



TOWN OF BLACK MOUNTAIN

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

Date: October 14, 2019

Time: 6:00 p.m.

Regular Session Minutes

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 **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, 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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In his announcements, Mayor Collins reminded everyone to silence their cell phones and asked them to be respectful of their neighbors by keeping conversations to a minimum or having none at all. Mayor Collins congratulated the Black Mountain Fire Department for a successful event. Mayor Collins congratulated staff for being selected from among their peers to chair statewide boards. Town Manager Harrold serves as the President of the NC Association of Zoning Officials (NCAZO) and Town Clerk Reece serves as the NC Association of Municipal Clerks State Certification Committee Chair (NCAMC).

Alderman Carlos Showers addressed everyone, sharing unfortunate news regarding his health. Alderman Showers announced he has been diagnosed with stage 4 pancreatic cancer and stated he is beginning treatment soon. Alderman Showers thanked everyone who has sent prayers, cards, food, or anything else to he and his family and assured the public he will continue to fight and said he has no plans to step down.

2. PROCLAMATION AND AWARD RECOGNITION - NONE

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.*

There were no citizen comments.

***Alderman Ryan Stone moved to remove Items 4C and 4D from the agenda.
The motion was approved by a vote of 5-0.***

4. COMMUNICATIONS FROM BOARDS, COMMISSIONS & AGENCIES

**A. AARP NC Mountain Region – Rebecca Chaplin, Associate State Director
Black Mountain YMCA- Melinda Mull**

Rebecca Chaplain and Melinda Mull presented the AARP and Black Mountain YMCA reports and information to the Board of Aldermen. Alderman Larry B. Harris suggested staff follow up with AARP regarding livable community concepts to incorporate them into the comprehensive plan update that is forthcoming.

B. Advanced Data, Cyber Security- Brian Scheewe

Brian Scheewe presented the Advanced Data, Cyber Security report to the Board of Aldermen and discussed threats facing municipalities. Mr. Scheewe presented findings for the Town's security and suggested additional staff training and coordinated trainings to test the system.

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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 September 5, 2019 (Agenda Session), September 9, 2019 (Regular Session), and September 26, 2019 (Closed Session).*

B. Budget Amendment Downtown Parking & Circulation Study Accounting #FY20-4

Manager Harrold stated this project is grant funded and has spanned across fiscal years citing the necessity to amend the budget to reflect this.

Motion: *To approve Budget Amendment #FY20-4 as submitted, increasing the expense accounts, 1010-5400-040 (Prof Services) by \$23,750 and the revenue accounts, 1010-3396-300 (Parking Study Grant) by \$19,000 and 1000-3905-900 (Fund Balance Appropriated by \$4,750.*

C. Budget Amendment for Veterans Park/ Swannanoa River #FY20-5

Manager Harrold stated this project is also grant funded and reminded the Board the majority of the funding was received and expended in the last fiscal year budget but stated a budget amendment is necessary to reflect the project carrying over to the current budget.

Motion: *To approve Budget Amendment #FY20-5 as submitted, increasing the expense accounts, 1010-5400-040 (Professional Services) by \$21,625 and the revenue account, 1000-3905-900 (Fund Balance Appropriated by \$21,625.*

D. Budget Amendment for Tomahawk Stream Stabilization #FY20-6

Manager Harrold stated this project is also grant funded and said this project is continuing across fiscal years so a budget amendment is necessary.

Motion: *To approve Budget Amendment #FY20-6 as submitted, increasing the expenditure accounts, 6500-5400-040 (Professional Services) by \$30,000 and 6500-5400-730 (Capital Outlay) by \$118,000 the revenue accounts, 6500-3700-710 (NC Division of Water Resources) by \$74,000 and 6500-3915-945 (Transfer from General Fund) by \$74,000.*

E. Capital Project Ordinance AMENDMENT –Tomahawk Stream Capital Projects Fund #O-19-23

Manager Harrold stated a project ordinance amendment is necessary to reflect capital project fund expenditures across fiscal years.

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Motion: *To approve Ordinance #O-19-23 as presented.*

F. Budget Amendment for HVAC Repairs for 304 Black Mtn. Ave Building #FY20-7

Manager Harrold stated this budget amendment is to reflect repairs completed at 304 Black Mountain Avenue to the HVAC system. Manager Harrold advised the Board he selected replacement of units over repair of existing units due to the refrigerant being discontinued in 2020 which would make the current units obsolete. Manager Harrold stated the new units have a ten year warranty.

Motion: *To approve Budget Amendment #FY20-7 as submitted, increasing the expense accounts, 1010-5400-730 (Capital Outlay) by \$14,675 and the revenue account, 1000-3905-900 (Fund Balance Appropriated by \$14,675.*

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

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

Alderman Carlos Showers stated it was important for citizens to recognize and appreciate the work staff has done to seek out and obtain grant funding for many of the larger projects in town. Alderman Showers commended staff for their hard work.

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. 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 the Board has received an upset bid in the amount of \$554,000 and said the process will be advertised again to see if another bid will be submitted. Attorney Sneed stated he will proceed with closing if no further bids are received.

