



TOWN OF BLACK MOUNTAIN

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

Date: June 8, 2020 Time: 6:00 p.m. Regular Session Minutes

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

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

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 Tim Raines
Alderman Jennifer Willet

The following staff members were present:

Josh Harrold, Town Manager
Angela Reece, Assistant to Manager/Town Clerk
Ron Sneed, Town Attorney

The following staff members were present remotely using Zoom conference calling:

Shawn Freeman, Police Chief
Scottie Harris, Fire Chief
Jessica Trotman, Planning Director
Jamey Matthews, Public Works Director
Josh Henderson, Recreation Director

The public was invited to attend the meeting remotely using Zoom software due to the Stay-Home Stay-Safe orders issued by Buncombe County and the Governor with respect to the COVID-19 Pandemic.

Mayor Don Collins welcomed everyone and led the Pledge of Allegiance.

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

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is shown throughout the month on Charter Cable's Buncombe County Channel 192 at 8:00 p.m. on Sundays. Meetings initially air the same week in which they occur and are shown weekly until the next regularly scheduled meeting. Citizens may also go to the Town website www.townofblackmountain.org at any time and view the most recent regular meeting of the Board.

Mayor Collins and the Board of Aldermen expressed condolences on the passing of former Alderwoman Ruth Brandon. Ms. Brandon served the Town of Black Mountain from 1977 to 2011 and was a true asset to the Town of Black Mountain government.

2. PROCLAMATION AND AWARD RECOGNITION

A. Mayor Collins declared the month of May Building Safety Month.

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 submitted.

4. COMMUNICATIONS FROM BOARDS, COMMISSIONS & AGENCIES

Libba Fairleigh, Secretary of the Beautification Committee presented the Annual Report to the Board of Aldermen. Secretary Fairleigh stated this is the 20th

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 May 11, 2020 (Regular Session and May 28, 2020 (Budget Workshop).*

Alderman Larry B. Harris moved to approve the consent agenda as amended to add new Item 5B, CIP Ordinance for NC-9 Sidewalk and new Item 5C, and Allocation of \$5,000 to the Black Mountain Beautification Committee from the FY19-20 Budget. The motion was approved by a vote of 5-0.

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6. CITIZEN COMMENTS

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

There were no citizen comments.

7. UNFINISHED BUSINESS

A. River Walk Phase II Greenway Update

Manager Harrold discussed Phase II & I Original design was January 2021 and has been delayed due to NCDOT funding issues until April 2021.

B. I40/Blue Ridge Road Interchange Update

Manager Harrold stated he has spoken with Mike Clark, NCDOT Division Engineer who has advised ROW acquisition has been delayed until June 2021 and construction letting has been delayed to June 2023 due to NCDOT funding issues.

C. Black Mountain Montessori School and Art in the Afternoon Lease Payment Forgiveness

Manager Harrold stated due to COVID19 Pandemic and schools being closed both schools are having difficulties with making lease payments but said Montessori School has made their June payment.

Alderman Larry B. Harris moved to extend lease payment forgiveness for Art in the Afternoon through June 2020. The motion was approved by a vote of 5-0.

8. NEW BUSINESS

A. Acceptance of Easement for Greenway

#R-20-08

Attorney Ron Sneed discussed the criteria for accepting the easement stating this easement will eliminate the need for additional pedestrian bridges to be installed along the greenway.

Vice Mayor Maggie Tuttle moved to approve Resolution #R-20-08 to accept the easement from the Swannanoa Valley Friends Meeting, agreeing to the conditions set out in the proposed easement as prepared by Attorney Sneed. The motion was approved by a vote of 5-0.

B. Acceptance of Real Property Donation of Land for Greenway

#R-20-09

Alderman Ryan Stone moved to adopt Resolution #R-20-09 to accept the donation of land from the Swannanoa Valley Friends Meeting. The motion was approved by a vote of 5-0.

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C. Appointment to fill vacancies on Town Boards and Commissions

1. **ABC Board** – (1) vacancy/3 yr term ending June 30, 2023

Alderman Larry B. Harris moved to re-appoint James “Sam” Hobson to a second three year term on the ABC Board which will expire on June 30, 2023. The motion was approved by a vote of 5-0.

2. **Greenways Commission** – (2) vacancies/ 3-yr terms ending June 30, 2023

Alderman Larry B. Harris moved to appoint Cindy Costen to fill a 3 year term ending June 30, 2023. The motion was approved by a vote of 5-0.

Alderman Larry B. Harris moved to appoint Brandon Moffit to fill a 3 year term ending June 30, 2023. The motion was approved by a vote of 5-0.

9. **Historic Preservation Commission** – (1) vacancy/ 3-yr terms ending June 30, 2023

Alderman Ryan Stone moved to appoint Jim Fuller to fill a 3 year term ending June 30, 2023. The motion was approved by a vote of 5-0.

10. **Planning Board** – (1) vacancy/ 3-yr term ending June 30, 2023

AND (1) unexpired term ending June 30, 2021

Alderman Larry B. Harris moved to appoint Rick Earley to fill a 3 year term ending June 30, 2023. The motion was approved by a vote of 5-0.

11. **Zoning Board of Adjustment** – (1) vacancies/ 3-yr term ending June 30, 2023

AND 1st Alternate term

2nd Alternate term

3rd Alternate term

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Aldерwoman Jennifer Willet moved to appoint Janet McKimpson to fill a 3 year term ending June 30, 2023. The motion was approved by a vote of 5-0.

Vice Mayor Maggie Tuttle move to appoint Gregory Feightner to the 1st Alternate seat. The motion was approved by a vote of 5-0.

Aldерwoman Jennifer Willet moved to appoint Patrick Prosser to the 2nd Alternate seat. The motion was approved by a vote of 5-0.

D. Urban Forestry Committee Ordinance

#O-20-06

Manager Harrold advised there were three vacancies on this Committee and only one person has applied. Manager Harrold recalled difficulties filling seats on this committee for the past few years. Staff proposed an ordinance to decommission the Urban Forestry Commission and to convert it into a Committee with an appointed chairman whose responsibilities would be to facilitate meetings and educational activities in the Town and to report annually to the Board of Aldermen. Manager Harrold stated staff believes converting them to a committee will allow more freedom of meetings and of membership recruitment for those who have busy schedules. The Clerk will re-advertise to fill the position of Chairman.

Alderman Ryan Stone moved to approve Ordinance O-20-06 converting the Urban Forestry Commission into a Committee as presented. The motion was approved by a vote of 5-0.

