TOWN OF BLACK MOUNTAIN

AMENDED

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

Date: **December 10, 2018** Time: **6:00 p.m.** **Regular Session Agenda**

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

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(828) 419-9300 / TDD (800) 735-2962

1. CALL TO ORDER

- Welcome
- Pledge of Allegiance
- Invocation – *Pastor Jerry Wicker, Faith Community Church, Black Mountain*
- Announcements – *Mayor Don Collins*

2. PROCLAMATION AND AWARD RECOGNITION

A. Recognition of Achievement – *Chief Shawn Freeman*

B. Life Saving Award – *Chief Shawn Freeman*

3. CITIZEN COMMENTS

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

4. COMMUNICATIONS FROM BOARDS, COMMISSIONS & AGENCIES

A. Rainbow Recycling – *Marilyn Sobanski*

B. Flat Creek Greenway Update – *Jessica Trotman, Planning Director*

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.

A. Adoption of Minutes

Motion: *To adopt the minutes of November 19, 2018 (Agenda Session), November 19, 2018 (Regular Session), and November 19, 2018 (Closed Session).*

B. Budget Amendment for Downtown Streetscape Grant Reimbursement ***#FY2019-09***

Motion: *To approve Budget Amendment #FY2019-9 as submitted increasing expense account 1010-5400-730 (Capital Outlay) by $12,502 and increasing revenue accounts 1000-3355-300 (Downtown Streetscape Grant) by $9,623 and 1000-3905-900 (Fund Balance Appropriated) by $2,879.*

C. Budget Amendment for Black Mountain Commerce Park Infrastructure Capital Project Fund ***#FY2019-10***

Motion: *To approve Budget Amendment #FY2019-10 as submitted increasing expense accounts 6700-4200-040 (Professional Services) for $110,000 and 6700-4200-730 (Capital Outlay) for $1,545,160 and increasing revenue accounts 6700-3740-711 (Golden Leaf grant) for $775,000 and 6700-3740-712 (EDA Grant) for $827,580 and 6700-3745-715 (Commerce Park Match) for $52,580.*

D. Resolution Retiring Canine- Briscoe ***#R-18-26***

Motion: *To approve Resolution R-18-26 as presented.*

E. Call for Public Hearing for Text Amendments to Noticing Requirements ***#O-18-11***

Motion: *To call for the public hearing for text amendments to noticing requirements, multiple sections, to be held on Monday, January 14, 2019 at 6:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 160 Midland Avenue.*

F. Call for Public Hearing for Text Amendments to Right-of-Way Closure ***#O-18-12***

Motion: *To call for the public hearing for text amendments to right of way closure proceedings to be held on Monday, January 14, 2019 at 6:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 160 Midland Avenue.*

G. **ADDED:** Resolution for Real Property Dedication for Recreational Use ***#R-18-28***

Motion: *To approve Resolution* ***#R-18-28*** *as presented.*

Consent Motion: ***To approve consent items A-G as presented.***

6. CITIZEN COMMENTS

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

7. UNFINISHED BUSINESS

A. Agreement for Wholesale Purchase of Water from City of Asheville

8. NEW BUSINESS

A. Adoption of the schedule for the Board of Aldermen Agenda Workshop and Regular Session Meetings for 2019.

> ***Motion:*** *To adopt the 2019 schedule of regular meetings of the Black Mountain Board of Aldermen as presented [or as amended].*

B. Appointments of representatives and alternates to represent the Town of Black Mountain on boards/committees of outside agencies.

1. **Black Mountain Center for the Arts:**
   There is one Member to be filled for the Black Mountain Center for the Arts.

   Motion: *To appoint _____ to serve as **member** of the Black Mountain Center for the Arts.*

2. **Black Mountain- Swannanoa Chamber of Commerce Executive Board:**
   There is one Alternate to be filled for the Black Mountain- Swannanoa Chamber of Commerce Executive Board.

   Motion: *To appoint _____ to serves as **alternate member** of the Black Mountain Swannanoa Chamber of Commerce Executive Board.*

3. **French Broad River MPO Technical Coordinating Committee (TCC):**

   There is one Alternate to be filled for the French Broad River MPO Technical Coordinating Committee (TCC).

   Motion: *To appoint _____ to serves as **alternate member** of the French Broad River MPO Technical Coordinating Committee (TCC).*

4. Metropolitan Sewer District (MSD):

There is <u>one</u> Member to be filled for the Metropolitan Sewer District.

***<u>Motion:</u>** To appoint _____ to serves as **member** of the Metropolitan Sewer District.*

5. Asheville Regional Housing Consortium:

There is <u>one</u> Alternate to be filled for the Asheville Regional Housing Consortium.

***<u>Motion:</u>** To appoint _____ to serves as **alternate** member of the Asheville Regional Housing Consortium.*

C. Parks & Recreation Facilities Rental Contract Revision

***<u>Motion:</u>** To approve the revised facilities rental contract as presented.*

D. Parks & Recreation Fee Schedule Amendment

***<u>Motion:</u>** To approve the amended Parks & Recreation fee schedule as presented.*

E. Establishment of Capital Project Fund for Black Mountain Commerce Park ***#O-18-10***

***<u>Motion:</u>** To approve Ordinance **#O-18-10**, establishing a capital project fund for the Black Mountain Commerce Park infrastructure.*

F. Swannanoa River Stabilization Veterans Park (Headwaters Engineering Contract)

***<u>Motion:</u>** To approve the contract with Headwaters Engineering as presented.*

G. Black Mountain Tennis Court Update

9. PUBLIC HEARING - NONE

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

10. COMMUNICATION FROM STAFF

A. Town Attorney – Ron Sneed

B. Town Manager – Josh Harrold

11. COMMUNICATION FROM MAYOR AND BOARD OF ALDERMEN

12. ADJOURNMENT

Josh Harrold
Town Manager

TOWN OF BLACK MOUNTAIN

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

Date: December 10, 2018 Time: 6:00 p.m. Regular Session Agenda

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Motion: *To approve Budget Amendment #FY2019-10 as submitted increasing expense accounts 6700-4200-040 (Professional Services) for $110,000 and 6700-4200-730 (Capital Outlay) for $1,545,160 and increasing revenue accounts 6700-3740-711 (Golden Leaf grant) for $775,000 and 6700-3740-712 (EDA Grant) for $827,580 and 6700-3745-715 (Commerce Park Match) for $52,580.*

D. Resolution Retiring Canine- Briscoe ***#R-18-26***

Motion: *To approve Resolution R-18-26 as presented.*

E. Call for Public Hearing for Text Amendments to Noticing Requirements ***#O-19-03***

Motion: *To call for the public hearing for text amendments to noticing requirements, multiple sections, to be held on Monday, January 14, 2019 at 6:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 160 Midland Avenue.*

F. Call for Public Hearing for Text Amendments to Right-of-Way Closure ***#O-19-04***

Motion: *To call for the public hearing for text amendments to noticing requirements, multiple sections, to be held on Monday, January 14, 2019 at 6:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 160 Midland Avenue.*

Consent Motion: ***To approve consent items A-F as presented.***

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> ***Motion:*** *To appoint _____ to serve as* ***member*** *of the Black Mountain Center for the Arts.*

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3. French Broad River MPO Technical Coordinating Committee (TCC):

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> ***Motion:*** *To appoint _____ to serves as* ***alternate member*** *of the French Broad River MPO Technical Coordinating Committee (TCC).*

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***<u>Motion:</u>** To appoint _____ to serves as **member** of the Metropolitan Sewer District.*

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11. COMMUNICATION FROM MAYOR AND BOARD OF ALDERMEN

12. ADJOURNMENT

Josh Harrold
Town Manager

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: December 10, 2018

SUBJECT: Budget Amendment for Downtown Streetscape Grant Reimbursement

#FY2019-09

AGENDA INFORMATION

Agenda Location: **Consent Agenda**
Item Number: **5B**
Department: **Finance**
Contact: Dean Luebbe, Assistant Town Manager/Finance Director
Presenter: Josh Harrold, Town Manager

BRIEF SUMMARY: In the FY17-18 Town budget, $47,000 was budgeted for Downtown Streetscape improvements, with an offsetting revenue budgeted for one half of this amount ($23,500). This grant was not entirely spent or reimbursed in FY17-18, and the Town spent an additional $12,502 in FY18-19. The reimbursement amount received in FY18-19 ($9,622.39) is higher than one half of the total spent in FY18-19 ($12,502) because $6,743.11 was spent late in FY17-18 and not reimbursed in FY17-18 Between the two fiscal years the Town spent $43,124.77 on Downtown Streetscapes and was reimbursed exactly one half of this amount ($21,562.39).

MOTION FOR CONSIDERATION: To approve Budget Amendment #FY2019-9 as submitted increasing expense account 1010-5400-730 (Capital Outlay) by $12,502 and increasing revenue accounts 1000-3355-300 (Downtown Streetscape Grant) by $9,623 and 1000-3905-900 (Fund Balance Appropriated) by $2,879.

FUNDING SOURCE: N/A.

ATTACHMENTS: Budget Amendment #FY2019-9, Grant financial summary recap

MANAGER'S COMMENTS AND RECOMMENDATIONS: Adopt as presented.

