



TOWN OF BLACK MOUNTAIN

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

Date: September 9, 2019 Time: 6:00 p.m. Regular Session Minutes

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 **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
Alderman Carlos Showers -absent
Alderman Tim Raines

The following staff members were present:

Josh Harrold, Town Manager
Dean Luebbe, Assistant Town Manager/Finance Director
Angela Reece, Assistant to Manager/Town Clerk
Ron Sneed, Town Attorney
Shawn Freeman, Police Chief
Scottie Harris, Fire Chief
Jessica Trotman, Planning Director
Joshua Henderson, Recreation Director

Mayor Don Collins welcomed everyone and led the Pledge of Allegiance. Pastor Bruce Kimbrel of Meadowbrook 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.

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luncheon on September 19th at the Lakeview Center at noon. Mayor Collins addressed the public regarding Alderman Showers asking everyone to keep him and his family in their thoughts and prayers at this time.

2. PROCLAMATION AND AWARD RECOGNITION

- A. Proclamation – Vice Mayor Maggie Tuttle presented a proclamation honoring Beacon Blankets stating from approximately 1925 through 2002 beacon produced an estimated 500 million blankets, including 7 million for World War II. Vice Mayor Tuttle stated investors are currently working to re-build Beacon Blankets which includes Bed Linens & other products through Beacon Linens & More, LLC. Representatives were on hand to present a few products patented and unique to Beacon Linens (fitted sheets, antimicrobial sheets, comforter and sheet sets, and antimicrobial travel sheet) to the public to encourage support. Representatives stated they hope to move toward a made in the USA product line soon.

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.

Marilyn Sobanski of Rainbow Recycling addressed the Board of Aldermen regarding the Annual Hard 2 Recycle event encouraging public to attend the event on Saturday September 14, 10:00 a.m. to 2:00 p.m. located beside Ingles in Swannanoa.

E.V. Gouge of Rainbow Recycling addressed the Board of Aldermen requesting action be initiated regarding the railroad crossing in the Grovestone community.

Mayor Collins asked citizens who wished to speak regarding the proposed daycare facility to keep their comments unique to them and to avoid restating comments previously stated by others in order to keep the meeting flowing. Mayor Collins asked speakers to select one representative to address the Board if they are there as a group.

4. COMMUNICATIONS FROM BOARDS, COMMISSIONS & AGENCIES

- A. MSD Annual Report – *Bob Watts*

Bob Watts presented the Annual MSD report to the Board of Aldermen.

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

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Motion: *To adopt the minutes of August 8, 2019 (Agenda Session), August 12, 2019 (Regular Session), August 8, 2019 (Closed Session), and August 22, 2019 (Closed Session).*

B. Call for Public Hearing to Adopt Phase II Stormwater Ordinance **#O-19-21**

Motion: *To call for the public hearing to consider adoption of Phase II Stormwater Ordinance #O-19-21 to be held on Monday, October 14, 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 for Stormwater Illicit Discharge and Connection **#O-19-22**

Motion: *To call for the public hearing to consider adoption of Illicit Discharge and Connection Ordinance #O-19-22 to be held on Monday, October 14, 2019 at 6:00 p.m. or as soon thereafter as possible, in the Board Room of Town Hall at 160 Midland Avenue.*

D. Budget Amendment for Police Equipment Donation **#FY20-2**

Motion: *To approve Budget Amendment #FY20-2 as submitted, increasing the expense accounts, 1010-5100-351 (Special Response Team) by \$8,000 and the revenue account, 1010-3305-300 (Public Safety Donations) by \$8,000.*

E. Budget Amendment to utilize Powel Bill Funds for Bridge Repairs **#FY20-3**

Motion: *To approve Budget Amendment #FY20-3 as submitted, increasing the expense accounts, 1020-5700-730 (Capital Outlay) by \$54,800 and the revenue account, 1020-3925-900 (Powell Bill – Fund Balance Appropriated) by \$54,800.*

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

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

6. CITIZEN COMMENTS

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

Mayor Collins addressed the public and stated new information has been provided to the Board of Aldermen regarding the proposed lease of town owned property to Children and Friends Daycare Inc. and said the Board will vote shortly to amend the agenda to add the item back on. Mayor Collins sought clarification from the Town Attorney on when comments regarding the matter would be appropriate. Attorney Sneed reminded everyone that the matter is not on for a public hearing so comments would be appropriate in citizen comments at this time. Town Attorney Ron

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Sneed also addressed the public regarding the process to lease town owned property and discussed the process the Board must take for clarification.

Mayor Collins allowed five minutes for comments from groups.