12. PUBLIC HEARING -NONE

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.

13. COMMUNICATION FROM STAFF

A. Town Attorney – none at this time.

B. Town Manager – Manager Harrold reminded everyone of the budget workshop scheduled for June 10, 2020 at 8:30 a.m. and advised the water pumping station came online today without incident.

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14. COMMUNICATION FROM MAYOR AND BOARD OF ALDERMEN

Vice Mayor Maggie Tuttle acknowledged many communications from supports of the Community Garden stated she was in favor of looking into a way to continue supporting the part time staff at the garden. Board members agreed to discuss further at the next budget workshop.

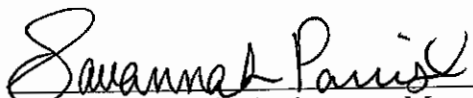
15. ADJOURNMENT

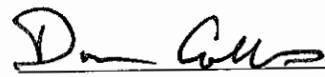
Alderman Larry B. Harris moved to enter into closed session to consult with the town attorney, as permitted in NCGS § 143.318.11(a)(3) at 6:32 p.m. The motion was approved by a vote of 5-0.

Alderman Larry B. Harris moved to return to open session at 6:40 p.m. The motion was approved by a vote of 5-0.

There being no further discussion, on a motion by Vice Mayor Maggie Tuttle, with a vote of 5-0 Mayor Don Collins adjourned the meeting at 6:42 p.m.

ATTEST:


Savannah Parrish, Assistant to Manger/Town Clerk


Don Collins, Mayor



PUBLIC NOTICE

In order to maintain the safety of Town residents, staff, and the Board of Aldermen, the Board of Aldermen **Agenda Work Session scheduled for Thursday, June 4, 2020 at 5:00 p.m. has been CANCELED.**

The Board of Aldermen Regular Session scheduled for **Monday, June 8, 2020 at 6:00 p.m. will be conducted electronically using Zoom software.** In order to comply with the State, County, and Town State of Emergency Declarations and social distancing requirements the only individuals that will be located at Town Hall will be the Mayor, Board of Aldermen, Town Manager, Town Clerk and one videographer. Other staff may participate remotely.

The meeting will be televised as normal on Charter Cable's Buncombe County Channel 192 at 8:00 p.m. on Sundays and posted on the website: <https://www.townofblackmountain.org>. To comply with NC § 143-318.13. Electronic meetings; written ballots; acting by reference, the meeting will also allow live audio and video feed via Zoom.

There are three ways the public can participate in the meeting:

1. **Join the meeting through Zoom on your computer or smart device. * Citizens will be able to comment at the appropriate time using the chat feature to enter their comments. *Citizen video feeds will not be enabled. There is no password.**

<https://us02web.zoom.us/j/83504053751>

Meeting ID: 835 0405 3751

If you have not used Zoom before on a computer or smart device, you are encouraged to [download the application](#) from their website at [Zoom.us/download](https://zoom.us/download) and try it out prior to the meeting. There is no cost associated with the software or attending the meeting and there are toll free number options to dial in to listen live only.

2. **Join the meeting by telephone (listen only).**

Simply call **Toll-free 1-877 853 5247** or **Toll-free 1-888 788 0099**

Meeting ID: 835 0405 3751 followed by the Pound sign (#).

3. **Email or call in your citizen comments or questions prior to the meeting.**

Call in comments prior to meeting: Town Clerk at 828-419-9310

Email comments to: Comments@townofblackmountain.org.

**** Comments on the FY20-21 Budget Public Hearing should be reserved for the 6/22/2020 meeting.**

The Town is making every effort to ensure that the public is able to not only listen to the meeting, but also to participate in the public comment portion of the Board meeting, while still maintaining all of the Town's statutory requirements and keeping the public safe. **During the meeting, if at any time inappropriate content is detected the electronic meeting will be ended by the host.**

Angela L. Reece
Town Clerk

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Please visit www.townofblackmountain.org to obtain agenda packets and other meeting information.

Posted to the Town Bulletin Board 06/03/20

RESOLUTION #R-20-08

**RESOLUTION OF THE BOARD OF ALDERMEN OF
THE TOWN OF BLACK MOUNTAIN, NORTH CAROLINA
TO ACCEPT A GREENWAY EASEMENT FROM
THE SWANNANOVA VALLEY MONTHLY MEETING OF THE
RELIGIOUS SOCIETY OF FRIENDS**

WHEREAS, the Town of Black Mountain is engaged in a long range project to create a greenway that connects the east side of town to the west side of town, and ultimately to points beyond the town limits, by means of a continuous greenway; and

WHEREAS, currently the Town is involved in acquiring easements along the Swannanoa River from where the river intersects with US Highway 70 on the east side of town and the point where the river passes under N.C. Highway 9; and

WHEREAS, the Swannanoa Valley Monthly Meeting of the Religious Society of Friends (hereinafter called "Friends") owns real property described in Book 4351 at Page 1176, Buncombe County Registry, which is bisected by the Swannanoa River and lies between US Highway 70 and N.C. Highway 9, east of N.C. Highway 9; and

WHEREAS, the Swannanoa River has eroded away part of its bank where the river passes through the property of the Friends; and

WHEREAS, there is funding available to the Town for river bank restoration and stabilization and for greenway construction; and

WHEREAS, the Friends have offered the Town an easement along the southwest side of Flat Creek of sufficient width to allow river bank restoration and for construction and maintenance of a greenway; and

WHEREAS, if the planned greenway is rerouted to run along the southwest side of Flat Creek across the property of the Friends, the need for two bridges and much hillside disturbance will be eliminated; and

WHEREAS, it is in the best interest of the Town and its citizens to relocate the planned greenway to run along the west side of the Swannanoa River over the property of the Friends, and to restore the river bank at that location.

NOW, THEREFORE, BE IT RESOLVED by the Board of Aldermen of the Town of Black Mountain, North Carolina, as follows:

1. That the Town does accept the offer of an easement along the southwestern bank of

Flat Creek for the purpose of constructing and maintaining a greenway, upon the terms and conditions set out in the proposed Grant of Easement attached hereto.

2. That in consideration of this gift, the Town will repair, stabilize and restore the river bank where the river runs through the property of the Swannanoa Valley Monthly Meeting of the Religious Society of Friends described in Book 4351 at Page 1176, Buncombe County Registry, and will maintain the river banks at that location as long as the Town also maintain the greenway on that property. The river bank restoration will be completed within one year.