Budget Amendment # 2019-9
Fiscal Year 2018-2019

Dept.	Account #	Account Name	Debit	Credit	Comments
	1010-5400-730	Capital Outlay	12,502		ARC Grant
	1000-3355-300	Downtown Streetscape Grant		9,623	expenditures and
	1000-3905-900	Fund Balance Approp		2,879	reimbursements
					crossing fiscal years.

Totals: 12,502 12,502

BD # Entered By:

Journal #

Fiscal Yr Approved By:

Date Date

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: December 10, 2018

SUBJECT: Budget Amendment for Black Mountain Commerce Park Infrastructure Capital Project Fund

#FY2019-10

AGENDA INFORMATION

Agenda Location: **Consent Agenda**
Item Number: **5C**
Department: **Finance**
Contact: Dean Luebbe, Assistant Town Manager/Finance Director
Presenter: Josh Harrold, Town Manager

BRIEF SUMMARY: The Town has worked closely with the Land of Sky Regional Council since September of 2016 to secure funding for infrastructure improvements at the Black Mountain Commerce Park. This budget amendment establishes the original budget for the Capital Project referred later in the agenda under New Business.

MOTION FOR CONSIDERATION: To approve Budget Amendment #FY2019-10 as submitted increasing expense accounts 6700-4200-040 (Professional Services) for $110,000 and 6700-4200-730 (Capital Outlay) for $1,545,160 and increasing revenue accounts 6700-3740-711 (Golden Leaf grant) for $775,000 and 6700-3740-712 (EDA Grant) for $827,580 and 6700-3745-715 (Commerce Park Match) for $52,580.

FUNDING SOURCE: N/A.

ATTACHMENTS: Budget Amendment #FY2019-10.

MANAGER'S COMMENTS AND RECOMMENDATIONS: Adopt as presented.

Budget Amendment # 2019-10
Fiscal Year 2018-2019

Dept.	Account #	Account Name	Debit	Credit	Comments
	6700-4200-040	Prof Services	110,000		
	6700-4200-730	Capital Outlay	1,545,160		
	6700-3740-711	Golden Leaf Grant		775,000	
	6700-3740-712	EDA Grant		827,580	
	6700-3745-715	Commerce Park Match		52,580	

Totals: 1,655,160 1,655,160

BD # Entered By:

Journal #

Fiscal Yr Approved By:

Date Date

#R-18-26

BLACK MOUNTAIN BOARD OF ALDERMEN
RESOLUTION RETIRING CANINE BRISCOE
AND TRANSFERRING HIM TO K9 HANDLER Sgt. Chris Staton

WHEREAS, the Black Mountain Police Department shall retire police canine Briscoe, a Belgian Malinois previously used for conducting searches, rescues, narcotics detection and tracking, effective December 10, 2018; and

WHEREAS, Briscoe is personal property of the Town and is no longer of use or value to the Town of Black Mountain and the Police Department from this date forth; and

WHEREAS, Sgt. Chris Staton is a former K-9 handler with the Town of Black Mountain Police Department, bonded with and worked with the canine from the time of his acquisition in May of 2011; and

WHEREAS, Sgt. Staton is willing and able to provide immediate care for Briscoe; and

WHEREAS, Sgt. Staton will adopt and take full responsibility of Briscoe until such time as the canine is no longer living, relieving the Town of Black Mountain and the Black Mountain Police Department of all obligations and responsibilities of the canine in accordance with the provisions of this Resolution; and

WHEREAS, Sgt. Staton is not being coerced, forced, or inappropriately encouraged by the Town of Black Mountain or the Black Mountain Police Department to adopt this canine; and

WHEREAS, North Carolina General Statutes §§ 153A-176, 160A-265, 160A-266 authorize the Town to dispose of any personal property belonging to it according to the procedures described in Chapter 160A, Article 12.
NOW, THEREFORE, BE IT RESOLVED as follows:

1. Sgt. Chris Staton shall assume full care and responsibility of the canine, including but not limited to:
    a. Providing adequate food, water, and shelter to the canine for the duration of its life;
    b. Providing the canine with adequate health care, including but not limited to vaccinations, medication, and all other medical necessities as needed or as required by Henderson County's animal control requirements; and
2. Sgt. Staton shall assume all liability that may result from the canine's actions, including but not limited to those actions and behaviors learned as a result of the canine's special training provided by the Black Mountain Police Department; and
3. Sgt. Staton shall not purposefully, negligently, or knowingly use the canine's special skill set developed as a result of its career as a police canine either for profit, personal gain, or in any capacity, whether this capacity would put others in danger or not; and
4. Sgt. Staton shall release the Town of Black Mountain and the Black Mountain Police Department from liability from any sickness or health deficiencies that resulted from the canine's work with the Black Mountain Police Department; and
5. Sgt. Staton shall not loan, lend, give away, or rid himself of the canine in any manner which would result in the canine being in the care of another person, business, or entity; and
6. Sgt. Staton shall be solely responsible for the actions of the canine while either in his personal care or otherwise; and
7. Any personal property equipment assigned specifically to Briscoe (collar, leashes) and any shelter previously constructed on Sgt. Chris Staton's property becomes the property of Sgt. Chris Staton. This does not include specialized police equipment (protective equipment, special police issued equipment).

Adopted this the 10th day of December, 2018.

Black Mountain Board of Aldermen

ATTEST: (SEAL)

_____ _____

Angela Reece, Town Clerk Don Collins, Mayor

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: December 10, 2018

SUBJECT: Call for Public Hearing for Text Amendments to Noticing Requirements #O-19-03

AGENDA INFORMATION

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

BRIEF SUMMARY: Currently there are different processes for noticing requirements. The proposed amendments will make all noticing requirements the same for each application, ensuring that all processes are equitable and fair for all citizens.

MOTION FOR CONSIDERATION: To call for the public hearing for text amendments to noticing requirements, multiple sections, to be held on Monday, January 14, 2019 at 6:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 160 Midland Avenue.

FUNDING SOURCE: N/A

ATTACHMENTS: Proposed ***Ordinance #O-19-03***, Statement of Consistency, Text Amendment Application, Planning Board Statement of Consistency

MANAGER'S COMMENTS AND RECOMMENDATIONS: To call for the public hearing to be held at the meeting on Monday, January 14, 2018 or as soon thereafter as possible.

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
A STATEMENT OF CONSISTENCY FOR:
TEXT AMENDMENTS TO MULTIPLE SECTIONS FOR NOTICING REQUIREMENTS

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

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

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

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

- The noticing requirements will be consistent.
- The noticing requirements will allow all procedures to be fair and equitable for all citizens.
-

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

- Vision Statement 9: Community Planning – to allow citizens to have the same noticing requirements for procedures in the Land Use Code.

WHEREAS, after notice duly given, a public hearing was held on January 14, 2019 as part of the regularly scheduled Board of Aldermen meeting at 6:00 p.m. in the Board Room of Town Hall, 160 Midland Avenue.

NOW, THEREFORE, THE BOARD OF ALDERMEN APPROVE THIS STATEMENT OF CONSISTENCEY, by a vote of ____ to ____ on this the 14th day of January, 2019.

_____
Don Collins, Mayor

ATTEST:

_____
Angela L. Reece, Town Clerk

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ORDINANCE NO. *#O-19-03*

AN ORDINANCE TO AMEND MULTIPLE SECTIONS FOR NOTICING REQUIREMENTS

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

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

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

NOW, THEREFORE, BE IT RESOLVED that multiple sections are amended with the following (additions are underlined in bold italic and deletions are shown as red struck text):

1. Chapter 1 – Structure and Administration
Section 1.5 – Amendments
Section 1.5.4 – Procedure for map or text amendments.

H. Public hearing required. Before enacting an amendment to this code or official zoning map, the alder***men*** shall first hold a public hearing. Staff shall place notification of the public hearing. Staff shall place notification of the public hearing in a newspaper of general circulation with***in*** the Town of Black Mountain once a week for two successive calendar weeks. The notice shall be published the first time not less than ten ***(10)*** days nor more than ***twenty-five (***25***)*** days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included. Meet notice shall include time and place of hearing.