B. Cherry Street One-Way Travel

Manager Harrold recalled the adoption of the one-way resolution previously by the Board and stated he attended a meeting with the Cherry Street business owners to gather additional input.

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Manager Harrold stated a few business owners were not happy with the decision to change it to a one-way pattern traveling north bound. Manager Harrold recalled prior presentations and recommendations given by engineers encouraging a north bound traffic pattern citing safety of pedestrians, disabled parking access, and general public safety provided to the Board and public and deferred to Planning Director Trotman to provide the latest feedback gathered from the most recent meeting regarding the pattern. Ms. Trotman stated fifteen businesses were represented from Cherry Street and State Street and stated the consensus was now not in favor of a north bound traffic pattern. Mayor Collins asked for clarification as to why a south bound traffic pattern is not feasible and Ms. Trotman stated one of the primary concerns is the left turn into Cherry from State Street which often causes traffic to back up through the intersection at Montreat Road. Ms. Trotman stated business owners along State Street who often witness this were in favor of a north bound traffic pattern. Ms. Trotman also stated the pedestrian crossing at the top of Cherry Street is very broad and unsafe for pedestrians as is. Ms. Trotman stated pedestrians are often times in the crosswalk as cars proceed onto the street before they are in sight distance. Alderman Larry B. Harris recalled a south bound pattern being unsafe due to speed. Ms. Trotman stated a north bound pattern would naturally reduce speed and allow for safer parallel parking citing no need for acceleration to maneuver the vehicle into the space. She stated one recommendation was also to increase the size of parking spaces. Alderman Harris stated he recalled every reason for a north bound pattern was related to safety by the engineers. Vice Mayor Maggie Tuttle recalled prior discussions with the engineer and stated she supports the idea of a test run for a north bound pattern. Alderman Harris recalled the initial request by the business owners for accommodation and stated he feels the Board has been receptive to their concerns but said it appears having a south bound traffic flow is unsafe according to the traffic engineers. Alderman Harris suggested leaving it as is. Ms. Trotman added having a one way pattern would allow the travel lane to almost double which would accommodate delivery trucks throughout the day without them blocking the street or causing oncoming traffic to travel into the opposite lanes to get around. Ms. Trotman stated this was one of the primary concerns of the businesses on Cherry Street. Alderman Harris posed the idea of temporarily proceeding with signage and barricade type impediments to mimic narrowing the pedestrian crossing at the top in lieu of proceeding with construction. Vice Mayor Tuttle stated she supports the idea of trying it out and clarified the street striping pattern would be the same regardless.

The Board directed staff to proceed with street striping and temporary signage and impediments to mimic a one way north traffic pattern on Cherry Street.

8. NEW BUSINESS

A. Award Contract(s) for Snow Removal Services

Manager Harrold stated staff solicited requests for proposals for snow removal services recalling in the past needing additional assistance to remove snow in the highest elevations in town. Manager Harrold stated he recommends awarding the contract to B.H. Granning Landscapes, Inc. and stated

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they currently hold over 20 contracts with various entities including Duke Energy and NC DOT. Manager Harrold stated the hourly rate will increase by \$30.00 but reiterated they would only be called in for a large snow event to assist staff.

Alderman Larry B. Harris moved to award the contract(s) for snow removal services for Municipal Parking, and Municipal Roadways to B.H. Granning Landscapes, Inc.as presented.
The motion was approved by a vote of 5-0.

B. The Settings Water System

Attorney Sneed recalled a prior resolution in 2013 agreeing to take over The Settings water system once it was complete and constructed to town standards stating he has prepared a contract, MOU, and grant of easement documents for consideration by the Board. Attorney Sneed stated basically anything in the ground would belong to the town and anything above ground would remain the responsibility of The Settings HOA. Attorney Sneed stated above ground items such as tanks, pumps, valves would be items that the town would be reimbursed for if they were in need of repairs and clarified the MOU would clarify operations and responsibilities of each party.

Alderman Larry B. Harris moved to approve Resolution #R-19-19 for transfer of The Settings waterlines to the Town of Black Mountain as presented.
The motion was approved by a vote of 5-0.

Vice Mayor Maggie Tuttle moved to approve the Memorandum of Understanding between the Town of Black Mountain and The Settings HOA (Water System) as presented.
The motion was approved by a vote of 5-0.