3. Before work begins on the river bank restoration, the Town will provide the Friends with a plan detailing the work to be done, a survey of the greenway pathway, and a detailed plan of greenway construction including plans for fence and plant screening, with the Friends having the right to choose the plantings for screening purposes.

4. The Town will order and pay for any survey work needed to delineate the area of the greenway easement and the area of river bank restoration.

5. That the Town will construct and maintain a greenway within this easement and keep it in a safe condition.

6. In the event the Town at any time determines that it no longer wants to maintain the greenway, it will release and reconvey its interest in the property to the Friends, or their successor owners if the Friends no longer on the property.

7. These actions by the Town will occur only if the Friends do agree to the terms set out herein and do execute a grant of easement upon completion of a survey of the greenway and the area affected by river bank restoration.

I move the adoption of the foregoing resolution.

Aldermen

READ, APPROVED AND ADOPTED, by a vote of _____ to _____, this _____ day of June, 2020.

Don Collins, Mayor

ATTEST:

Angela Reece, Town Clerk

GRANT OF EASEMENT

STATE OF NORTH CAROLINA
Box 47
COUNTY OF BUNCOMBE
28711

Prepared by & return to: Ronald E. Sneed,
P.O. Box 995, Black Mountain, NC

THIS GRANT OF EASEMENT, made and entered into this _____ day of _____, 2020, by and between SWANNANOVA VALLEY MONTHLY MEETING OF THE RELIGIOUS SOCIETY OF FRIENDS, owner of that property described in Book 4351 at Page 1176, Buncombe County Registry, hereinafter called Grantors, and THE TOWN OF BLACK MOUNTAIN, a North Carolina municipal corporation, hereinafter called Grantee.

WITNESSETH :

That the Grantor, for and in consideration of the sum of One Dollar and other good and valuable consideration in hand paid by the Grantees, the receipt of which is hereby acknowledged, and in consideration of the mutual covenants contained herein, have given, granted, bargained, sold and conveyed, and by these presents do give, grant, bargain, sell, convey and confirm unto the Grantee, its successors and assigns, a non-exclusive easement for the installation, construction, use and maintenance of a public greenway, and also for the purpose of stream restoration, said easement being more particularly described as follows:

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

BEING all that shaded area entitled "NEW EASEMENT AREA" and containing 0.230 acres as shown on that Easement Survey Across the Lands of Religious Society of Friends Swannanoa Valley Meeting recorded in Plat Book 201 at Page 147, Buncombe County Registry.

In consideration of this gift for a greenway, the Grantee will stabilize the river bed and

river bank lying within said greenway, and perform all future streambank maintenance and repairs as well as maintain the land lying within the area of the greenway, which shall include a walkway and may also include other amenities such as benches, tables and trash receptacles.

The Grantee anticipates that the river bank stabilization work will be done by a contractor or contractors selected by the Grantee, and Grantee will assure that Grantor is informed of the contractor or contractors selected and contact information for such contractors. The access and area of the restoration work, including staging and storage areas, will be identified and coordinated with the Grantor prior to the beginning of work. The Grantee will also have the contract with the selected contractor or contractors will require the contractor to restore the areas utilized by the contractors during the course of performing the bank stabilization work will be restored as nearly as practical to its original condition when work is completed.

By acceptance of this easement, the Town agrees to indemnify and hold the Grantor harmless from any liabilities, costs or expenses, including reasonable legal fees, arising from any claims for injury or damage to persons or to property as a result of activities of the Town or its contractors or agents in the performance of the riverbank restoration.

The acceptance of this easement by Grantee and its obligation to have riverbank restoration performed on the property of the Grantor is contingent upon the Grantee still having dedicated funds in its budget for the riverbank restoration, as such work is to be performed with Town funds and not with funds from the NCDOT. If, as a result of the current pandemic and economic crisis, the Town is unable to fund this restoration work from its own funds, and if it is unable to obtain funds from other sources, the Town will release and reconvey this easement to the Grantor.

The acceptance of this easement for a greenway construction and maintenance is conditioned on the Town's receipt of funds from the North Carolina Department of Transportation or other sources, and consent to the use of such received funds to repair and restore the river bed and river bank that lies within the described easement. Should such funds not become available, or if the Town is not permitted to use funds for this project if they do become available, or if the Town is unable to obtain funds from other sources for this work if the NCDOT money cannot be used for any reason, the Town will release and reconvey this easement to the Grantor.

By acceptance of this easement, the Town agrees to indemnify and hold the Grantor harmless from any liabilities, costs or expenses, including reasonable legal fees, arising from any claims for injury or damage to persons or to property as a result of activities of the Town or its contractors or agents in the performance of the streambank restoration and maintenance, development and construction of the greenway within the easement, and operation and maintenance of that greenway.

Further, by acceptance of this easement, the Town agrees that any property outside the easement area that is disturbed or harmed during work on the stream bank or the greenway will be repaired by the Town and returned as nearly as practical and reasonable to the condition it

was in prior to work being done by or for the Town. Grantor understands that the greenway will have to be constructed to standards established by the Town, the State and NCDOT, and that those standards will take priority over the condition in which the Grantor might prefer the greenway to be maintained.

Further, the grant of this easement is contingent on the consent of any lender holding a lien or deed of trust on the property of the Grantor that is to be subject to this easement, and the agreement of such lienholder or lender to subordinate its interests to the interest of the Town in the described easement.

By acceptance of the fully executed original of this grant of easement, the Town will not record such easement until it has notified the Grantor that all contingencies are met and it is accepting and recording this grant of easement so as to begin work on the streambank restoration and greenway construction.

If all the contingencies herein are met and the easement described herein is granted to the Grantee Town, the Grantor agrees to convey to the Grantee Town, in fee simple, all the southern portion of the property of the Grantor lying south of the Swannanoa River. This grant of easement, and this conveyance of the described portion of the Grantor's property, is contingent upon a release of portion of the property by any lender holding a lien or deed of trust on the property of the Grantor that is to be so conveyed to the Grantee.

TO HAVE AND TO HOLD the above described easement with all appurtenances thereunto belonging or in any wise appertaining, unto the Grantee, its successors and assigns forever.

IN WITNESS WHEREOF, the Grantors have hereunto set their hands and seals, this the day and year first above written.

SWANNANOVA VALLEY MONTHLY MEETING
OF THE RELIGIOUS SOCIETY OF FRIENDS

By: _____
_____, Trustee

By: _____
_____, Trustee

By: _____
_____, Trustee

NORTH CAROLINA, BUNCOMBE COUNTY.