1. Posting of property. When a zoning map amendment is proposed, ~~the board of aldermen~~ ***staff*** shall prominently post a notice of the public hearing on the site of the proposed rezoning or on an adjacent street or highway right-of-way. When multiple parcel are included within a proposed zoning map amendment, a posting on each individual parcel is not required but the town shall post enough notices in strategically visible locations so to provide reasonable notice to interested persons. Additionally, the town shall provide notice by first class mail to all property owners within 200 feet of the property boundary of the proposed ***zoning map*** amendment and the date of the public hearing If the zoning map amendment affects more than 50 properties, owned by a total of at least 50 different property owners, ~~the board of alderman~~ ***staff*** may publish a notice of the hearing, provided that each advertisement shall not be less than one-half of a newspaper page in size as long as property owners residing outside the newspaper circulation area are still notified by mail. ***Notice shall also be posted on the town website indicating the date and time of the hearing.***

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2. Chapter 1 – Structure and Administration
Section 1.7 – Appeals and Variances
Section 1.7.1 – General Procedures

D. Upon receipt of a complete application, the planning and development department shall forward the application to the zoning board of adjustment according to the following procedures:

1. The zoning board of adjustment shall hold a public hearing regarding applications once the completed application and accompanying fees are received by the planning and development department and upon proper notification (see below) for the next regularly schedule zoning board of adjustment meeting. Special hearings may be scheduled at the direction of the zoning board of adjustment chair.
2. ***Staff shall place notification of the public hearing. Staff shall place notification of the public hearing in a newspaper of general circulation within the Town of Black Mountain once a week for two successive calendar weeks. The notice shall be published the first time not less than ten (10) days nor more than twenty-five (25) days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included. Meet notice shall include time and place of hearing.***
3. Notice of hearings shall be mailed to the person or entity whose appeal, application or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels within 200 feet of the parcel of land that is subject of the hearings; and to any other persons entitled to receive notice as provided by the land use code. In the absence of evidence to the contrary, the town may rely on the county tax listing to determine property owners of property entitled to mailed notice. The notice must be deposited in the mail at least ten ***(10)*** days but not more than ***twenty-five (***25***)*** days, prior to the date of the hearing. Within that same time period, the town shall prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

3. Chapter 1 – Structure and Administration
Section 1.9 – Development Agreements
Section 1.9.3 – Procedure.

C. The board of aldermen shall review the planning board's and staff's reports and set a public hearing.

D. ***Staff shall place notification of the public hearing in a newspaper of general circulation within the Town of Black Mountain once a week for two successive calendar weeks. The notice shall be published not less than ten (10) days no more than twenty-five (25) days before the date fixed for the hearing In computing such***

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period, the day of publication is not to be included but the day of the hearing shall be included. Meeting notice shall include time and place of hearing.

1. ***Posting of property. When a development agreement is proposed, staff shall prominently post a notice of the public hearing on the site of the proposed development agreement or on an adjacent public street or highway right-of-way. Additionally, the town shall provide notice by first class mail to all property owners within 200 feet of the property boundary of the proposed development agreement and the date of the public hearing. Notice shall also be posted on the town website indicating the date and time of the hearing.***

E. The board of aldermen shall consider a development agreement for adoption only after a public hearing.

F. Development agreements shall be accompanied by a master plan and the provisions of the development agreement as specifically enumerated and adopted and shall govern the development of the land in accordance with the master plan.

4. Chapter 2 – Building Regulations
Section 2.3 – Flood Damage Prevention Ordinance
Article 4 - Administration
Section E – Variance procedures.

(1) The zoning board of adjustment as established by the Town of Black Mountain, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this ordinance.

(2) Before approving a variance request, the zoning board of adjustment shall first hold a public hearing. Staff shall prominently post a notice of the public hearing on the site of the variance request or on an adjacent street or highway right-of-way not less than ten (10) days nor more than twenty-five (25) days before the date fixed for the hearing. Additionally, the town shall provide notice by first class mail to all property owners within 200 feet of the property boundary of the variance request and the date of the public hearing. Notice shall also be posted to the town website indicating the date and time of the hearing. Staff shall place notification of the public hearing in a newspaper of general circulation within the Town of Black Mountain once a week for two successive calendar weeks. The notice shall be published not less than ten (10) days no more than twenty-five (25) days before the date fixed for the hearing In computing such period, the day of publication is not to be included but the day of the hearing shall be included. Meeting notice shall include time and place of hearing.

5. Chapter 3 - Subdivisions
Section 3.3 – Subdivision Types and Review Procedures
Section 3.3.3 – Major subdivision.

Step 3: Planning board review and approval of preliminary plat.

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A. After reviewing the plat and making a recommendation, the subdivision administrator shall place the item on the agenda of the next regularly scheduled planning board meeting.
B. The property shall be posted ten ***(10)*** to ~~14~~ ***twenty-five (25)*** days prior to the planning board meeting and notice made in local paper and town website to inform the public that the property is under consideration for a major subdivision and said posting shall include the date of the planning board meeting to review the preliminary plat.

6. **Chapter 4 – Zoning District Requirements**
Section 4.6 – Zoning Regulations by District
Section 4.6.11 – TND *T*raditional *N*eighborhood *D*istrict
Section 4.6.11.2 – Master plan required.

E.

5. ***Before approving a master plan and subsequent rezoning, the aldermen shall first hold a public hearing. Staff shall place notification of the public hearing in a newspaper of general circulation within the Town of Black Mountain once a week for two successive calendar weeks. The notice shall be published the first time not less than ten (10) days nor more than twenty-five (25) days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included. Meeting notice shall include the time and place of hearing.***

(a) Staff shall prominently post a notice of the public hearing on the site of the proposed master plan and rezoning or on an adjacent public street or highway right-of-way. Staff shall provide notice by first class mail to all property owners within 200 feet of the property boundary of the proposed master plan and rezoning and the date of the public hearing. Notice shall also be posted to the town website indicating the date and time of the hearing.

7. Chapter 4 – Zoning District Requirements
Section 4.6 – Zoning Regulations by District
Section 4.6.12 – ICD *I*nstitutional *C*ampus *D*evelopment
Section 4.6.12.4 – Plan review procedure and required steps.

F. ***Before approving a master plan and subsequent rezoning, the aldermen shall first hold a public hearing. Staff shall place notification of the public hearing in a newspaper of general circulation within the Town of Black Mountain once a week for two successive calendar weeks. The notice shall be published the first time not less than ten (10) days nor more than twenty-five (25) days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included. Meeting notice shall include the time and place of hearing.***

(a) Staff shall prominently post a notice of the public hearing on the site of the proposed master plan and rezoning or on an adjacent public street or highway right-of-way. Staff shall provide notice by first class mail to all property owners within 200 feet of the property boundary of the proposed master plan and

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rezoning and the date of the public hearing. Notice shall also be posted to the town website indicating the date and time of the hearing.

8. Chapter 4 – Zoning District Requirements
Section 4.7 – Overlay Districts
Section 4.7.1 – Wellhead Protection Overlay
Section 4.7.1.7 – Plan submission and approval.

C.

3. ***Before approving an operating and monitoring plan, the aldermen shall first hold a public hearing. Staff shall place notification of the public hearing in a newspaper of general circulation within the Town of Black Mountain once a week for two successive calendar weeks. The notice shall be published the first time not less than ten (10) days nor more than twenty-five (25) days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included. Meeting notice shall include the time and place of hearing.***

(a) Staff shall prominently post a notice of the public hearing on the site of the proposed area or on an adjacent public street or highway right-of-way. Staff shall provide notice by first class mail to all property owners within 200 feet of the property boundary of the proposed area and the date of the public hearing. Notice shall also be posted to the town website indicating the date and time of the hearing.

9. Chapter 4 – Zoning District Requirements
Section 4.7 – Overlay Districts
Section 4.7.3 – Historic district and historic conservation district
Section 4.7.3.14 – Hearing procedures.

E. In cases where the commission deems it necessary, it may hold a public hearing concerning an application for a certificate of appropriateness. ***Before approving a certificate of appropriateness, the historic preservation commission shall first hold a public hearing. Staff shall place notification of the public hearing in a newspaper of general circulation within the Town of Black Mountain once a week for two successive calendar weeks. The notice shall be published the first time not less than ten (10) days nor more than twenty-five (25) days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included. Meeting notice shall include the time and place of hearing.***

(a) Staff shall prominently post a notice of the public hearing on the site of the proposed certificate of appropriateness or on an adjacent public street or highway right-of-way. Staff shall provide notice by first class mail to all property owners within 200 feet of the property boundary of the proposed certificate of appropriateness and the date of the public hearing. Notice shall also be posted to the town website indicating the date and time of the hearing.

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10. Chapter 6 – Conditional Use Permits
Section 6.3 – Application and Approval Procedures
Section 6.3.2 – Public hearing

A. Before passing judgement on a conditional use permit, the zoning board of adjustment shall old the public hearing.

~~B. The town staff shall provide notice to all property owners within 200 feet of the site's property lines a minimum of ten days prior to the hearing that includes:~~

~~1. A description of the proposed conditional use;~~

~~2. The density of the development being proposed in terms of units per acre; and~~

~~3. The time, date and location of the conditional use permit public hearing.~~

Notification of the public hearing shall be placed in a newspaper of general circulation within the Town of Black Mountain once a week for two successive calendar weeks. The notice shall be published the first time not less than ten (10) days nor more than twenty-five (25) days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included Meeting notice shall include the time and place of hearing.

C. In addition, the town shall cause notice to be posted on the property to be developed and on the town's website providing information concerning the conditional use request and the date and time of the public hearing on the issue. This notice shall be posted ~~a minimum of~~ ***not less than*** ten ***(10)*** days ***nor more than twenty-five (25) days*** prior to the public hearing.

~~D. Notice of the time and place of the public hearing shall be published in a newspaper of general circulation in town weekly for two consecutive weeks with the first publication being not less than ten days prior to the public hearing.~~

The town staff shall provide notice to all property owners within 200 feet of the site's property lines not less than ten (10) days nor more than twenty-five (25) days prior to the hearing that includes:

1. ***A description of the proposed conditional use;***
2. ***The density of the development being proposed in terms of units per acre; and***
3. ***The time, date and location of the conditional use permit public hearing.***

11. Chapter 7 – Special Use Permits
Section 7.2 - Procedures
Section 7.2.1.1 – Major special use permits

Step 5. Public Notice

A. Before passing judgement on a special use permit, the zoning board of adjustment shall hold the public hearing. ~~At least ten days' notice~~ ***Not less than ten (10) days and no more than twenty-five (25) days' notice*** of the time and place of the hearing shall be published in a newspaper of general circulation in town weekly for two consecutive weeks and posted on the town's website.