C. Lake Tomahawk Sediment Management Proposal Phase I – Wildlands Engineering

Manager Harrold stated this proposal pertains to the north side of the lake where Tomahawk Branch pours into Lake Tomahawk. Manager Harrold recalled flooding in 2018 stating some of the embankment around the pedestrian bridge has washed away and said the extent of that damage is unknown at this time. Manager Harrold stated the original design was intended for heavy floodwaters to enter through a culvert and deposit sediment into the forebay at the pedestrian bridge before entering into the lake but said the flooding events have compromised the design and washed out the embankment which is allowing sediment to flow directly into the lake. Manager Harrold stated the engineering of the contract is \$32,700 to \$36,700 and includes a design to eliminate the current culvert pipe and box by replacing them with a rock weir arch and streambank restoration along that section heading toward Laurel Circle Drive. Manager Harrold stated the construction estimate for that portion of work would be approximately \$37,000 which brings the total to around \$73,400. Manager Harrold stated this does not include any work to the abutment of the pedestrian bridge but said he has contacted the construction

company who is currently performing bridge repairs to other bridge structures in town and said he received a quote to complete the abutment work on the pedestrian bridge for approximately \$30,000 which is not in this packet. Manager Harrold stated staff would be most likely to receive grant funding to pay for a sediment management plan in the future by having this work completed. Manager Harrold stated this works toward removing the Swannanoa River from the 303D list which is a designation of an impaired waterway due to sediment. Manager Harrold also stated repairs would negate sediment coming into the lake and recalled the significant cost of dredging a few years ago.

Alderman Larry B. Harris moved to approve the proposal from Wildlands Engineering for Phase I – Lake Tomahawk Sediment Management as presented and to authorize the Town Manager to execute the contract. The motion was approved by a vote of 5-0.

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 to Adopt Phase II Stormwater Ordinance

#O-19-21

***Alderman Larry B. Harris moved to open the public hearing for Ordinance #O-19-21 for amendments to Stormwater Phase II
The motion was approved by a vote of 5-0.***

Planning Director Jessica Trotman stated as an MS4 Phase II municipality, the Town is required to have a post-construction stormwater ordinance and said these rules and regulations are largely established by the Environmental Protection Agency and passed to the states. The proposed changes strengthen the ordinance to enhance water quality protection while also making them easier to read, manage and enforce. These changes have been reviewed by an engineer and the NC Department of Water Quality's Phase II coordinator.

Summary of Material Changes

- Projects which disturb 5,000 square feet of land will require a stormwater permit under the phase II ordinance (currently it is 12,000 square feet). This will result in more projects requiring stormwater permits.
- Pre-construction meetings with staff are not require (currently they are options)
- Pre-construction run-off must be met by phase, not by end of project. This will close a loop hole which phased projects currently benefit from.
- The requirements for SCMs are increased to handle more dramatic storms, moving from a one-year storm to a 25 year storm as calculated by NOAA.
- Adds new language regarding calculation of stormwater requirements as required by session law from 2018.
- Applies the most stringent "high density" requirements to both low and high density projects, increasing stream buffer protection.

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Director Trotman prepared a handout which is made part of and include in these minutes. The handout details options for dealing with stormwater runoff with considerations made for storm size and area disturbed.

Board members discussed additional construction costs and asked staff to provide additional information before the ordinance is considered. Attorney Sneed stated the current standard is not adequate to comply with the State's required MS4 permitting. Attorney Sneed stated the changes being recommended by the Planning Director have been created to increase treatment standards at the source of the runoff and added there will be some additional construction costs added. Attorney Sneed stated if a minimum stormwater runoff standard is not met, then the Town could face fines at \$25,000 per day until it comes into compliance.

Jesse Gardner of Black Mountain and Planning Board addressed the Board of Aldermen inquiring why this issue was not given to the planning board to decide upon first. Mr. Gardner stated he is a civil engineer by trade and feels the planning board is capable of making this decision. Attorney Sneed stated the Board would need to enact an ordinance before stormwater consideration could be decided by the Planning Board as state statutes and town ordinance are clear on the matter. Alderman Larry Harris inquired if the Board could ask for Planning Board input. Attorney Sneed stated the Board could solicit informal information from the planning board with regards to stormwater, but stated stormwater review is not among the items listed in NCGS160A-361 (requires certified engineers).

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

*Alderman Larry Harris moved to table the decision pending further information.
The motion was approved by a vote of 5-0*

B. Public Hearing for Stormwater Illicit Discharge and Connection #O-19-22

*Alderman Larry B. Harris moved to open the public hearing for Ordinance #O-19-22 for amendments to illicit discharge.
The motion was approved by a vote of 5-0.*

Planning Director Jessica Trotman stated the proposed sections were previously included in the Phase II ordinance and staff has extracted them into a standalone ordinance for improved organization, readability and enforcement. Director Trotman stated the only material change is adding a "straight-piping" of untreated waste water into a receiving surface water is prohibited. Director Trotman reminded the Board the allowable items by the ordinance are established by the state and represent water determined to be uncontaminated for discharged into the stormwater system. Alderman Carlos Showers inquired if this applies to drainage of swimming pools or washing machines and Director Trotman clarified that no chlorinated water should be discharged into the groundwater without treatment. There was no further discussion by the Board.



Three pillars of data security

- **CONFIDENTIALITY:** the ability to hide, anonymize, or otherwise obfuscate information from those people unauthorized to view it.
- **INTEGRITY:** ensure that information isn't tampered with, either at rest or in motion.
- **AVAILABILITY:** For any system to serve its core purpose, it must be available when needed.

What is Ransomware?