I, a Notary Public of said County and State, certify that the following person(s) personally appeared before me this day, acknowledging to me that they voluntarily signed the foregoing document for the purpose therein stated and in the capacity indicated: _____

_____, _____, and _____
_____, Trustees of the SWANNANOVA VALLEY MONTHLY MEETING
OF THE RELIGIOUS SOCIETY OF FRIENDS

Dated: _____, _____, Notary Public

Typed or Printed Name of Notary

My commission expires: _____

R-20-09

**TOWN OF BLACK MOUNTAIN BOARD OF
ALDERMEN REQUEST FOR BOARD ACTION**

Meeting Date: June 8, 2020

SUBJECT: Acceptance of Real Property Donation of Land for Greenway R-20-09

AGENDA INFORMATION

Agenda Location:	NEW BUSINESS
Item Number:	8B
Department:	Building, Planning and Zoning Services Department
Contact:	Ronald E. Sneed, Town Attorney
Presenter:	Ronald E. Sneed, Town Attorney

BRIEF SUMMARY: Planning staff and Fred Grogan of Michael Baker International have been working with the Swannanoa Valley Friends Meeting to secure property near the railroad for the Riverwalk Greenway. An agreement has been reached to acquire an easement for the greenway in conjunction with riverbank stabilization to be undertaken by the Town, and in consideration of this work which will benefit and protect the property of the Friends, the Friends have offered to also give a portion of their land to the Town. The parcel is approximately 0.92 acre and ownership of this parcel will allow the Town to eliminate the construction of two bridges as part of the greenway.

MOTION FOR CONSIDERATION: To adopt Resolution #R-20-09 to accept the donation of land from the Swannanoa Valley Friends Meeting.

FUNDING SOURCE:

ATTACHMENTS: Draft Resolution R-20-09

MANAGER'S COMMENTS AND RECOMMENDATIONS:

RESOLUTION #R-20-09

RESOLUTION OF THE BOARD OF ALDERMEN OF
THE TOWN OF BLACK MOUNTAIN, NORTH CAROLINA
TO ACCEPT A DONATION OF 0.92 ACRES FROM
THE SWANNANOVA VALLEY MONTHLY MEETING OF THE
RELIGIOUS SOCIETY OF FRIENDS

WHEREAS, the Town of Black Mountain is and has been engaged in a project to create a greenway that connects the east side of town to the west side of town, and ultimately to points beyond the town limits, by means of a continuous greenway; and

WHEREAS, currently the Town is involved in acquiring easements along the Swannanoa River from where the river intersects with US Highway 70 on the east side of town and the point where the river passes under N.C. Highway 9; and

WHEREAS, the Swannanoa Valley Monthly Meeting of the Religious Society of Friends (hereinafter called "Friends") owns real property described in Book 4351 at Page 1176, Buncombe County Registry, which is bordered on its northeast boundary by Flat Creek near its confluence with the Swannanoa River, is bisected by the Swannanoa River and lies between US Highway 70 and N.C. Highway 9, east of N.C. Highway 9; and

WHEREAS, a portion of the property owned by the Friends lies on the southeast side of the Swannanoa River and bounded on its southern edge by the Norfolk-Southern which is limited use to the Friends because of the intervening river; and

WHEREAS, the river has eroded away part of its bank where the river passes through the property of the Friends; and

WHEREAS, there is funding available to the Town for river bank restoration and owning the 0.92 acre parcel will provide the Town access to the river to perform this work; and

WHEREAS, it will benefit the Town, its citizens, and its greenway plan to own and control this piece of property that lies in close proximity to the planned greenway; and

WHEREAS, the Friends have offered to give all that land described in Book 4351 at Page 1176, Buncombe County Registry, which lies south of the center line of the Swannanoa River to the Town.

NOW, THEREFORE, BE IT RESOLVED by the Board of Aldermen of the Town of Black Mountain, North Carolina, as follows:

1. That the Town does accept the offer of the gift of that land described in Book 4351 at

Page 1176, Buncombe County Registry, which lies south of the center line of the Swannanoa River, upon the terms and conditions set out in that proposed grant of easement attached hereto.

2. That the Town will have the property surveyed so as to determine its exact location and to provide a description for the deed from the Friends to the Town.

I move the adoption of the foregoing resolution.

Aldermen

READ, APPROVED AND ADOPTED, by a vote of _____ to _____, this _____ day of June, 2020.

Don Collins, Mayor

ATTEST: _____
Angela Reece, Town Clerk

**TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
REQUEST FOR BOARD ACTION**

Meeting Date: June 8, 2020

SUBJECT: Urban Forestry Committee Ordinance

#O-20-06

AGENDA INFORMATION

Agenda Location:	NEW BUSINESS
Item Number:	8D
Department:	Administration
Contact:	Angela Reece, Town Clerk Assistant to Manager
Presenter:	Josh Harrold, Town Manager

BRIEF SUMMARY: The Urban Forestry Commission consists of 5 members and has been historically challenging to fill. There are three terms vacant for the 2020 cycle and you have received one application. If the Board chooses to reappoint for a seat there will still be two terms left vacant which will make a quorum difficult to maintain if any member shall not be able to attend. Attendance among the remaining members has varied over the past year. Two meetings were canceled (September and December) due to no quorum. Scott Ablar is a current member and certified arborist. He indicated a preference to have the Commission converted to a Committee to allow more freedom of arranging meetings and a broader public outreach. Attending monthly meetings is challenging for members who are attending due to scheduling and conflicts with employment. Staff believes the Town may be better served by having this board converted to a Committee with a chairman being appointed by, and reporting to the Board of Aldermen. Staff have prepared a draft ordinance for consideration. If approved by the Board of Aldermen, staff would continue to work with the Committee to assist with facilitating Arbor Day and Tree City.

MOTION FOR CONSIDERATION: To adopt Ordinance #O-20-06 as presented [or as amended].

FUNDING SOURCE:

ATTACHMENTS: Draft Ordinance O-20-06

MANAGER'S COMMENTS AND RECOMMENDATIONS: To approve as presented.

ORDINANCE NO. #O-20-06

AN ORDINANCE TO AMEND SECTION DIVISION 3. – URBAN FORESTRY COMMISSION; Sec. 20-284.- Creation and Establishment, Sec. 20-285. – Term of Office and operation, Sec. 20-286. – Compensation, Sec. 20-287 Duties and responsibilities.