B. The town staff shall***, within the same period of time that the required legal notice of the hearing is published,*** provide notice to all property owners within 200 feet of the site's property lines that includes:

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1. A description of the proposed conditional use;
2. The density of the development being proposed in terms of units per acre; and
3. The time, date and location of the special use permit public hearing.

C. In addition, the town shall cause notice to be posted on the property to be developed ***or on an adjacent public street or highway right-of-way***, providing information concerning the special use request and the date and time of the public hearing on the issue. This notice shall be posted during the same period of time that the required legal notice of the hearing is published in the newspaper.

12. Chapter 7 – Special Use Permits
Section 7.2 - Procedures
Section 7.2.1.2 – Minor special use permits

Step 4. Public notice

D. Before passing judgement on a special use permit, the zoning board of adjustment shall hold the public hearing. ~~At least ten days' notice~~ ***Not less than ten (10) days and no more than twenty-five (25) days' notice*** of the time and place of the hearing shall be published in a newspaper of general circulation in town weekly for two consecutive weeks and posted on the town's website.

E. The town staff shall***, within the same period of time that the required legal notice of the hearing is published,*** provide notice to all property owners within 200 feet of the site's property lines that includes:
4. A description of the proposed conditional use;
5. The density of the development being proposed in terms of units per acre; and
6. The time, date and location of the special use permit public hearing.

F. In addition, the town shall cause notice to be posted on the property to be developed ***or on an adjacent public street or highway right-of-way***, providing information concerning the special use request and the date and time of the public hearing on the issue. This notice shall be posted during the same period of time that the required legal notice of the hearing is published in the newspaper.

READ, APPROVED AND ADOPTED, by a vote of _____ to _____ on this the 14th day of January, 2019.

_____
Don Collins, Mayor

ATTEST:

_____
Angela L. Reece, Town Clerk

DRAFT

Town of Black Mountain
160 Midland Avenue • Black Mountain, NC 28711
Phone: 828-419-9300 • Fax: 828-669-2030
www.townofblackmountain.org

TEXT AMENDMENT APPLICATION

APPLICATION INFORMATION

Applicant Name: Town of Black Mountain Date: 11/13/18

Address: 160 Midland Avenue

Phone: 419-9373 Fax: 669-2030 Email: jennifer.tipton@townofblackmountain.org

TEXT AMENDMENT LOCATION AND REQUEST

Chapter: various Section: various Title: Noticing Requirements

Current Text: see attached

Requested Amendment: See attached

Reason for Requested Amendment: to make all noticing requirements consistent across the Land Use Code

Jennifer Tipton — Applicant Signature
Jennifer Tipton — Applicant Printed Name
11/13/18 — Date

****

FOR OFFICE USE ONLY

Date Received: 11/13/18 Received by: Jennifer Tipton

Fee: $100.00 Cash: ____ Check: ____ Credit: ____

Planning Board Meeting Date: 11/26/18 Vote: 6 to 0 For ☑ Against ☐ as amended

Board of Aldermen Call for Public Hearing Date: 12/10/18

Board of Aldermen Meeting Date: 1/14/19 Vote: ____ to ____ For ☐ Against ☐

TOWN OF BLACK MOUNTAIN
PLANNING BOARD
CONSISTENCY STATEMENT

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

From: The Planning Board for the Town of Black Mountain

Date: November 26, 2018

Subject: Zoning Text Amendment

Description: Amend various sections to have consistent noticing requirements

Address: N/A

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

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

How consistent with plan: Clarifies the ordinance and makes noticing requirements consistent throughout the Land Use Code

Why is it reasonable and in the public interest: makes the process equitable and fair

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

How inconsistent with the plan: _____

_____

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

_____

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

_____

_____

_____

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: December 10, 2018

SUBJECT: Call for Public Hearing for Text Amendments to Right-of-Way Closure Procedures
#O-19-04

AGENDA INFORMATION

Agenda Location:	**CONSENT AGENDA**
Item Number:	**5F**
Department:	Building, Planning and Zoning Services Department
Contact:	Jessica Trotman, Planning Director
Presenter:	Jessica Trotman, Planning Director

BRIEF SUMMARY: The procedure for closing rights-of-way is not consistent with other procedures. The proposed amendments will make the noticing requirements the same as all other processes and will require comments from the Fire Department be included in the staff report. The amendment will also include a requirement to move on to the Board of Aldermen after thirty days if no action is taken.

MOTION FOR CONSIDERATION: To call for the public hearing for text amendments to noticing requirements, multiple sections, to be held on Monday, January 14, 2019 at 6:00 p.m., or as soon thereafter as possible, in the Board Room of Town Hall, 160 Midland Avenue.

FUNDING SOURCE: N/A

ATTACHMENTS: Proposed ***Ordinance #O-19-04***, Statement of Consistency, Text Amendment Application, Planning Board Statement of Consistency

MANAGER'S COMMENTS AND RECOMMENDATIONS: To call for the public hearing to be held at the meeting on Monday, January 14, 2018 or as soon thereafter as possible.

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
A STATEMENT OF CONSISTENCY FOR:
TEXT AMENDMENTS TO CHAPTER 3, SECTION 3.6, DEDICATION AND CLOSURES OF RIGHTS-OF-WAY OR EASEMENTS TO THE TOWN

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

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

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

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

- The amendments will allow for better noticing that will be consistent with all other noticing requirements.
- The amendments will allow for more comments from other departments to allow for more informed decisions before closures are recommended.
-

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

- Vision Statement 9: Community Planning – to allow for consistent noticing requirements and to allow for more information to make more informed decisions.

WHEREAS, after notice duly given, a public hearing was held on January 14, 2019 as part of the regularly scheduled Board of Aldermen meeting at 6:00 p.m. in the Board Room of Town Hall, 160 Midland Avenue.

NOW, THEREFORE, THE BOARD OF ALDERMEN APPROVE THIS STATEMENT OF CONSISTENCEY, by a vote of ____ to ____ on this the 14th day of January, 2019.

_____
Don Collins, Mayor

ATTEST:

_____
Angela L. Reece, Town Clerk

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ORDINANCE NO. *#O-19-04*

AN ORDINANCE TO AMEND CHAPTER 3, SECTION 3.6 DEDICATION AND CLOSURES OF RIGHTS-OF-WAY OR LAND TO THE TOWN

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

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

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

NOW, THEREFORE, BE IT RESOLVED that Chapter 3, Section 3.6 is amended with the following (additions are underlined in bold italic and deletions are shown as red struck text):

1. SECTION 3.6.2 – DEDICATION AND CLOSURES OF RIGHTS-OF-WAY OR LAND TO THE TOWN

A. Improvements within rights-of-way, open space or easements, such as utility lines, street paving, drainage facilities or stormwater BMP's, sidewalks or trails may be accepted for maintenance by the town upon approval by the town board of aldermen.
B. Property owners or other parties of interest may petition for the closure of a right-of-way offering through the planning department. The planning board, planning department, or other government or utility agency may also request the closure of a right-of-way. Rights-of-way closures shall follow these procedures:
    1. A right-of-way closure petition is filed with the planning department. Owners of property abutting the right-of-way or portion of the right-of-way requested for closure must sign the petition and pay a fee as established by the board of aldermen. If all owners of the abutting properties does not sign the petition, notice to abutting property owners shall be given as required by NCGS ***160A-299***. If the request is generated from town staff or a board or commission, the fee shall not apply.
    2. The planning director or his/her designee will prepare a staff report that includes a map that shows the length of the right-of-way from terminus to terminus, an inventory of uses within the right-of-way (if any utilities, etc.), ~~and~~ information on possible future uses from any of the town's adopted plans, ***and comments from the Fire Department*** and place the issue on the next planning board agenda, if the petition is filed two weeks before the date of the next meeting, or otherwise at the next meeting.
    3. ***Notice of the request and pursuant review by the Planning Board shall be sent to all property owners within 200 feet of the requested right-of-way closure.***

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4. The planning board will review the request and make recommendation to the board of aldermen to accept the petition for closure, to accept the right-of-way into town control or maintenance, to close any additional area of right-of-way in addition to the petition, or to not accept the petition and leave the right-of-way as an offering.

5. The planning board shall consider any or all of the following criteria in making their recommendation for closure of a right-of-way:
   (a) Right-of-way identified is not part of adopted town plans.
   (b) Right-of-way is not necessary for current or future utilities.
   (c) Right-of-way in its current condition poses a hazard to public health, safety or welfare.
   (d) Right-of-way is along a drainage that is part of a stormwater management plan.
   (e) Right-of-way provides a current or future corridor for a greenway, alley, or roadway that would meet a specific transportation need.
   (f) Abutting property owners have signed the petition in favor of the closure.
   (g) The planning board shall have 30 days within which to submit a recommendation to the board of aldermen. If the planning board fails to act within the required 30-day period, it shall be deemed to support and recommend the requested closure and the petition shall proceed to the board of aldermen.