The concept behind ransomware, a well-known form of malicious software, is quite simple: Lock and encrypt a victim's computer data, then demand a ransom to restore access. In many cases, the victim must pay the cybercriminal within a set amount of time or risk losing access forever.

What preventative technical controls are in place to protect data?

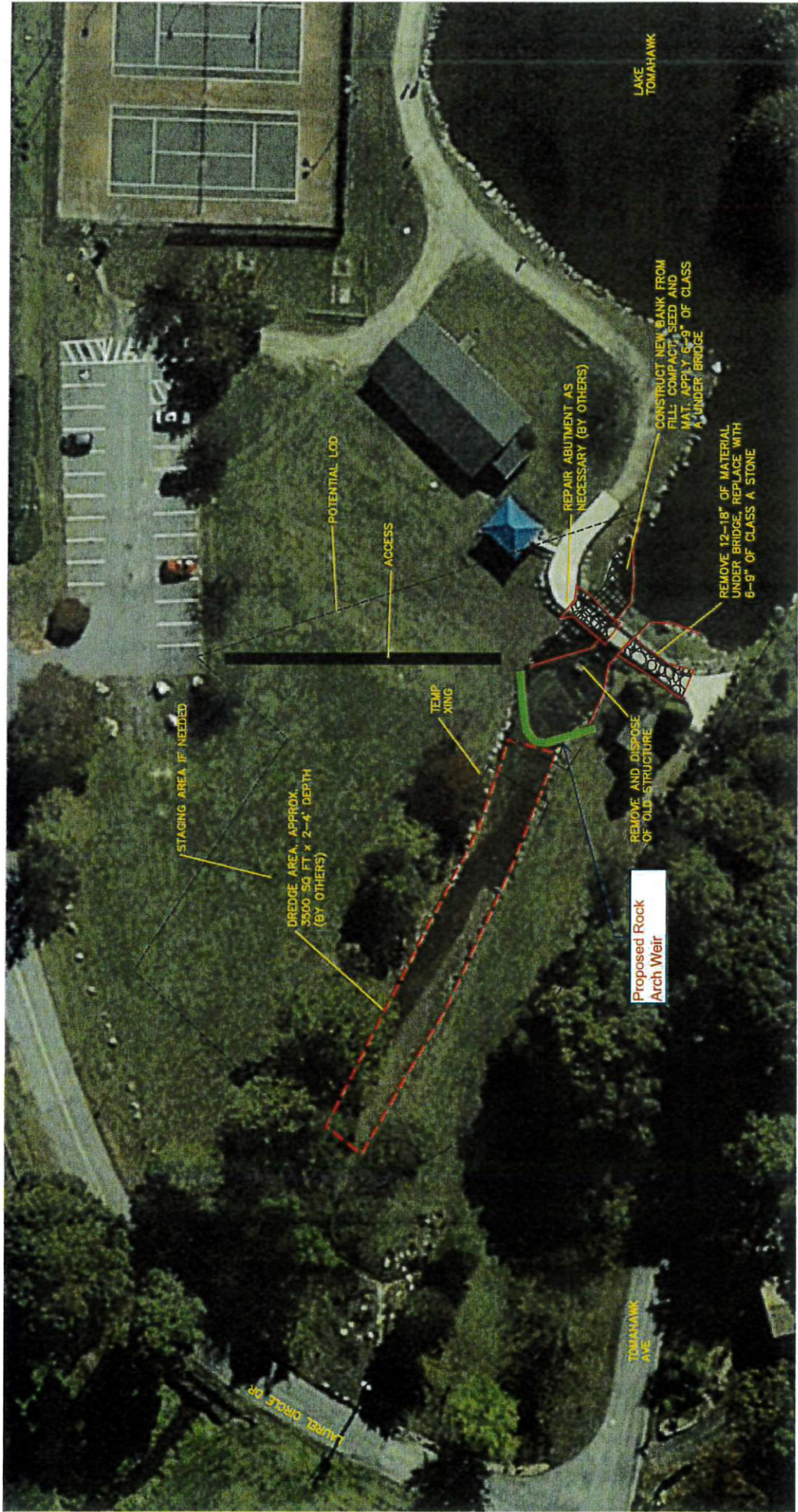
- Email filtering – 64% of all email sent to the town is rejected
- Anti-malware software runs on all town computers
- Backups are taken nightly. One copy is kept onsite and the other is sent offsite
- Networks are protected via firewalls, encryption and segmentation
- Advanced Data's team of 35 is working on the town's behalf

What can be improved?

- The human element is the weakest link in a security plan. End-user training can be improved. (Train staff not to click on suspect links in emails.)
- Coordinated phishing campaigns
- Security policies should be updated for the staff handbook. Specifically Technology Acceptable Use, Passwords, and Email policies.
- Risk assessment should be performed
- Internet redundancy should be improved

Lake Tomahawk Sediment Management

8/23/2019



Post-construction Stormwater Ordinance Variables for Your Consideration

You can change one of these or both of these in any combination you see best fit.

Area Disturbed

There are two things that "trigger" a post-construction ordinance. Area disturbed or additional impervious surface. The only one modified in this draft is the area disturbed.