WHEREAS, the Town of Black Mountain Urban Forestry Commission is charged with serving as an advisory and educational Commission on the urban trees and forests on publicly owned and maintained property within the Town of Black Mountain, and the recognition of the Town of Black Mountain as a “Tree City USA” demonstrates the Town’s commitment to maintaining the tree canopy and urban forests that makes the Town a special place to visit and live; and

WHEREAS, the Urban Forestry Commission would better serve the Town of Black Mountain as a Committee; and

WHEREAS, the following text amendments are required to carry out the Committee’s Duties and Responsibilities;

NOW, THEREFORE, BE IT RESOLVED that Division 3. Urban Forestry Commission, Section(s) 20-285, 20-286, and 20-287 are amended with the following

DIVISION 3. URBAN FORESTRY COMMISSION~~SSION~~TTEE

1. Sec. 20-287 – Duties and Responsibilities

There is hereby created and established an ~~u~~Urban ~~f~~E forestry Commission~~ssion~~ttee of the town ("the Commission~~ssion~~ttee"), which shall consist of ~~five~~ members residing in ~~and~~ or representing the interests of the Town of Black Mountain; ~~The Chairman who~~ shall be appointed by the board of aldermen and shall be a full time resident of the Town of Black Mountain. ~~A minimum of three fifths of the membership shall be made up of fulltime residents within the corporate limits of the town. The remaining two fifths may be resident(s) who do not reside within the corporate limits but who do reside in the East Buncombe Fire District but not within the corporate limits of any other incorporated municipality.~~

2. Sec. 20-285. - Term of office and operation.

(a)~~Members~~ The Chair of the urban forestry commission~~ssion~~ttee shall serve a three-year terms. ~~All members shall serve until their~~ his or her successor~~s are~~ is duly appointed and qualified. Any vacancies occurring shall be filled by the mayor for the unexpired term. Appointments shall be limited to two consecutive three-year terms, and any member who has served two consecutive three-year terms may not be reappointed until he or she has been off the commission~~ssion~~ttee for at least one full year. If a member of the urban

forestry commission~~tee~~ has served more than two-thirds of a full term after being appointed to complete the term of a previous ~~board~~ member, his or her service during the completion of that term shall be considered a full term for purposes of determining his eligibility to serve successive subsequent terms. The board of aldermen may dismiss any member who becomes inactive in carrying out the powers duties and functions of the Committee. ~~misses three consecutive meetings or one half of the meetings held in a single six-month period without good cause (such as temporary severe illness of member or family member of such member, or overriding but temporary business concerns). Such dismissal may be considered upon report or complaint by the urban forestry commission chairperson, a member of the urban forestry, commission staff, or on the board of aldermen's own motion. A member must attend 50 percent of a meeting in order to be considered in attendance for the purposes of this policy. On January 1st of each year, a member of any board or commission appointed by the mayor or board of aldermen may be automatically removed from said body for failure to attend at least one half of all regular and special meetings of the body held during the immediately preceding calendar year.~~

(b)The commission~~tee~~ chair shall select a ~~chairperson from among its members. It shall also select from among its members a~~ vice chairperson and secretary, ~~elected annually by the commission.~~ The finance officer of the town shall serve as treasurer of the funds of the commission~~tee~~ .The board of aldermen or the town manager shall approve all expenditures for the commission~~tee~~ in accordance with the requirements of law controlling the expenditure of town funds.

(c)After its first meeting, the commission~~tee~~ shall meet ~~regularly~~ as necessary to conduct its business. ~~in the at least once per month. Special meetings may be called by the chairperson or, in his absence, by the vice chairperson; and special meetings shall be called upon the request of a majority of the members of the commission or upon the request of the board of aldermen.~~

(d)The commission~~tee~~ shall adopt rules for transaction of its business and shall keep a record of its members' attendance and of its resolutions, discussions, findings, and recommendations, and such record shall be a public record. ~~The commission shall set a regular schedule for meeting.~~

~~(e)A majority of the members of the commission shall constitute a quorum, and a majority vote of those present shall be required to constitute action of the commission. The presiding members of the commission may vote on any matter considered by the commission-~~

~~(f)The commission shall act as a body in the transaction of all business, unless a committee or member is duly authorized by the commission for a specific purpose, the committee to be discharged upon the completion of the duties assigned to it, unless it is a permanent committee.~~

~~(g)The commission is authorized to appoint committees from its membership whose function shall be fixed by the commission at the time of appointment. The committees may be standing committees and shall perform the duties as may be assigned by the commission-~~

3. Sec. 20-286. - Compensation.

~~Members of the~~ The ~~Commissiontee~~ Chair shall serve without compensation.

1. Sec. 20-287 – Duties and Responsibilities

- (a) The mission of the Town of Black Mountain Urban Forestry ~~Commissiontee~~ is to create an awareness of the natural environment of the Town of Black Mountain by providing leadership, appreciation, and active participation through public education and outreach for the environmental, economic, and cultural value of trees in the Town in order to improve the quality of life for the Town's citizens.
- (a) The ~~Commissiontee~~ will act as a resource for local government, citizens, and businesses to facilitate the merging of man-made and natural environments so that both are accommodated and valued in the process. The ~~Commissiontee~~ may recommend planting, managing, and protecting trees on Town properties maximizing the environmental, economic and social benefits the urban forest provides.
- (b) The ~~Commissiontee~~ shall serve as an advisory and educational ~~Commissiontee~~ to the Board of Aldermen with the following duties and responsibilities:
 - (1) To facilitate and encourage the planting, growth, maintenance, replacement, and protection of trees within the Town.
 - (2) To provide a forum for the exchange of communication and ideas among citizens, businesses, environmental organizations, developers, and local government, and encourage responsible land development.
 - (3) To conduct a tree survey inventory of existing trees along streets and on public property within the Town to monitor for tree health, to promote conservation, and to promote education and awareness.
 - (4) To investigate available grants, loans, or contributions from other governmental agencies, public or private corporations, or individuals, and to recommend the expenditures of any proceeds toward the accomplishment of the ~~Commissiontee's~~ purpose.
 - (5) Promote programs which encourage citizens to become better stewards of our natural resources.
 - (6) Provide educational resources, materials and workshops, and serve as a clearinghouse for information about trees and urban forests.
 - (7) Develop partners to strengthen and expand education and outreach to maintain and enhance the Town's trees and urban forests.
 - (8) Organize and manage the Town's Arbor Day celebration, apply annually for the Tree City USA certification through the National Arbor Day Foundation, and provide representation at urban forestry related events
- (e) The ~~Commissiontee~~ Chair shall submit an annual report of its activities and recommendations to the Board of Aldermen. ~~and shall submit copies of its minutes and proceedings of its regular and special meetings.~~

(f) The Committee Chair is authorized to appoint membership, keeping in mind the need for
(~~f~~**g**) The ~~Commissiontee Chair~~ is authorized to appoint **Sub**-Committees from its membership whose function shall be fixed by the ~~Commissiontee~~ at the time of appointment. The **Sub**-Committees may be standing **Sub**-Committees and shall perform the duties as may be assigned by the ~~Commission~~**Chair**.