Faith Butterfield of *Black Mountain* addressed the Board of Aldermen regarding the proposed lease of town owned property to Children & Friends Daycare Inc. expressing her concern of the impact on the community garden. Ms. Butterfield presented a petition containing 542 signatures to the Board of Aldermen opposing the daycare facility.

Emily Sampson of *Black Mountain* addressed the Board of Aldermen regarding the proposed lease of town owned property to Children & Friends Daycare Inc. expressing her concerns regarding the project and preservation of public space. Ms. Sampson stated she also has concern for protecting the largest and oldest trees in town which are located on the property in the project area.

Ann Lutz of *Black Mountain* addressed the Board of Aldermen regarding the proposed lease of town owned property to Children & Friends Daycare Inc. expressing her concerns stating the project does not fit in with the comprehensive plan.

Linley Myers of *Black Mountain* addressed the Board of Aldermen regarding the proposed lease of town owned property to Children & Friends Daycare Inc. expressing her concerns stating she understands the need for affordable childcare and said she believes the town can accomplish this without sacrificing the greenspace at Veterans Park.

Olson Huff of *Black Mountain* addressed the Board of Aldermen regarding the proposed lease of town owned property to Children & Friends Daycare Inc. in support of the project. Mr. Huff stated he was a founding member of the Community Garden and advocate of green space in town and said he is very familiar with the programs and their needs but said as a founding Director of Mission Children's Hospital the most pressing need we have is to preserve everything we can to support our children and this valuable resource for our children and their future. Mr. Huff stated he believes there is no absence of good will in the room and believes there can be a shared common use facility and encouraged the Board to work to make sure that this is provided.

7. UNFINISHED BUSINESS

A. Consideration of Offer(s) received to purchase Town owned property located at 2992 U.S. Hwy 70, Black Mountain NC (Former Public Works Building) #R-19-18

Town Attorney Sneed recalled tentative offers being presented to the Board of Aldermen to purchase Town owned property. Attorney Sneed stated NC G.S. 160A-265. Article 12, Sale and Disposition of Property guides the process for accepting bids and advertisement of upset bids. Attorney Sneed stated if the Board chooses to accept an offer, he has prepared Resolution # R-19-18 which permits the Town to sell property located at 2992 U.S. Highway 70, Black Mountain, North Carolina, said property being described in that deed recorded in Deed Book 1806 at Page 191, Buncombe County Registry and shown on the tax maps for Buncombe County as PIN# 0609-

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32-7975-00000 by upset bid, after receipt of an offer per North Carolina General Statute § 160A-269. Attorney Sneed stated the statute allows the Board to reject any offers as well. Alderman Larry B. Harris advised the public that on August 23, 2019 an offer of \$527,000 was submitted to the Board from Stone & Christy, P.A. on behalf of Black Mountain Machine & Fabrication and said this matches the appraised value minus any realtor commission fees.

Alderman Harris moved to approve Resolution #R-19-18 authorizing upset bid process to sell Town property located at 2992 US Highway 70 to Black Mountain Machine for the sum of \$527,000.

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

8. NEW BUSINESS

Alderman Ryan Stone moved to add Resolution #R-19-17, Consideration of Terms of Resolution Authorizing Lease of Town Property located on White Pine Drive to Children & Friends Inc. to the agenda.

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

A. Consideration of Terms of Resolution Authorizing Lease of Town Property located on White Pine Drive to Children & Friends Inc. #R-19-17

Attorney Sneed stated the Town has the ability to rent or lease out any of its property and stated the Board may enter into a lease. Attorney Sneed stated the terms of the lease have to be agreed upon and published for thirty days in the paper and said a public hearing is required as well as a resolution to enter into the lease. Attorney Sneed presented a revised proposed lease agreement to the Board of Aldermen containing the correct meets and bounds description which was subsequently included in the agenda packet and published on the Town's website. Attorney Sneed described exclusive use, common, and priority use areas. Attorney Sneed stated the daycare would have exclusive use of the property next to the building due to traffic and the playground area would be considered priority use during daycare hours. Attorney Sneed stated he was tasked with determining fair market value and said he consulted with an appraiser and realtor looking at tax value, use of property, and recovery of value every 10 years, nearby properties rent analysis to determine the lease number. The lease value was determined to be \$650.00 per month before playground is constructed and \$750.00 after with a ten year term. This explanation is made part of an included in these minutes. Alderman Larry B. Harris clarified no action may be taken or work performed on the property prior to having an affirmative vote on November 4, 2019. Alderman Harris stated he has heard and considered all of the citizen comments and understands everyone's perspective regarding the impact of a building in the area but said he is inclined to move forward with advertising the terms and recalled the County contributing \$200,000 toward the project to assist local families. Alderman Harris stated the area is currently not a garden and is primarily a grassy field and is also used for parking and believes the request is not unreasonable to accommodate this use under the terms of the lease. Vice Mayor Tuttle stated she agreed with Alderman Harris and stated she often thinks of issues with affordable housing in our area and

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believes this to be a step in the direction to begin to ease the burden. Alderman Ryan Stone stated he believes there is a need for expanded child care in the area and abroad and said supporting this project will allow children in our area to have an unbelievable opportunity to receive quality childcare as well as to appreciate the hard work of the garden volunteers, artists, and natural assets at the location. Alderman Stone stated he believes this project will benefit the community as a whole.