- Area disturbed in the current ordinance is 12,000 square feet.
- The area disturbed in the draft ordinance is 5,000 square feet.
- You may choose to consider other thresholds, such as 8,000 or 10,000.

In 2018 there were 49 new construction permits. Only seven were required to comply with the post-construction stormwater ordinance.

With the proposed 5,000 square feet change 12 more of them would have been required to comply with post-construction stormwater.

In 2019 to date there have been 54 new construction permits. There have been only five post-construction stormwater permits required. With the proposed 5,000 square feet rule, six more of them would have required to comply with post-construction stormwater.

Storm Size

- The storm size is currently a 1-year/24 hour storm.
- The storm size proposed is a 25-year/24 hour storm.
- You may choose to consider a different size storm.

For your reference:

- 1 year storm = 2.83"
- 2 year storm = 3.42"
- 5 year storm = 4.33"
- 10 year storm = 5.04"
- 25 year storm = 6.02"

Since January 1, 2018 to date there have been:

- 5, 1-year
- 4, 2-year storms or greater
- 3, 5 year storms or greater
- 3, 10 year storms or greater
- 4, 25 year storms

Black Mountain is an MS4 community. This is an unfunded federal *mandate* which requires more than 40 specific activities, plans and programs to meet the conditions of the National Pollution Discharge Elimination System permit.

The post-construction ordinance for your consideration tonight is only one element of the NPDES permit.

Polluted stormwater runoff is commonly transported through municipal separate storm sewer systems and then discharged, untreated, into local surface water.

There are generally two forms of substantial impacts of post-construction runoff. The first is caused by an increase in the type and quantity of pollutants in stormwater runoff. As runoff flows over areas altered by development, it picks up harmful sediment and chemicals such as oil and grease, pesticides, heavy metals, and nutrients. These pollutants often become suspended in runoff and are carried to receiving waters, such as streams and rivers.

The second kind of post-construction runoff impact occurs by increasing the quantity of water delivered to the streams and rivers during storms. Increased impervious surfaces (e.g., parking lots, driveways, and rooftops) interrupt the natural cycle of gradual percolation of water through vegetation and soil. Instead, water is collected from surfaces such as asphalt and concrete and routed to drainage systems where large volumes of runoff quickly flow to the nearest receiving water. The effects of this process include streambank scouring and downstream flooding.

The town spends significant staff time and tens of thousands of dollars each year working to improve stormwater conditions, by installing stormwater control measures on public property, stabilizing streambanks and management of Lake Tomahawk. Still, the stretch of the Swannanoa River receiving stormwater from the town is on the list of impaired waters.

More stringent standards reduce quantity and improve quality of stormwater from smaller projects which cumulatively have significant impact on water quality. Under a local program the town has an opportunity to approve small scale projects with conditions that can improve stormwater control, which in the absence of, contributes to the burden of the town.

The post construction ordinance is based on the universal model written by the UNC School of Government and adopted within the North Carolina Administrative Code. Essentially, this means it incorporates all applicable needs in order to meet rules passed from EPA to the State to enforce. This also means it largely is comprised of minimum standards.

Though the ordinance is based wholly on the model, the town is empowered to increase standards. Because the town is a designated MS4.

In a literature review of environmental regulations conducted in 2013 by DENR, reducing area of disturbance to better suit the type of development experienced by a local government is a frequent method of environmental control. The review included 20 counties and municipalities. Rapid development and/or mountain terrain were also cited for the reasons of the increased standards. Buncombe County, which administers and enforces sedimentation and erosion control for Black Mountain requires plans accommodate a 25 year storm which exceeds state and federal rules, however fewer properties are subject to this because the area disturbed which requires the permit is one-acre or

greater. The City of Asheville requires stormwater plans accommodate a ten-year storm. Western North Carolina only represents 9% of all of the MS4's in the state and with the exception of Asheville, all are small communities. Therefore there is not significant information available about changing the area of land disturbed for the purpose of a stormwater permit.

Black Mountain does not experience significant diversity in the size of development. In calendar year 2018 there were 49 new construction permits, but only seven projects were subject to the post-construction ordinance. So far in 2019, there have been 54 new construction permits, and only five have been required to comply with post-construction stormwater.

In evaluating the ordinance, the question became, how we can align the standards with the size of disturbance closer to what is seen in practice? This is why the area of disturbance is reduced to 5,000 square feet.

Under the proposed 5,000 square feet in 2018 there would have been 12 more post-construction stormwater permits required, and 6 for 2019 to date.

It's also worth mentioning that the minimum lot size in UR-8, which comprises 27% of the entire area of the town has a minimum lot size of 5,000 square feet. Which is to say, 27% is not likely to be subject to the post-construction ordinance even under the proposed conditions.

Alternatively, you may consider thresholds of 8,000 or 10,000 square feet or continue with 12,000 square feet. In absence of a change in area disturbed requiring a post-construction stormwater permit, other potential solutions, regulatory and/or non-regulatory should be considered to improve the collective stormwater conditions created by the continued growth created through small scale development.