READ, APPROVED AND ADOPTED, by a vote of _____ to _____ on this the ____ day of June, 2020.

Don Collins, Mayor

ATTEST:

Angela L. Reece, Town Clerk

Minutes Follow This Section



TOWN OF BLACK MOUNTAIN

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

Date: **May 11, 2020** Time: **6:00 p.m.** **Regular Session Minutes**

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

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

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 Tim Raines
Alderman Jennifer Willet

The following staff members were present:

Josh Harrold, Town Manager
Angela Reece, Assistant to Manager/Town Clerk
Ron Sneed, Town Attorney

The following staff members were present remotely using Zoom conference calling:

Susan Russo Klein, Attorney | Roberts & Stevens, P.A.
Shawn Freeman, Police Chief
Scottie Harris, Fire Chief
Jessica Trotman, Planning Director
Jamey Matthews, Public Works Director

The public was invited to attend the meeting remotely using Zoom software due to the Stay-Home Stay-Safe orders issued by Buncombe County and the Governor with respect to the COVID-19 Pandemic.

Mayor Don Collins welcomed everyone and led the Pledge of Allegiance.

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

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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.

Attorney Ronald E. Sneed addressed the Board of Aldermen and Citizens recalling the previously adopted rules of procedure for electronic meetings stating the UNC School of Government has issued further guidance regarding open meetings procedures/remote meetings/public participation. The blog post is included and attached to these minutes. Attorney Sneed suggested the Board of Aldermen adopt these guidelines in the form of a policy. Attorney Sneed suggested the Board have a roll call, announce themselves each time they speak or make a motion, clarify the motion content so it is clear what is being voted on, and finally the Mayor should ask for a roll call of votes. Attorney Sneed stated these steps are necessary for the listening audience who may not have access to the agenda. Attorney Sneed stated the Legislature also clarified that remote meetings are only allowed during a declared local state of emergency.

2. PROCLAMATION AND AWARD RECOGNITION

A. Mayor Collins declared the month of May Building Safety Month.

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 submitted.

4. COMMUNICATIONS FROM BOARDS, COMMISSIONS & AGENCIES

Libba Fairleigh, Secretary of the Beautification Committee presented the Annual Report to the Board of Aldermen. Secretary Fairleigh stated this is the 20th year anniversary of the Beautification Committee and thanked the Board of Aldermen and staff for their support. Secretary Fairleigh stated they have about 30-35 members who attend meetings and another 30-35 who also volunteer. Secretary Fairleigh stated the Beautification Committee has worked tirelessly to beautify and improve Town aesthetics and said that Black Mountain has gained national recognition in Oprah Magazine, Our State Magazine, Southern Living, Trip Advisor, Livability, Country Living, and is listed among the Safest and Peaceful Cities in North Carolina. Secretary Fairleigh discussed various projects throughout the years such as repair of entrance signage, installation of the Howachyn Walkway on Cherry Street and the downtown benches and planters. Secretary Fairleigh stated the funding received from the Town enables the Committee to achieve their three major goals, 42 containers in the Historic District, 21 garden sites, and Town Square. Secretary Fairleigh stated the Committee hosts many fundraisers throughout the year to supplement Town funding and stated they have been forced to cancel them due to COVID-19. Some cancellations include the

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Annual Garden Show and sale which nets approximately \$4,500, Clothes Line Sale, and Raffle. Secretary Fairleigh thanked the Board of Alderman for their support. Mayor Collins thanked the Beautification Committee for all the work they do in Town. A copy of the power point presentation photos is attached to the agenda packet and available on the website for viewing.

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 March 9, 2020 (Closed Session) and April 13, 2020 (Regular Session & Closed Session).*

Vice Mayor Maggie Tuttle moved to approve consent item A as presented.

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

6. CITIZEN COMMENTS

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

There were no citizen comments.

7. UNFINISHED BUSINESS

A. Phase II & III Asheville Water Line Transfer Discussion

Manager Harrold discussed Phase II & III Asheville Water Line Transfer recalling the passage of the agreement to take over 600 new customers from the City of Asheville stating Phase II is nearing completion in the next few weeks which includes the Avadim project and new pumping station on US HW70. Manager Harrold stated Phase II is running a few weeks behind due to COVID19 and additional work becoming necessary to prepare the system for Phase III. Manager Harrold reminded everyone this Phase will bring an additional 400 new water customers on board upon completion. Manager Harrold stated Phase III will begin approximately by June 1st.

Jesse Gardner, Project Engineer addressed the board via Zoom stating a decent amount of work will be necessary to bring the system into compliance in the Spring Hills area around the Golf Course and onto Oconeechee and on to the North Fork Rd. areas. Mr. Gardner stated the water lines in these areas are in disrepair and in need of work before Phase III can begin. Will have two connection points from the City of Asheville, one on US Hyw. 70 and another on North Fork Rd. Manager Harrold inquired regarding the costs for the additional work and Mr. Gardner confirmed

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the approximate cost would be an additional \$700,000. Mr. Gardner stated the current pumps are running 16-17 hours per day and are in compliance but stated the addition of customers is taxing the pumping station to the limit. Mr. Gardner also stated a limitation is single phase power and said three phase is needed to safely run the pumps. Alderman Larry Harris stated he was aware of the magnitude of maintenance that could be needed when accepting older water lines but said the cost is surprising. Alderman Harris inquired if Mr. Gardner was ever asked to produce an engineering estimate and Mr. Gardner stated he shared those figures with former Town Manager, Matt Settlemyer years ago. Alderman Harris stated he does not recall these figures ever being reported at a board meeting. Alderman Harris stated it will be necessary to assess the Water Fund rate structure to see how the Town may address recovering costs for capital improvements. Alderman Harris stated over a ten year period of time 600 water customers time could add approximately \$1,000 each to water fund balance to recoup the investment but said it would be necessary to look at. Attorney Sneed stated System Development Fees will bring in a significant amount of money for water capital improvements. Manager Harrold stated there are other water system upgrades necessary to increase future capacity. Alderman Harris stated financing may be an option and Manager Harrold advised he has met with NC Rural Water Association to analyze water rates and said he will make a recommendation in the budget.