Alderman Larry B. Harris moved to add Resolution #R-19-17, and to approve Resolution #R-19-17 to Lease Properties on White Pine Drive, tentatively accepting the terms of the proposed lease as presented and directing the Town Clerk to issue notice of said terms and public hearing to be held on November 4, 2019.

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

B. Map Amendment for REZONING of 300 Flat Creek Rd from SR-2 to TR-4. #O-19-20

Manager Harrold recalled during the August 12, 2019 regular meeting, the Board of Aldermen voted to rezone 300 Flat Creek Road from SR-2 (suburban residential) to TR-4 (town residential) and said this ordinance describes the parcel and the rezoning request as well as adding why the rezoning is reasonable and in the public interest. Attorney Ron Sneed stated this had been left out of the Aldermen's packet unintentionally but needed to be voted on.

*Alderman Larry B. Harris moved to approve Ordinance O-19-20 as presented.
The motion was approved by a vote of 4-0.*

C. System Development Fee Ordinance Amendment

#O-19-23

Manager Harrold stated staff have revised the system development fee ordinance to improve clarity on the term, timing and collection of system development fees and said the amendments to the system development fee ordinance remove unnecessary administrative language from the ordinance as well as simplifies and outlines enforceable guidelines for the requirement, timing and collection of system development fees. Manager Harrold stated these changes are recommended with guidance from the UNC School of Government and the League of Municipalities.

*Alderman Larry B. Harris moved to approve Ordinance O-19-23 amending previous ordinance O-19-15, System Development Fees as presented.
The motion was approved by a vote of 4-0.*

D. Tomahawk Streambank Restoration Phase II Engineering Contract

Manager Harrold stated this contract is to continue work on the project at the Golf Course. There was no discussion by the Board.

Vice Mayor Maggie Tuttle moved to approve to approve the Tomahawk Streambank Restoration engineering contract with Headwaters as presented.

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

E. Mueller System Automatic Water Meter Contract

Assistant Manager Dean Luebbe presented a contract with Mueller System for the purchase and implementation of an Advanced Metering Infrastructure (AMI) system. Mr. Luebbe stated the Town has tested fifty Mueller meters for over three years with tremendous success, and said the AMI system will provide the Town the ability to detect customer leaks 24 hours a day. Mr. Luebbe stated the AMI system will rely on four towers which will be placed on Town owned water tanks and up to twelve repeaters to communicate customer water usage to selected Town employees. The AMI system also could be expanded enabling water customers could view their own water usage from any internet connected device. Many communities in the southeast (including Asheville and Montreat) have utilized Mueller meters using the drive by method, and many are switching over to the AMI system. Mr. Luebbe stated the 600 water customer which the Town will be taking over from the City of Asheville, currently have Mueller meters in the ground. Mr. Luebbe stated the total contract is \$800,000 over the next few years and reminded everyone that funds have been budgeted to begin the project in the CIP and said no debt will be incurred.

Alderman Larry B. Harris moved to approve the Muller System Automatic Water Meter Contract as presented.

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

Alderman Ryan Stone moved to direct Town Manager Harrold to sign the contract on behalf of the Town.

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

F. Interlocal Agreement/ Town of Weaverville- First Due Size Up Software

Manager Harrold reminded the Board that Buncombe County began negotiating to acquire First Due Size-Up software earlier this year 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. He stated the Town of Weaverville took the lead to purchase the software and the agreement provides for each department to pay a share of that cost, with the initial cost to Black Mountain for the first six months of the license being \$911.58, reimbursing Weaverville. Manager Harrold stated Buncombe County is studying the Program and considering funding it as early as FY2020-2021 and said the total cost of the First Due Size-Up Program for a one year period beginning on September 1, 2019 is \$46,080.00. Manager Harrold stated each Fire Department within the County would need to pay an equal portion to cover this cost which **\$2,560.00**. Manager Harrold stated the software is part of the 911 system and also benefits the Black Mountain Police Department.

Alderman Larry B. Harris moved to approve the Interlocal Agreement with the Town of Weaverville for reimbursement of the First Due Size Up software as presented.

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

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 Hearing for Text Amendments to Amend Duplex Definition

#O-19-17

Vice Mayor Maggie Tuttle moved to open the public hearing for text amendments to amend duplex definition.