The other significant standards changed is the size storm, which is changed from a 1-year storm (2.83" in 24 hours) to a 25-year storm (6.02" in 24 hours). This means there is a 4% chance in any given year a storm of that intensity would occur.

This is admittedly a high standard, but better accommodates the types of events experienced in 2018.

If you feel the 25 year storm standard is too high, you can consider a 10-year storm (5.04"), which has a 10% chance occurring any given year, or a 2-year storm (3.42") which has a 50% chance.

However, for your reference, from January 1, 2018 to date, there have been 5 one-year events, 4 two-year, 3 five-year, 3 ten-year and 4 twenty-five year storms (NOAA).

And over the next 30-50 years, precipitation in this part of the country is anticipated to increase 5-10% particularly in the winter and spring months (NOAA).

Like most rules and regulations, there is a cost associated with compliance, both to those developing projects that meet the thresholds for permitting, as well as to the town.

Engineering plans for small scale stormwater plans can be between \$2,000 and \$3,000.

It's difficult to estimate construction costs for a project disturbing 5,000 square feet, because there are many variables, including the type of SCM selected, the low impact strategies utilized in the design

process which moderate construction costs. If no impact strategies are used, costs could be in the neighborhood of \$20,000-\$25,000.

If a project is one acre or greater is land disturbance, it requires erosion and sedimentation control be built to a 25 year store, prior to post construction, this can reduce construction costs for those with larger projects (who would be required by our current ordinance to have a stormwater permit) because the construction and post-construction storm sizes are the same.

Other improvements made in this ordinance which will improve stormwater conditions is requiring post-construction stormwater standards to be attained by phase instead of end of construction. Phased developments are typically larger subdivisions, which can take years to fully build out. It also requires the developer/contractor to meet with staff early in the design process. All projects subject to a stormwater permit are required to meet the increased standards previously applied to only high-density projects. The other is a required change from 2018 session law, regarding redevelopment calculations and vegetative buffers.

The remainder to the lengthy document has been improved for organization and clarity. The changes proposed in this draft have been reviewed by the MS4 Phase II coordinator for the state, who has supported the changes.

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There were no citizen comments.

*Alderman Carlos Showers moved to close the public hearing.
The motion was approved by a vote of 5-0*

*Alderman Larry B. Harris moved to approve Ordinance #O-19-22 as presented.
The motion was approved by a vote of 5-0*

10. COMMUNICATION FROM STAFF

- A. Town Attorney – None at this time.
- B. Town Manager - Manager Harrold gave a brief report on Planning Board actions recalling rezoning properties on Flat Creek from SR-2 to TR-4 stating the board held a workshop and residents attending were in favor of the move.

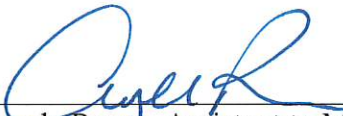
11. COMMUNICATION FROM MAYOR AND BOARD OF ALDERMEN

Alderman Larry B. Harris congratulated and thanked the Fire Department on a successful event over the weekend celebrating 100 years of fire service to the town.

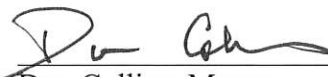
12. ADJOURNMENT

There being no further business, Mayor Don Collins adjourned the meeting at 7:38 p.m.

ATTEST:



Angela Reece, Assistant to Manger/Town Clerk



Don Collins, Mayor



Three pillars of data security

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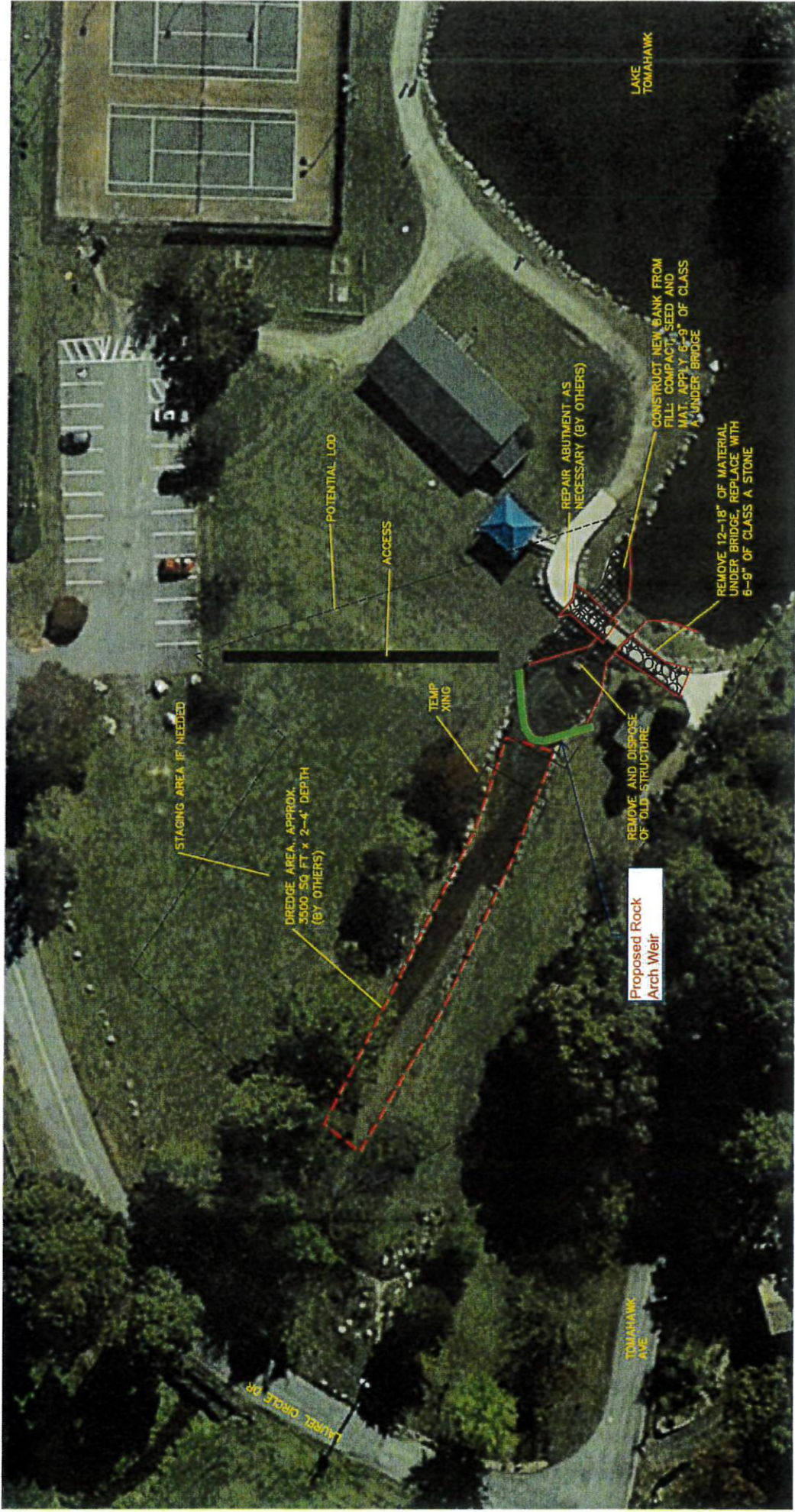
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What can be improved?

- The human element is the weakest link in a security plan. End-user training can be improved. (Train staff not to click on suspect links in emails.)
- Coordinated phishing campaigns
- Security policies should be updated for the staff handbook. Specifically Technology Acceptable Use, Passwords, and Email policies.
- Risk assessment should be performed
- Internet redundancy should be improved

Lake Tomahawk Sediment Management

8/23/2019



Post-construction Stormwater Ordinance Variables for Your Consideration

You can change one of these or both of these in any combination you see best fit.

Area Disturbed

There are two things that "trigger" a post-construction ordinance. Area disturbed or additional impervious surface. The only one modified in this draft is the area disturbed.

- Area disturbed in the current ordinance is 12,000 square feet.
- The area disturbed in the draft ordinance is 5,000 square feet.
- You may choose to consider other thresholds, such as 8,000 or 10,000.

In 2018 there were 49 new construction permits. Only seven were required to comply with the post-construction stormwater ordinance.

With the proposed 5,000 square feet change 12 more of them would have been required to comply with post-construction stormwater.

In 2019 to date there have been 54 new construction permits. There have been only five post-construction stormwater permits required. With the proposed 5,000 square feet rule, six more of them would have required to comply with post-construction stormwater.

Storm Size

- The storm size is currently a 1-year/24 hour storm.
- The storm size proposed is a 25-year/24 hour storm.
- You may choose to consider a different size storm.

For your reference:

- 1 year storm = 2.83"
- 2 year storm = 3.42"
- 5 year storm = 4.33"
- 10 year storm = 5.04"
- 25 year storm = 6.02"

Since January 1, 2018 to date there have been:

- 5, 1-year
- 4, 2-year storms or greater
- 3, 5 year storms or greater
- 3, 10 year storms or greater
- 4, 25 year storms

Black Mountain is an MS4 community. This is an unfunded federal *mandate* which requires more than 40 specific activities, plans and programs to meet the conditions of the National Pollution Discharge Elimination System permit.

The post-construction ordinance for your consideration tonight is only one element of the NPDES permit.

Polluted stormwater runoff is commonly transported through municipal separate storm sewer systems and then discharged, untreated, into local surface water.

There are generally two forms of substantial impacts of post-construction runoff. The first is caused by an increase in the type and quantity of pollutants in stormwater runoff. As runoff flows over areas altered by development, it picks up harmful sediment and chemicals such as oil and grease, pesticides, heavy metals, and nutrients. These pollutants often become suspended in runoff and are carried to receiving waters, such as streams and rivers.