6. ~~The planning board may also make a recommendation to amend the scope or length of the right-of-way closure petition if the board determines that there are compelling reasons to do so. In these cases, the board may direct staff to contact additional abutting property owners to get their input before making a determination.~~ ***The planning board may also amend the scope or length of the right-of-way closure petition as a complimentary petition to the board of aldermen.***

7. Planning board recommendation is forwarded to board of aldermen who shall establish a date for a public hearing by adopting a resolution of intent to close. The town attorney shall prepare a description of the right-of-way in question for use in setting the public hearing.

7. ~~Area for closure is posted with a visible sign, indicating the scope of the petition, the date for the public hearing, and the phone number of the staff person to contact for information.~~ **Staff shall place the resolution of intent stating the date of the public hearing in a newspaper of general circulation within the Town of Black Mountain once a week for four successive calendar weeks. Staff shall prominently post the area for closure with a visible sign indicating the scope of the petition, the date for the public hearing and the phone number of the staff person to contact for information. Staff shall also provide notice by first class mail to all property owners within 200 feet of the**

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requested right-of-way closure. Notice shall also be posted to the town website indicating the date and time of the hearing.

8. Board of aldermen holds ~~a~~ ***the*** public hearing and accepts or rejects the petition for closure.

READ, APPROVED AND ADOPTED, by a vote of _____ to _____ on this the 14th day of January, 2019.

_____
Don Collins, Mayor

ATTEST:

_____
Angela L. Reece, Town Clerk

DRAFT

Town of Black Mountain
160 Midland Avenue ◆ Black Mountain, NC 28711
Phone: 828-419-9300 ◆ Fax: 828-669-2030
www.townofblackmountain.org

TEXT AMENDMENT APPLICATION

APPLICATION INFORMATION

Applicant Name: Town of Black Mountain Date: 11/13/18

Address: 160 Midland Ave

Phone: 419-9373 Fax: 669-2030 Email: jennifer.tipton@townofblackmountain.org

TEXT AMENDMENT LOCATION AND REQUEST

Chapter: 3 Section: 3.6 Title: Dedication and Closures of Rights-of-way or Easements to the Town

Current Text: see attached

Requested Amendment: see attached

Reason for Requested Amendment: to make process consistent with all other noticing requirements & public hearing requirements

Jennifer Tipton — Applicant Signature
Jennifer Tipton — Applicant Printed Name
11/13/18 — Date

****

FOR OFFICE USE ONLY

Date Received: 11/13/18 Received by: Jennifer Tipton

Fee: $100.00 Cash: ____ Check: ____ Credit: ____

Planning Board Meeting Date: 11/26/18 Vote: 6 to 0 For ☑ Against ☐ (Lisa)

Board of Aldermen Call for Public Hearing Date: 12/10/18 as amended

Board of Aldermen Meeting Date: 1/14/19 Vote: ____ to ____ For ☐ Against ☐

TOWN OF BLACK MOUNTAIN
PLANNING BOARD
CONSISTENCY STATEMENT

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

From: The Planning Board for the Town of Black Mountain

Date: November 26, 2018

Subject: Zoning Text Amendment

Description: Amend right-of-way closures to have consistent noticing requirements

Address: N/A

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

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

How consistent with plan: makes ordinance consistent with other sections of the Land Use Code

Why is it reasonable and in the public interest: makes the process equitable & fair

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

How inconsistent with the plan: _____

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

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

TOWN OF BLACK MOUNTAIN
2019
DRAFT ANNUAL BOARD OF ALDERMEN MEETING SCHEDULE

AGENDA WORK SESSION Thursday preceding 2nd Monday- 5:00 p.m.	REGULAR MEETING 2nd Monday – 6:00 p.m.
JANUARY 10	JANUARY 14
FEBRUARY 7	FEBRUARY 11
MARCH 7	MARCH 11
APRIL 4	APRIL 8
MAY 9	MAY 13
JUNE 6	JUNE 10
JULY 8 prior to Regular Session	JULY 8
AUGUST 8	AUGUST 12
SEPTEMBER 5	SEPTEMBER 9
OCTOBER 10	OCTOBER 14
NOVEMBER 4 prior to Regular Session	NOVEMBER 4 (1st Monday)
DECEMBER 5	DECEMBER 9

Other meetings called as necessary.

The Board of Aldermen Agenda Work Session meeting will be held at 5:00 p.m. on the Thursday preceding the second Monday of each month at Town Hall unless otherwise noted. The Regular Session meeting is at 6:00 p.m. on the 2nd Monday of each month at Town Hall.

Angela L. Reece
Town Clerk

The Town of Black Mountain is committed to providing accessible facilities, programs and services for all people in compliance with the Americans with Disabilities Act (ADA). Should you need assistance or a particular accommodation for this meeting please contact, Angela Reece, Town Clerk at 419-9300 or by email at angela.reece@townofblackmountain.org

2018 Board Appointments

As of December 10, 2018

AGENCY	Meeting Days/Time	NEW APPOINTMENTS
Black Mountain Center for the Arts	**3rd Tuesdays, 5:30 pm**	Member- Alternate- Maggie Tuttle
Black Mountain-Swannanoa Chamber of Commerce Executive Board	**2nd Thursdays, 5:30 pm**	Member- Carlos Showers Alternate-
Land of Sky Regional Council Board of Directors	**4th Wednesdays, 12:30 pm**	Member- Larry B. Harris Alternate- Maggie Tuttle
French Broad River MPO Board of Directors	**3rd Thursdays, 12:00**	Member- Ryan Stone Alternate- Larry B. Harris
French Broad River MPO Technical Coordinating Committee (TCC)	**3rd Thursdays, 11:00 am**	Member- Jessica Trotman Alternate-
Metropolitan Sewer District (MSD) Board of Directors	**TBA**	Member-
Asheville Regional Housing Consortium	**TBA**	Member- Jessica Trotman Alternate-
Vice Mayor		Appointed 12/11/2017- Maggie Tuttle

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: December 10, 2018

SUBJECT: Parks & Recreation Rental Contract Revision

AGENDA INFORMATION

Agenda Location: **NEW BUSINESS**
Item Number: **8C**
Department: **Recreation**
Contact: Joshua Henderson, Recreation Director
Presenter: Joshua Henderson, Recreation Director

BRIEF SUMMARY: We are receiving an increase in long term or recurring rentals at the Grey Eagle Arena and would like to require that these rentals either pre-pay or provide a credit card number on file to be charged each week in order to avoid a loss in potential revenue.

MOTION FOR CONSIDERATION: To approve the revisions to the rental contract as presented.

FUNDING SOURCE: N/A.

ATTACHMENTS: Black Mountain Recreation & Parks Rental Contract

MANAGER'S COMMENTS AND RECOMMENDATIONS:

Black Mountain
Recreation & Parks

EVENT DATE:_____

PURPOSE OF USE:_____

ONSITE HOURS APPROVED:_____

Administrative office: 304 Black Mountain Ave., Black Mountain, NC 28711
Phone: (828) 669-2052 or 669-5213
Email: RECREATION@TOWNOFBLACKMOUNTAIN.ORG

FACILITIES CONTRACT

APPLICANT/USER:_____ Email Address: _____

TELEPHONE: Home_____ Cell_____ Work_____

ADDRESS:_____
Street City State Zip Code

(Mailing)
ADDRESS:_____
Street City State Zip Code

Lakeview Clubhouse ☐
Deposit $_____
Fee: $_____
Alcohol Fee: $_____
($25 discount if Clubhouse & LV Center rented at same time)
Not serving alcohol: _____

Lakeview Center ☐
Deposit $_____
Fee: $_____
Alcohol Fee $_____

Lake Tomahawk Pavilion ☐
Deposit $_____
Fee: $_____
Tent or Structure $_____

Black Mountain Pool ☐
Deposit $_____
Fee: $_____

DRAFT

Tomahawk Gazebo ☐
Deposit $_____
Daily Fee $_____

Grey Eagle Arena ☐
Deposit $_____
hrs.___ x $____ = $_____
Bounce House/Nerf Party Fee $_____

Veterans Park ☐
Deposit: $_____ per field
Fee: # fields _____ $_____
Concession Stand $_____ Press Box: $_____
Lights: # fields __ x $25 hr. = $____

EQUIPMENT TO BE BROUGHT IN *(i.e. decorations, sound system, grill, food, etc.):* _____

Alternate Contacts *(list two)* _____
Name *Address* *Telephone*

_____
Name *Address* *Telephone*

By signing below I agree to all the terms and conditions stated in the terms and conditions section of this contract:

_____
SIGNATURE OF APPLICANT: (*applicant has read and will abide by all statements included in the "Facilities Contract."*) DATE

Office Use Only:

_____
SIGNATURE OF BMR&P STAFF PERSON DATE

Deposit: Cash ☐ Check ☐ #_____ Credit Card ☐

Rental Fee: Cash ☐ Check ☐ #_____ Credit Card ☐

Deposit Refunded: ☐ Date: _____

Rental Contract Terms and Conditions

Please Read AND Initial After Each Item

Payment and Deposit:

Deposit and a completed contract are required to schedule an event. No dates or facilities will be held, scheduled, or reserved without a completed contract and deposit. Payment in full is required within (10) business days of your event. If an event is scheduled fewer than (10) business days prior to the event date payment is due upon reservation. Deposit will be mailed to the name and address on this rental contract.