8. NEW BUSINESS

A. Resolution Supporting Implementation of a Compliant NPDES MS4 Stormwater Program #R-20-07

Manager Harrold stated the Town's MS4/NPDES permit was audited in February and the audit resulted in a notice of violation issued on February 28th. Manager Harold stated there are several corrective actions required by the Town, including adoption of Resolution R-20-07 which was provided by the State. Manager Harrold stated the resolution details how the Town will meet the requirements set forth in the Notice of Violation including the submission of a new stormwater management plan and allocation of resources necessary to implement a compliant program. Manager Harrold stated staff submitted a lengthy stormwater plan to the State which will take some time to get back. Planning

Planning Director Jessica Trotman presented a short presentation on Stormwater Utility which is made part of and included in these minutes. Director Trotman stated implementation of a stormwater utility would reduce the impact on the General Fund and is a predictable source of revenues for water capital projects. Director Trotman stated the NPDES M Stormwater Program is an unfunded mandate and said having a Stormwater Utility is necessary to come into compliance with this requirement without incurring noncompliance penalties from the State. Director Trotman recalled prior conversations reminding everyone that some penalties are \$25,000 per day. Director Trotman discussed rate structures (included in the presentation) stating they are based on the use of the parcel and not the size. Alderman Harris stated he would prefer a special call meeting at a later date to discuss the Stormwater Utility further. Alderman Larry Harris clarified part of the process of compliance with the NC General Statutes is to adopt the resolution to come into compliance and stated the details of the plan will need to be worked through.

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Alderman Larry B. Harris moved to approve Resolution #R-20-07 Affirming Support Regarding Implementation of a Compliant NPDES MS4 Stormwater Program.

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

B. Approval of 2020-21 rates for Black Mountain Golf Course

Manager Harrold provided staff recommendations for increases in golf rates stating increases would amount to \$8,000. We currently have 6 family memberships and 42 individual memberships totaling \$47,700.

Vice Mayor Tuttle suggested alternate rates and said she looked at the competitors rates and fees and feels the course will continue to be compatible. The amended rates are made part of and included in these minutes. Alderman Ryan Stone clarified that the Special Players Pass would be \$200. Alderman Larry B. Harris stated he was not in favor of increasing golf fees but commended Vice Mayor Tuttle for presenting reasonable fees. Alderman Harris stated anything involving fees is necessary to continue to work through to offset the burden on the General Fund.

Alderman Larry B. Harris moved to approve the 2020-21 rate schedule for Black Mountain Golf Course as amended.

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

C. FFCRA Paid Leave Extended Family and Medical Leave Policy

Susan Russo Klein, HR Attorney of Roberts & Stevens, P.A. addressed the Board of Aldermen presenting the FFCRA (Families First Corona Virus Response Act) Paid Leave Extended Family and Medical Leave Policy. Attorney Klein stated the Families First Coronavirus Response Act (FFCRA) requires the Town of Black Mountain to provide paid leave to employees affected by the COVID-19 pandemic. Attorney Klein stated while the Town has already notified employees of their rights under the FFCRA, this FFCRA Leave Policy will give employees much-needed guidance regarding their eligibility for up to 12 weeks of paid leave under the FFCRA. Alderman Larry B. Harris clarified the policy expires on December 31, 2020 unless extended further by FFCRA legislation.

Alderman Larry B. Harris moved to approve the Family First Corona Virus Response Act Paid Leave & Extended Family and Medical Leave Policy as presented.

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

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9. PUBLIC HEARING -NONE

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.

10. COMMUNICATION FROM STAFF

- A. Town Attorney – Attorney Sneed addressed the Board of Aldermen discussing public commenting periods for formal public hearings newly implemented by the General Assembly. Attorney Sneed stated if public comments are solely solicited by online means then the Board would need to recess the public hearings for 24 hours and reconvene to allow comments to come in before deciding on a matter.
- B. Town Manager – Manager Harrold reminded everyone of the budget workshop scheduled for Thursday May 28, 2020 at 8:30 a.m. and stated it will be a very lean budget. Manager Harrold stated he has concerns of liability and safety if pools and summer camps are to open later this year as well as concerns for the Fourth of July fireworks and Park Rhythms activities. Manager Harrold stated notices must be given to vendors and safety plans implemented. Manager Harrold encouraged citizens to fill out their US Census information and advised the deadline has been extended to October 31st. www.2020census.gov

Additional information on COVID-19 may be obtained
at <https://www.buncombecounty.org/covid-19/default.aspx>

11. COMMUNICATION FROM MAYOR AND BOARD OF ALDERMEN

Mayor Collins also encouraged citizens to fill out their census and said it is more important than ever to fill it out as the numbers are tied to federal funding.

Alderman Larry B. Harris commended Manager Harrold for the challenges he has faced with the current COVID19 situation.

12. ADJOURNMENT

There being no further discussion, on a motion by Vice Mayor Maggie Tuttle, with a vote of 5-0 Mayor Don Collins adjourned the meeting at 7:38 p.m.

ATTEST:

Angela Reece, Assistant to Manger/Town Clerk

Don Collins, Mayor

Coates' Canons Blog: New Rules for Meetings of Public Bodies During State-Level Declared Emergencies

By Frayda Bluestein

Article: <https://canons.sog.unc.edu/new-rules-for-meetings-of-public-bodies-during-state-level-declared-emergencies/>

This entry was posted on May 05, 2020 and is filed under Board Member Powers & Authority, Board Structure & Procedures, Featured Posts Related To COVID-19, Land Use & Code Enforcement, Motions, Minutes, & Hearings, Open Government, Open Meetings, Quasi-Judicial Decisions, Quorum & Voting Requirements

As a part of the Act to Provide Aid To North Carolinians In Response to the Coronavirus Disease 2019 (COVID-19) Crisis, (S.L. 2020-3, SB 704) the General Assembly has enacted modifications to the laws governing meetings of public bodies, and voting and quorum rules for city and county governing boards. The new law modifies those rules and provides specific guidance regarding remote meetings, including quorum, notice, voting, public comment, and public hearings. These provisions are in Section 4.31 of the Act, (starting on page 61 in the PDF linked above). The new provisions for remote public meetings became effective on May 4, 2020, and only apply when there is a declaration of a state of emergency by the Governor or General Assembly under GS 166A-90.20. They aren't triggered by city or county emergency declarations. The new law also provides that any electronic meeting undertaken via remote participation between March 10, 2020 and the effective date of the new law is not deemed invalid due to the use of the use of electronic communication to conduct that meeting. This blog summarizes the new provisions.