The second kind of post-construction runoff impact occurs by increasing the quantity of water delivered to the streams and rivers during storms. Increased impervious surfaces (e.g., parking lots, driveways, and rooftops) interrupt the natural cycle of gradual percolation of water through vegetation and soil. Instead, water is collected from surfaces such as asphalt and concrete and routed to drainage systems where large volumes of runoff quickly flow to the nearest receiving water. The effects of this process include streambank scouring and downstream flooding.

The town spends significant staff time and tens of thousands of dollars each year working to improve stormwater conditions, by installing stormwater control measures on public property, stabilizing streambanks and management of Lake Tomahawk. Still, the stretch of the Swannanoa River receiving stormwater from the town is on the list of impaired waters.

More stringent standards reduce quantity and improve quality of stormwater from smaller projects which cumulatively have significant impact on water quality. Under a local program the town has an opportunity to approve small scale projects with conditions that can improve stormwater control, which in the absence of, contributes to the burden of the town.

The post construction ordinance is based on the universal model written by the UNC School of Government and adopted within the North Carolina Administrative Code. Essentially, this means it incorporates all applicable needs in order to meet rules passed from EPA to the State to enforce. This also means it largely is comprised of minimum standards.

Though the ordinance is based wholly on the model, the town is empowered to increase standards. Because the town is a designated MS4.

In a literature review of environmental regulations conducted in 2013 by DENR, reducing area of disturbance to better suit the type of development experienced by a local government is a frequent method of environmental control. The review included 20 counties and municipalities. Rapid development and/or mountain terrain were also cited for the reasons of the increased standards. Buncombe County, which administers and enforces sedimentation and erosion control for Black Mountain requires plans accommodate a 25 year storm which exceeds state and federal rules, however fewer properties are subject to this because the area disturbed which requires the permit is one-acre or

greater. The City of Asheville requires stormwater plans accommodate a ten-year storm. Western North Carolina only represents 9% of all of the MS4's in the state and with the exception of Asheville, all are small communities. Therefore there is not significant information available about changing the area of land disturbed for the purpose of a stormwater permit.

Black Mountain does not experience significant diversity in the size of development. In calendar year 2018 there were 49 new construction permits, but only seven projects were subject to the post-construction ordinance. So far in 2019, there have been 54 new construction permits, and only five have been required to comply with post-construction stormwater.

In evaluating the ordinance, the question became, how we can align the standards with the size of disturbance closer to what is seen in practice? This is why the area of disturbance is reduced to 5,000 square feet.

Under the proposed 5,000 square feet in 2018 there would have been 12 more post-construction stormwater permits required, and 6 for 2019 to date.

It's also worth mentioning that the minimum lot size in UR-8, which comprises 27% of the entire area of the town has a minimum lot size of 5,000 square feet. Which is to say, 27% is not likely to be subject to the post-construction ordinance even under the proposed conditions.

Alternatively, you may consider thresholds of 8,000 or 10,000 square feet or continue with 12,000 square feet. In absence of a change in area disturbed requiring a post-construction stormwater permit, other potential solutions, regulatory and/or non-regulatory should be considered to improve the collective stormwater conditions created by the continued growth created through small scale development.

The other significant standards changed is the size storm, which is changed from a 1-year storm (2.83" in 24 hours) to a 25-year storm (6.02" in 24 hours). This means there is a 4% chance in any given year a storm of that intensity would occur.

This is admittedly a high standard, but better accommodates the types of events experienced in 2018.

If you feel the 25 year storm standard is too high, you can consider a 10-year storm (5.04"), which has a 10% chance occurring any given year, or a 2-year storm (3.42") which has a 50% chance.

However, for your reference, from January 1, 2018 to date, there have been 5 one-year events, 4 two-year, 3 five-year, 3 ten-year and 4 twenty-five year storms (NOAA).

And over the next 30-50 years, precipitation in this part of the country is anticipated to increase 5-10% particularly in the winter and spring months (NOAA).

Like most rules and regulations, there is a cost associated with compliance, both to those developing projects that meet the thresholds for permitting, as well as to the town.

Engineering plans for small scale stormwater plans can be between \$2,000 and \$3,000.

It's difficult to estimate construction costs for a project disturbing 5,000 square feet, because there are many variables, including the type of SCM selected, the low impact strategies utilized in the design

process which moderate construction costs. If no impact strategies are used, costs could be in the neighborhood of \$20,000-\$25,000.

If a project is one acre or greater is land disturbance, it requires erosion and sedimentation control be built to a 25 year store, prior to post construction, this can reduce construction costs for those with larger projects (who would be required by our current ordinance to have a stormwater permit) because the construction and post-construction storm sizes are the same.

Other improvements made in this ordinance which will improve stormwater conditions is requiring post-construction stormwater standards to be attained by phase instead of end of construction. Phased developments are typically larger subdivisions, which can take years to fully build out. It also requires the developer/contractor to meet with staff early in the design process. All projects subject to a stormwater permit are required to meet the increased standards previously applied to only high-density projects. The other is a required change from 2018 session law, regarding redevelopment calculations and vegetative buffers.

The remainder to the lengthy document has been improved for organization and clarity. The changes proposed in this draft have been reviewed by the MS4 Phase II coordinator for the state, who has supported the changes.