***Recurring Grey Eagle Arena Rentals** – Those wishing to reserve the Grey Eagle Arena for multiple dates/times will be required to pay a key deposit and either pre-pay for the requested dates/times, or place a credit card number on file to be charged each week on the date of the reservation. Recurring rentals will expire after six weeks, in order to reserve the facility for a period of time longer that six weeks requires a renewed rental contract and payment for any outstanding balances. In the event of cancellation during a recurring rental, it is the responsibility of the user to contact Black Mountain Recreation & Parks 48 hours before the reserved date/time in order to avoid being charged for that scheduled date/time.

____

Cancellation and Refund Policy:

Reservations are subject to cancellation at the will of the Director of the Recreation Department or the Town of Black Mountain without prior notice for unforeseen circumstances or conditions that cause the facility to be unsafe for use. In the event that a reservation is cancelled under these terms a full refund will be issued.

A rental deposit is paid to hold a current date at a specific facility and must be in order to reserve the facility. Rental deposits become damage deposits once the rental fee is paid in full. A damage deposit is used as a guarantee that the facility/equipment will be returned to the state that it was prior to the facility rental. Violation of the alcohol policy may result in loss of deposit.

***Rental Deposits** – Refund of rental deposits will be made in full if the cancellation is requested prior to (10) business days before the scheduled date of the rental. Cancellations made between (10) business days and 48 hours before the rental will receive half of their rental deposit. Cancellations made less than 48 hours before the scheduled rental will receive no deposit refund. A reservation can be transferred to another date if the cancellation notice is received at least ten (10) business days prior to the reservation, or in the event of inclement weather within five (5) business days after the event.

***Damage Deposits** – Refund of deposits for completed rentals will occur within seven business days of completion of rental as long as items on cleaning checklist have been completed in a satisfactory manner, the keys are returned and all terms of the contract have been upheld. Violations of deposit agreement will be charged at a rate of $20 per hour for cleanup infractions and will be charged associated dollar amount for damages that occur during the rental period.

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***Pool Rentals** – Pool rental deposits may be returned if they must be cancelled because of weather, as determined by Black Mountain Recreation and Parks.

***Ballfield Rentals** – Ballfield rental deposits may be returned if they must be cancelled because of weather, as determined by Black Mountain Recreation and Parks.

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User Restrictions:

The applicant agrees to be on-site during the hours the facility is used. The applicant agrees to remove all trash, personal belongings, decorations and food from the facility during the hours listed on the "Facility Contract." The applicant hereby agrees and undertakes to save and hold harmless Town of Black Mountain, from any and all claims for damages to person or property that may arise out of the use of the facility and special equipment, without regard to whether the damage, personal or otherwise is brought about or caused by the negligence of the applicant, the Black Mountain Recreation and Parks Department, or any other person, organization, firm, or corporation. The applicant will be responsible for, and agree to pay for, damages done to the property and equipment of the Black Mountain Recreation and Parks Department exclusive of ordinary wear and tear. We ask that only BMRP Staff rearrange or move any furnishings, including but not limited to artwork, bookshelves, pool table or couches. No nails, screws, staples or penetrating items are to be used on our walls or floors. Only low tack tape is allowed on our walls and floors. Any damage above and beyond your deposit cost will be charged to you following your event.

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Alcohol Policy

Alcohol is permitted ***ONLY*** in the Lakeview Clubhouse and Lakeview Center, to include only beer, wine and champagne. All consumption of alcoholic beverages must take place inside of the Lakeview Center. No alcoholic beverages are permitted outside of the building, including the deck area. To permit possession or consumption of alcohol, Applicant must complete the Town's "Application for Alcohol Permit" and remit a $50 alcohol fee. Violation of the alcohol policy and/or the presence of alcohol on or in any Town facility or park (other than as stated above) may result in loss of deposit. The applicant assumes all responsibility for the presence, consumption and control of alcohol, as well as for any injuries related to alcohol use.

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Music/ DJs/Noise

In accordance with the Town of Black Mountains Code of Ordinances Sec 20-172 (item 4), Radios, record players, etc. The playing of any radio, television set, record player, musical instrument or sound producing or sound amplifying device in such manner or with such volume, particularly during the hours between 11:00 p.m. and 7:00 a.m. as to annoy or disturb the quiet, comfort or repose of any person in any dwelling, motel or other type of residence; provided, however, that such activities that would otherwise be allowed during a period of valid rental of the Lakeview Center may be continued from 11:00 p.m. until 1:00 a.m. Please be aware that the premises are located near residential areas and therefore Town noise regulations do apply. In the event that a renter's event creates a disturbance due to high noise and results in expulsion, no portion of the deposit will be refunded to the renter.

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TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: December 10, 2018

SUBJECT: Parks & Recreation Fee Schedule Amendment

AGENDA INFORMATION

Agenda Location: **NEW BUSINESS**
Item Number: **8D**
Department: **Recreation**
Contact: Joshua Henderson, Recreation Director
Presenter: Joshua Henderson, Recreation Director

BRIEF SUMMARY: Staff recommends requiring applicants for facility rental to provide proof of residency in order receive the approved resident rates as approved in the fee schedule.

MOTION FOR CONSIDERATION: To approve the amendment to the Parks & Recreation fee schedule as presented.

FUNDING SOURCE: N/A.

ATTACHMENTS: Black Mountain Recreation & Parks Fee Schedule

MANAGER'S COMMENTS AND RECOMMENDATIONS:

Group I: Merit Groups -- Groups primarily for youth, no program except annual membership						
Group II: Government, non-profit and schools						
Group III: Private- Weddings, parties, receptions, business groups, etc						
	Group I		**Group II**		**Group III**	
	Resident	**Non-Res**	**Resident**	**Non-Res**	**Resident**	**Non-Res**
Lakeview Clubhouse						
120 Max--Deposit:	$100	$200	$100	$200	$100	$200
Monday-Thursday Rental	$40	$100	$100	$160	$120	$180
Friday - Sunday Rental	$220	$280	$220	$280	**$280**	**$340**
Lakeview Downstairs						
50-60 Max--Deposit:	$100	$200	$100	$200	$100	$200
Monday-Thursday Rental	$40	$80	$60	$100	$80	$120
Friday-Sunday Rental	$160	$200	$160	$200	**$180**	**$240**
Picnic Pavilion						
Deposit:	$60	$60	$60	$60	$60	$60
Monday-Thursday Rental	$0	$30	$30	$60	$60	$100
Friday-Sunday Rental	$0	$30	$30	$60	**$60**	**$100**
Gazebo						
Deposit:	$20	$20	$20	$20	$20	$20
Monday-Thursday Rental	$0	$10	$10	$20	$20	$30
Friday-Sunday Rental	$10	$20	$10	$20	$20	$30
Swimming Pool (40 people) 6:15-8:15pm only Friday-Sunday	$120	$180	$120	$180	$160	$220
Lifeguards mandatory over 40 people, per 20 additional	$25	$25	$25	$25	$25	$25
Carver Center	No longer available - 10/01/2018					
Grey Eagle						
Deposit:	$100	$100	$100	$100	$100	$100
Bounce House:	n/a	n/a	n/a	n/a	$150	$200
Building & Field	$20/hr	$30/hr	$20/hr	$40/hr	40/hr	$60/hr
Veterans Park						
Ballfield(each)	$0	$100	$100	$140	$120	$160
Lights (each Field)	$20/hr	$40/hr	$20/hr	$40/hr	$20/hr	$40/hr
Press Box	$0	$40	$40	$60	$60	$80
Consession Stand	$40	$60	$60	$80	$80	$100

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Proof of address (drivers license, utility bill etc.) must be provided in order to receive resident rates.

Employee Fee Schedule

Lakeview Clubhouse	
120 Max--Deposit:	$100
Monday-Thursday Rental	$80
Friday - Sunday Rental	$140
Lakeview Downstairs	
50-60 Max--Deposit:	$100
Monday-Thursday Rental	$60
Friday-Sunday Rental	$100
Picnic Pavilion	
Deposit:	$60
Monday-Thursday Rental	$30
Friday-Sunday Rental	$50
Gazebo	
Deposit:	$0
Monday-Thursday Rental	$10
Friday-Sunday Rental	$10
Swimming Pool	
Friday-Sunday 6:15-8:15pm only	$100
Lifeguards mandatory over 40 people, per 20 additional	$25
Carver Center	***No longer available 10/01/2018***
Grey Eagle	
Deposit:	$100
Bounce House:	100
Building & Field (2hr min)	$20/**hr**
Veterans Park	
Ballfield(each)	$100
Lights (each Field)	$20/**hr**
Press Box	$60
Consession Stand	$40

Employee rate for programs is half of the registration fee rounded up to the nearest whole dollar. Example: $27.50 would be rounded to $30.00

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CAPITAL PROJECT ORDINANCE #O-18-10
COMMERCE PARK INFRASTRUCTURE CAPITAL PROJECTS FUND

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

Section 1. The project will provide water and sewer lines to the Commerce Park and a pump station to be located at 2992 Old US Hwy 70. These improvements will make the Commerce Park much more attractive to potential tenants, as well as securing future water needs for all inhabitants of Black Mountain.

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

Section 3. The Town, working closely with the Land of Sky Regional Council (LOS) has secured two separate grants to entirely fund these improvements. $827,580 has been awarded from the Economic Development Administration (EDA) and $775,000 has been awarded from the Golden Leaf Foundation. An additional $52,580 will be provided as a match from the Black Mountain Commerce Park.