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

Planning Director Jessica Trotman stated the current definition for a duplex does not clearly indicate how a duplex is to be separated resulting in ambiguity in the definition and said at their July 2019 meeting, the Planning Board voted to amend the definition of duplex to clarify how a duplex is separated.

There were no public comments.

Alderman Larry B. Harris moved to close the public hearing.

The motion was approved by a vote of 4-0

Vice Mayor Maggie Tuttle moved to adopt the Statement of Consistency as presented.

The motion was approved by a vote of 4-0

Alderman Larry B. Harris moved to approve O-19-17 amending Duplex Definition as presented.

The motion was approved by a vote of 4-0

B. Public Hearing for Text Amendments to Amend Timeframe for Nonconformities #O-19-18

Alderman Ryan Stone moved to open the public hearing for Text Amendments to Amend Duplex Definition.

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

Planning Director Jessica Trotman stated the current timeframe for replacement of nonconforming uses or structures is one year and stated at their July 2019 meeting, the Planning Board voted to recommend reducing the timeframe to 180 days and amending the current text from one year to 180 days to reestablish a nonconforming use.

Lisa Milton of Black Mountain addressed the Board of Aldermen stating she had a friend with a similar situation in another city and asked the Board to consider the ramifications.

Town Attorney Sneed stated it is the policy of the State through its laws to discourage nonconforming uses and to eliminate them.

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Elaine Loutzenheiser of Black Mountain addressed the Board of Aldermen inquiring the purpose of changing the timeframe and stated she sees no point in changing it.

*Vice Mayor Maggie Tuttle moved to close the public hearing.
The motion was approved by a vote of 4-0*

*Alderman Larry B. Harris moved to adopt the Statement of Consistency as presented.
The motion was approved by a vote of 4-0*

*Vice Mayor Maggie Tuttle moved to approve O-19-18 amending the timeframe for nonconformities as presented.
The motion was approved by a vote of 4-0*

C. Public Hearing for Text Amendments to Amend Historic District and Historic Conservation District Overlay **#O-19-19**

*Alderman Tim Raines moved to open the public hearing for Text Amendments to Amend Duplex Definition.
The motion was approved by a vote of 4-0.*

Planning Director Jessica Trotman stated the current ordinance for the historic district overlay has inconsistent language between the historic district and the historic overlay district and requires a mandatory review for the conservation district with voluntary compliance. Director Trotman stated there is no reference to historic district review and said the proposed amendments will clean up the inconsistent language as well as set up procedures for historic district review and compliance. At the July 2019 meeting, the Planning Board recommended the proposed amendments.

There were no public comments.

*Vice Mayor Maggie Tuttle moved to close the public hearing.
The motion was approved by a vote of 4-0*

*Vice Mayor Maggie Tuttle moved to adopt the Statement of Consistency as presented.
The motion was approved by a vote of 4-0*

*Alderman Larry B. Harris moved to approve O-19-19 amending historic district and historic conservation district overlay as presented.
The motion was approved by a vote of 4-0*

10. COMMUNICATION FROM STAFF

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- A. Town Attorney – Attorney Sneed discussed the Hemphill property recalling renouncing a small portion of the property in exchange for a right-of-way stating the Conservancy is working on the transfer from the State to the Conservancy to the Town.
- B. Town Manager - Manager Harrold reminded the Board of the Chamber Breakfast at Highland Farms and stated the US Census Bureau will be there to speak.

11. COMMUNICATION FROM MAYOR AND BOARD OF ALDERMEN

Vice Mayor Maggie Tuttle stated the Board misses Alderman Showers and said their thoughts and prayers are with him and his family during this difficult time. The Board concurred.

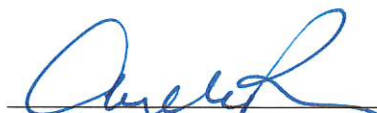
Alderman Larry B. Harris directed Manager Harrold to reach out to NC DOT regarding Mr. Gouge's concerns. Alderman Harris also requested information regarding the Town's cyber security processes and procedures and asked for a presentation. Alderman Harris stated he would also like to make the public aware that the timetable for the I40-Blue Ridge Road Interchange has slid from right-of-way and construction from December 2019 to December 2020-2023 stating the timeframes in most NCDOT projects have been extended across the state. Alderman Harris also commented on the Avadim project stating the project cost has doubled and they are seeking alternate methods of finance.

Mayor Collins commented regarding Children & Friends stating he feels the project will benefit the community in the years to come.

12. ADJOURNMENT

There being no further business, Mayor Don Collins adjourned the meeting at 7:52 p.m.

ATTEST:


Angela Reece, Assistant to Manger/Town Clerk


Don Collins, Mayor