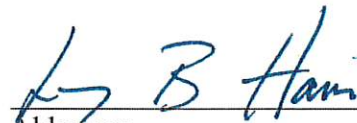
1. The System Development Fee Study, prepared by McGill Associates is hereby adopted as the basis for establishing Black Mountain's Water System Development Fee Rate and Schedule;
2. One method of calculating the amount of the System Development Fee is to apply the cost per gallon of system development costs to the number of gallons per day established by the North Carolina Administrative Code, such as the 400 gallons per day set out as the Equivalent Residential Unit.
3. The calculated cost per gallon per day established per the System Development Fee Study is \$14.78.
4. The percentage of the above values to be charged in calculating the total System Development Fee per unit by utilization of the System Development Fee Calculator program shall be 60% of the calculated cost, or \$8.87. These fees shall apply equally to applicants for properties both inside and outside the Town of Black Mountain City Limits.

5. Fees are based, for Residential applicants, on number of bedrooms, and for Business applicants based on type and occupancy, together with other uses as set out in the North Carolina Administrative Code Sections 15A NCAC 18C .0409 and 15A NCAC 02T .0114. All applicants must inquire with Water Administration (water department) for fee determination.

6. The Town Council shall review and/or update the System Development Fee rate schedule no earlier than five (5) years and no later than ten (10) years from the date of this resolution, unless otherwise required by North Carolina law.

These Water System Development Fees shall be effective as of the date of this Resolution and all Water fee and rate schedules shall be included and published in the annual budget for the Town of Black Mountain, North Carolina.

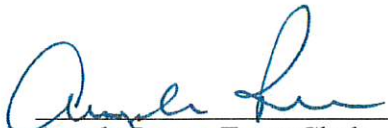
I move the adoption of the foregoing resolution:

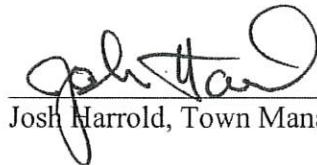

Alderman

READ, APPROVED AND ADOPTED, by a vote of 5 to 0 this the 8th day of July, 2019.

ATTEST:


Don Collins, Mayor


Angela Reece, Town Clerk


Josh Harrold, Town Manager

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*Alderman Larry B. Harris moved to approve Ordinance #O-19-15 as amended by Attorney Sneed allowing the Town of Black Mountain to implement System Development Fees to be charged consistent with the requirements of NC G. S. Ch. 162A, Article. 8, as such may be amended from time to time.
The motion was approved by a vote of 5-0*

- B.** Resolution to Adopt Fee Updates to the Water Rate and Fee Schedule for the Town of Black Mountain **#R-19-14**

*Alderman Larry B. Harris moved to adopt Resolution R-19-14 to amend the Town of Black Mountain Fee Schedule to include System Development Fees consistent with the requirements of NC G. S. Ch. 162A, Article. 8
The motion was approved by a vote of 5-0*

10. COMMUNICATION FROM STAFF

- A.** Town Attorney, Ron Sneed - None
B. Town Manager, Josh Harrold - None

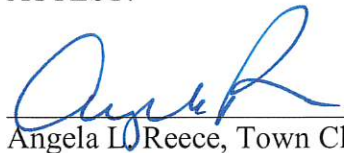
11. COMMUNICATION FROM MAYOR AND BOARD OF ALDERMEN

Alderman Carlos Showers introduced and congratulated Sharon Taylor, Executive Director of the Black Mountain Swannanoa Valley Chamber of Commerce.

12. ADJOURNMENT

There being no further business, on a motion made by Vice Mayor Maggie Tuttle and with a vote of 5-0, Mayor Don Collins adjourned the meeting at 7:05 p.m.

ATTEST:


Angela L. Reece, Town Clerk


Don Collins, Mayor