Professional Services	$110,000
Capital Outlay – Sewer	$605,822
Capital Outlay - Water	$939,338
TOTAL	**$1,655,160**

Section 4. The following revenues are anticipated to be available to complete this project:

Golden Leaf Grant	$775,000
EDA Grant	$827,580
Matching Funds – Commerce Park	$52,580
TOTAL	**$1,655,160**

Section 5. The Finance Officer is hereby directed to maintain within the Capital Project Fund (Fund 6650, Commerce Park Infrastructure Capital Projects Fund) sufficient specific detailed accounting records to satisfy the requirements of the funding agencies and their agreements. The term of the agreement also shall be met.

Section 6. The Finance Officer is directed to report, on a quarterly basis, on the financial status of each project element in Section 3 and on the total grant revenues received or claimed.

Section 7. The Budget Officer is directed to include a detailed analysis of past and future costs and revenues on this grant project in every budget submission made to this Board.

Section 8. Copies of this capital project ordinance shall be furnished to the Clerk to the Governing Board, and to the Budget Officer and Finance Officer for direction in carrying out this project.

Adopted this 10th day of December, 2018

_____
Don Collins, Mayor

_____
Josh Harrold, Town Manager

_____
Dean Luebbe, Assistant Town Manager/Finance Director

ATTEST:

_____
Angela Reece, Town Clerk

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION
Meeting Date: December 10, 2018

SUBJECT: Contract Approval with Headwaters Engineering

AGENDA INFORMATION

Agenda Location:	**NEW BUSINESS**
Item Number:	**8F**
Department:	Building, Planning and Zoning Services Department
Contact:	Jessica Trotman, Planning Director
Presenter:	Jessica Trotman, Planning Director

BRIEF SUMMARY: The Town was awarded a grant from Pigeon River Fund in 2018. The purpose of this grant is to funding an engineering study for 1600 linear feet of the Swannanoa River at Veteran's Park. The report will tell us how to best stabilize the river banks and allow the Town to apply for grants for construction/implementation in the near future. The total project cost is $33,000. The Town's responsibility of this total is $5,000.

MOTION FOR CONSIDERATION: To approve the contract with Headwaters Engineering as presented [or as amended].

FUNDING SOURCE: Pigeon River and Planning FY18-19 CIP

ATTACHMENTS: Contract

MANAGER'S COMMENTS AND RECOMMENDATIONS: Approve as presented.

Town of Black Mountain
Building, Planning and Zoning
160 Midland Avenue s Black Mountain s North Carolina s 28711
Phone: 828-419-9300 s Fax: 828-669-2030 s TDD: 1-800-735-2962

MEMORANDUM

Date: December 10, 2018

To: Black Mountain Board of Aldermen

From: Jessica Trotman, Planning Director

RE: Contract Approval for Headwaters Engineering **Item 8F**

The Town was awarded a grant from Pigeon River Fund in 2018. The purpose of this grant is to funding an engineering study for 1600 linear feet of the Swannanoa River at Veteran's Park. The report will tell us how to best stabilize the river banks and allow the Town to apply for grants for construction/implementation in the near future. The total project cost is $33,000. The Town's responsibility of this total is $5,000.

Standard Client Agreement

THIS AGREEMENT entered into this _____ day of _____ 20__, by and between Headwaters Engineering, PC (hereinafter "**HEADWATERS**") with offices at 9 Elk Mountain Road, Asheville, NC 28804, and the Town of Black Mountain (hereinafter, "**CLIENT**"), with an address of 160 Midland Avenue, Black Mountain, NC 28711.

WHEREAS, the **CLIENT** desires **HEADWATERS** to perform certain engineering services associated with bank stabilization and river enhancement on the Swannanoa River at Veterans Park.

WHEREAS, **HEADWATERS** is in the business of providing engineering and technical services and desires to perform such services for **CLIENT**.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, and intending to be legally bound hereby, the parties agree as follows:

1. **SCOPE OF WORK.** **HEADWATERS** shall perform such engineering and technical services as are described in the attached Scope of Work dated 11/29/18 including any additions or modifications mutually agreed upon and incorporated therein (hereinafter, "Work").

2. **STANDARD OF CARE.** The standard of care applicable to **HEADWATERS's** services is the degree of skill and diligence normally employed by engineers or providers of technical services performing the same or similar services.

3. **COMPENSATION AND PAYMENT.** **CLIENT** shall compensate **HEADWATERS** for the Work in such manner as described in the attached Scope of Work dated 11/29/18, including any additions or modifications mutually agreed upon and incorporated therein (hereinafter, the "Payment Terms"). Partial payments for the Work shall be made monthly by the **CLIENT** to **HEADWATERS** based on invoices submitted by **HEADWATERS**. The **CLIENT** shall also pay **HEADWATERS** a late payment charge for any payments not made within thirty (30) days of the date of applicable invoices at the rate of one and one-half percent (1½ %) per month.

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4. **ESTIMATES.** Any estimates provided for cost of construction, financing, and acquisition of land and right-of-ways shall be made in accordance with good engineering practice and procedure. It is understood, however, that **HEADWATERS** has no control over construction costs, competitive bidding and market conditions, nor over costs of financing, acquisition of land or rights-of-way, and **HEADWATERS** does not guarantee the accuracy of such cost estimates as compared to actual cost or contractors' bids.

5. **CONSTRUCTION MEANS AND METHODS.** **HEADWATERS** shall not be responsible for construction means, methods, techniques, sequences or procedures of construction contractors, or the safety precautions and programs incident thereto, and shall not be responsible for such contractors' failure to perform work in accordance with the contract documents.

6. **COMPLIANCE WITH LAWS.** **HEADWATERS** shall comply with all applicable provisions of the unemployment compensation, sickness and disability, Social Security laws, the Fair Standards Act and all other Federal, State, and local laws or regulations relating to employment.

7. **ASSIGNMENT BY COMPANY.** All the terms, provisions, covenants and conditions of this Agreement (including any modifications thereto) shall be binding upon, inure to the benefit of, and be enforceable by **CLIENT**, its successors and assigns; provided however, that no portion of this Agreement (including any Task Order) and the rights and obligations thereunder shall be assignable or delegable by **CLIENT**, by operation of law or otherwise, without the express prior written consent of **HEADWATERS** which consent shall not be unreasonably withheld.

8. **ASSIGNMENT BY HEADWATERS.** All the terms, provisions, covenants and conditions of this Agreement (including any modifications thereto) shall be binding upon, inure to the benefit of, and be enforceable by **HEADWATERS**, its successors and assigns; provided however, that no portion of this Agreement (including any Task Order) and the rights and obligations thereunder shall be assignable or delegable by **HEADWATERS**, by operation of law or otherwise, without the express prior written consent of **CLIENT** which consent shall not be unreasonably withheld.

Standard Client Agreement

9. **INSPECTION OF THE WORK.** **HEADWATERS** shall grant **CLIENT** access at all reasonable times to **HEADWATERS's** facilities where the work under this Agreement is being performed.

10. **CHANGES.** The **CLIENT** may, at any time prior to the completion of the Work, direct, in writing, any changes to the Work, including but not limited to the revision of the Work's scope, time period, or schedule of performance. **HEADWATERS** shall perform such changes to the Work as directed by the **CLIENT** in writing and shall be paid for such Work at rates indicated below:

Project Management/Design - $150/hour
Site Assessment/Construction Observation - $130/hour
Direct expenses – actual cost

11. **SUSPENSION OR TERMINATION.** In the event that the Work is terminated or suspended by the **CLIENT** prior to its completion, **HEADWATERS** shall be paid an equitable amount proportional to the services rendered to the date of termination or suspension, plus reasonable profit and termination costs.

12. **DEFAULT.** Should either party breach any provisions of this Agreement the non-breaching party shall have the rights and remedies provided by law or under these terms and conditions.

13. **INDEMNIFICATION.** Except as stated below, **HEADWATERS** shall indemnify and save harmless the **CLIENT** from these claims, losses, lawsuits or expenses caused directly by **HEADWATERS's** sole negligent acts, errors or omissions with performance of **HEADWATERS's** services hereunder. To the fullest extent permitted by law, with respect to claims, damages, losses and expenses which are related to hazardous waste or asbestos removal, disposal or cleanup or environmental liability, the **CLIENT** shall indemnify, save harmless and defend **HEADWATERS** from and against all such claims, damages, losses or expenses, including attorney's fees, arising out of or resulting from the performance of **HEADWATERS's** services, or claims against **HEADWATERS** arising from work of others.

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14. **LIMITATION OF LIABILITY.** To the fullest extent permitted by law, the **CLIENT** agrees to limit **HEADWATERS's** liability to the **CLIENT** and to all other contractors or subcontractors on the project for any and all injuries, claims, losses, expenses or damages whatsoever arising out of or in any way related to the project or this Agreement from any cause or causes including but not limited to **HEADWATERS's** negligent acts, errors, omissions, strict liability, breach of contract, or breach of warranty, such that the total aggregate of liability of **HEADWATERS** to all those named shall not exceed $20,000 or the total fee for **HEADWATERS's** services rendered in the project, whichever is greater.

15. **WAIVER OF CONSEQUENTIAL DAMAGES.** Under no circumstances shall either party be liable to the other party for any consequential damages, including but not limited to loss of use or rental, loss of profit or cost of any financing, however caused, including either party's fault or negligence.

16. **INSURANCE.** Unless otherwise required in this Agreement, the **CLIENT** and **HEADWATERS** shall, during the performance of the services as provided herein, maintain insurance of the types and amounts specified, and with insurers satisfactory to the other party as follows:

(a) **Comprehensive General Liability** including the following:
$1,000,000 Each Occurrence for bodily injury and property damage
$1,000,000 Products/ Completed Operations Aggregate
$1,000,000 General Aggregate over all interests

(b) **Comprehensive Automobile Liability** including coverage for owned, non-owned and hired vehicles:
$1,000,000 Bodily Injury
$1,000,000 Property Damage

17. **INDEPENDENT CONTRACTOR.** **HEADWATERS** acknowledges that it is furnishing the services contemplated by this Agreement hereto as an independent contractor, and not as an employee or agent of **CLIENT** or any of its affiliates.

Standard Client Agreement

18. **PARTIAL INVALIDITY.** If any term, covenant, condition or provision of this Agreement is found by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect, and shall in no way be affected, impaired or invalidated thereby.

19. **HEADINGS.** Headings in this Agreement are for convenience only and are not intended to be used in interpreting or construing the terms, covenants, and conditions of this Agreement.

20. **GOVERNING LAWS.** The validity or construction of this Agreement, as well as the rights and duties of the parties hereunder, shall be governed by the laws of North Carolina without regard to its choice of law provisions.

21. **SUPPLEMENTS TO AGREEMENT.** The following Exhibits are an integral part of this Agreement.

Scope of Work dated 11/29/18
~~Exhibit "A"~~
~~Exhibit "B"~~

22. **ENTIRE AGREEMENT.** This Agreement constitutes the whole agreement between the parties with respect to the subject matter contained herein, and there are no terms other than those contained herein. No modification or amendment of this Agreement shall be valid unless in writing and signed by the parties hereto.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties have caused this Agreement to be executed and delivered as of the day and year first above written.

WITNESS:

_____

HEADWATERS ENGINEERING, PC

Name: _____

Title: _____

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WITNESS:

_____

CLIENT

Name: _____

Title: _____

Scope of Work

Swannanoa River Stabilization
Veterans Park, Black Mountain, NC
November 29, 2018

Project Background:

- Project includes four individual reaches totaling approx. 1600 LF of the Swannanoa River.
- Goals are to stabilize eroding banks, enhance river aesthetics and improve access.
- Protection of existing park features, including walking trail and baseball diamonds will be design considerations.

Task 1 – Site Assessment

- Site visit to evaluate channel stability and site constraints, and review project objectives;
- Gather available aerial imagery and topographic information;
- Complete channel survey to document river dimensions, pattern and profile; and
- Develop base mapping with approximate utilities and mature trees (and wetland boundaries if applicable).

Task 2 – Analysis and Design

- Determine drainage area and evaluate range of design discharges;
- Perform hydraulic analyses and channel dimension evaluations;
- Develop river enhancement and stabilization plan;
- Develop construction drawing set showing plan, typical sections and details for bank sloping, bioengineering, in-stream structures and sediment and erosion control practices; and
- Create bid item list with estimated quantities and an engineer's estimate of construction costs.

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Task 3 – Permitting

- Prepare Pre-Construction Notification (PCN) and submit to US Army Corps of Engineers, NC Division of Water Resources and other resource agencies;
    - Determine limits of disturbance and coordinate with Corps regarding waters of US;
    - $570 permit fee is included;
    - Complete preliminary jurisdictional delineation (wetland), if required
- Model proposed river enhancements, compare existing and proposed flooding conditions and submit floodplain development permit application to Town floodplain administrator. Assumption is a no-rise result can be achieved and that a CLOMR/LOMR is not necessary.
- Prepare erosion control plan, narrative and permit application, assuming more than 1 acre of land disturbance. $525 per acre fee is not included because acreage not known at this time.

Task 4 – Construction Observation

- Convene pre-bid meeting with stream restoration contractors
- Assist with bid review and award;
- Part-time on-site observation to answer questions and check conformance with construction documents (assume 8 visits);
- Conduct preliminary walkthrough and develop punch list; and
- Conduct final walkthrough and submit documentation, including redline plans with field changes noted.

Proposed Fee:

Task	Fee
1 – Site Assessment	$8,500
2 – Analysis and Design	$10,000
3 - Permitting	$8,000
4 – Construction Observation	$6,500
Total	$33,000

Notes on Deliverables and Services:

- Proposed task fees are estimates. Work will be billed on a time-and-materials basis and task estimates will not be exceeded without prior approval.
- Technical specifications are not deemed necessary and are not included.
- The target completion date for permitting submittals is March 15, 2019.
- The target construction start is June 2019.
- Plans will be provided in .pdf format to the Town for review prior to submitting for permits. Up to 8 sets of half-size final construction documents will be provided for bidding and Town records.

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Minutes Follow This Section

TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
AGENDA WORKSHOP MEETING MINUTES
November 19, 2018

THE BLACK MOUNTAIN BOARD OF ALDERMEN held an agenda workshop on Monday, November 19, 2018 at 5:00 p.m. in the board room of Town Hall, 160 Midland Avenue, Black Mountain, NC. The purpose of the meeting was to review the agenda for the regular monthly meeting scheduled for Monday, November 19, 2018 at 6:00 p.m.

1. CALL TO ORDER

Mayor Don Collins called the meeting to order at 5:13 p.m. *with the following members present*:

Mayor Don Collins
Vice Mayor Maggie Tuttle - absent
Alderman Larry B. Harris
Alderman Carlos Showers – arrived at 5:28 p.m.
Alderman Ryan Stone
Alderman Tim Raines

The following staff members were present:

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

Steve Jones, Fire Chief
Joshua Henderson, Recreation Director
Jennifer Tipton, Zoning Administrator
Dan Cordell, Building Inspector

The Board reviewed the items that were proposed for the October 8, 2018 regular session meeting and ADDED New Item 2B, Proclamation honoring Marvin Hamilton. The Board REMOVED Item 8B, River Walk Greenway Phase II Michael Baker International Contract from consideration.

Mayor Don Collins opened the meeting. Town Manager, Josh Harrold presented the proposed agenda to the Board of Aldermen. Pastor Randy Stone, of Montreat Church will give the invocation.

Manager Harrold discussed **Items 5C**, Call for Public Hearing for Text Amendments to Notices of Violations for Warning Letters and stated Attorney Sneed had an amendment to the language in the proposed ordinance. Attorney Sneed stated he has spoken with the Planning Director and has requested to add the following language to Section 1.10 Enforcement and Penalties, " ***unless the act in violaton of the code creates an imminent risk of harm to persons or property.*** The Board agreed to add this language.

Manager Harrold discussed **Items 5E**, Budget Amendment for Automatic Read Water Meters reminding the Board the funds were previously budgeted for installation of automatic read meters and advised the amendment was necessary to begin work on the next phase of the installation.

Town Clerk, Angela Reece requested the Board consider adding an item to their agenda for appointment of Boards and Commissions vacancies for the Urban Forestry Commission and Historic Preservation Commission. The Board agreed to add this item.

Attorney Ron Sneed discussed **Item 7C**, Resolution for Charter Amendment for Even Year Elections stating this resolution is for the Board to ask the NC legislators to pass a law to move the odd-year elections to even-year elections. Attorney Sneed stated the NC statutes only allow amendments by municipalities for handful of topics however elections are not one of those. Attorney Sneed stated holding a referendum is not an option as the municipality has no authority to do this.

Manager Harrold discussed **Item 8B**, River Walk Greenway Phase II Michael Baker International Contract requesting to remove this item as the contract was not ready to present at this time.

Alderman Larry B. Harris moved to remove Item 8B from the agenda.

The motion was approved by a vote of 3-0.

Jennifer Tipton discussed **Item 9C**, Public Hearing for Text Amendments to Floodways and Non-Encroachment Areas stating this amendment is necessary to amend the ordinance to bring back language that was inadvertently omitted from the re-write of the Land Use Code in 2010. Ms. Tipton stated the language adds additional enforcement measures for items being stored in the floodway. Ms. Tipton stated enforcement will mainly be conducted preceding major flooding events in order to mitigate downstream liability and damages.

Jennifer Tipton discussed **Item 9D**, Public Hearing for Text Amendments to Home Occupations stating this amendment would require all home occupations to fill out an application in order for staff to be able to gather data on home occupations in the town and to ensure compliance with ordinances.

Alderman Larry B. Harris moved to ADD Proclamation Honoring Marvin Hamilton to the agenda.

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

Alderman Carlos Showers discussed his concerns regarding town owned tennis courts and requested staff follow up and make recommendation to the Board regarding repairs. Manager Harrold stated he and Recreation Director Henderson met with Judy Eubanks last week regarding the matter and have discussed implementing usage policies. Alderman Showers requested this be brought back before the Board soon.

There being no further discussion, on a motion by Alderman Larry B, Harris with a vote of 4-0 Mayor Don Collins adjourned the meeting at 5:35 p.m.

ATTEST:

_____ _____

Angela L. Reece, Town Clerk Don Collins, Mayor

11/19/2018 Board of Aldermen Regular Session Minutes will be sent out later this week.