Remote meetings authorized and defined. The new law enacts GS 166A-19.24, which authorizes any public body to conduct remote meetings in accordance with the rules set out in the act, as well as with the provisions of the open meetings law. "Remote meeting" is defined as: *An official meeting, or any part thereof, with between one and all of the members of the public body participating by simultaneous communication.* "Simultaneous communication" is defined as: *Any communication by conference telephone, conference video, or other electronic means.* Official meeting and public body are defined as set out in the open meetings law.

Simultaneous communication requirements. When meeting using simultaneous communication in an official meeting, the method must allow for any member of the public body to hear what is said by the other members of the public body; hear what is said by any individual addressing the public body; and be heard by the other members of the public body when speaking to the public body. In other words, the person participating remotely must be able to hear and be heard throughout the meeting. The law also requires any members who are participating by simultaneous communication and can't be seen by the public body to identify themselves when the roll is taken, when the remote meeting commences, prior to participating in deliberations (including making motions, proposing amendments, and raising points of order), and prior to voting.

Requirements for conducting remote meetings. As with all other official meetings of public bodies, the precise notice requirements that apply to an electronic meeting depend on whether the meeting qualifies as a regular, special, emergency, or recessed meeting. Prior to the new legislation, every electronic meeting notice had to specify the "location and means" whereby members of the public could listen to the meeting. GS 143-318.13(a). Under the new law, an electronic meeting notice issued during a state of emergency declared by the Governor or General Assembly must specify the means by which the public can access the remote "as that meeting occurs." It doesn't have to specify a physical location where members of the public can go to hear the meeting. This exception makes sense because, as we have seen, situations serious enough to trigger a gubernatorial or legislative emergency declaration can sometimes lead to restrictions on mass gatherings.

The remote meetings must be simultaneously streamed online so that simultaneous live audio, and video, if any, is available to the public. If the means of the remote meeting is a conference call, the public body can provide access by providing an opportunity to dial in or stream the audio live and listen to the meeting.

Minutes of remote meetings must reflect the use of simultaneous communication, which members were participating by

simultaneous communication, and when those members joined or left the remote meeting.

The public body must comply with GS 143-318.13(c), which prohibits acting by reference such as deliberating, voting, or otherwise taking action upon any matter by reference to a letter, number or other designation, or other secret device or method, with the intention of making it impossible for persons attending a meeting of the public body to understand what is being deliberated, voted, or acted upon. This provision does not prohibit a public body from deliberating, voting, or otherwise taking action by reference to an agenda, if copies of the agenda, sufficiently worded to enable the public to understand what is being deliberated, voted, or acted upon, are available for public inspection at the meeting.

All documents to be considered during the remote meeting must be provided to each member of the of the public body.

All chats, instant messages, texts, or other written communications between the members of the public body regarding public business during a remote meeting are public records.

Closed Sessions: The new law allows public bodies to meet in closed session as authorized in GS 143-318.11, and makes it clear that a public body is not required to provide access to the remote meeting while it is in closed session. The public body must comply with all of the requirements in the new law and the open meetings law, including noticing an open meeting, allowing access to the open portion of the meeting, making a motion in open session to go into closed session indicating the provision that authorizes the closed session, preparing minutes and a general account, and coming out of closed session to continue the meeting or adjourn. Public bodies may want to consider developing strategies to protect confidential information when members are participating remotely.

Public Hearings: The new law authorizes public bodies to conduct public hearings during a remote meeting and take action based on those hearings. It adds a requirement that written comments may be submitted at any time between the notice of the public hearing and 24 hours after the public hearing. A consequence of this requirement is that the public body will not be able to take action on the matter immediately following the public hearing. It will have to take action at a later meeting or recess the meeting long enough to comply with the 24-hour requirement.

Quasi-Judicial Evidentiary Hearings: These evidentiary hearings are required when a decision involves due process rights, and require evidential testimony by the applicant and other people whose due process rights may be affected. These people have standing to testify and challenge the final decision. The trial-like nature of quasi-judicial evidentiary hearings present difficult issues for remote meetings. The new law does, however, authorize the use of remote meetings for quasi-judicial, subject the following requirements:

- The right of an individual to a hearing and decision occur during emergency;
- All persons subject to the quasi-judicial proceeding who have standing to participate in the quasi-judicial hearing have been given notice of the quasi-judicial hearing and consent to the remote meeting;
- All due process rights of the parties affected are protected.

This provision raises some difficult issues. It may be challenging for the public body to identify all of the individuals who have standing in order to obtain their consent. A detailed definition of "Standing" for challenging local government quasi-judicial decisions can be found in GS 160A-393 (d). In some cases it may be easy to identify people who have standing but in some cases, people with standing might not be identified until the hearing is under way. In addition, the time frame within which a quasi-judicial meeting may be held is subject to multiple interpretations. It's not clear when the right "occurs." Putting these issues aside, as described in Adam Lovelady's blog post here, there remain many practical challenges and legal risks with conducting quasi-judicial hearings with remote participation.

Quorum: Local governments have struggled with the issue of whether members of a public body who are not physically present can be counted as present for purposes of a quorum. As I noted in a blog post here, this is mostly an issue for the governing boards of cities and counties due to the language in their quorum and voting statutes that make reference to members being present or physically present. For other public bodies, the open meetings generally law generally recognizes electronic meetings as official meetings. The new law modifies the city and county quorum statutes (GS 153A-43, GS 160A-73), making it clear that a member of any public body who is participating by simultaneous communication must be counted as present for purposes of a quorum as long the communication is maintained for that member. *This means that during a state-level state of emergency, there is no requirement to have a quorum physically present at a remote meeting.*

Both the city and county quorum statutes provide that if a member has withdrawn without being excused by a majority of the members present, the member is counted as being present for purposes of a quorum. This provision applies under the new law, but it's not clear how it would work. If a person is participating with video, it would be possible for a person physically move out of the frame of the video and no longer being seen. Other situations are more difficult. What if the person is participating with audio only. If the person puts down the phone and walks away, it would difficult determine if the person is still present. As a practical matter, the presiding officer or any board members could ask the person to confirm that the person is still present. What if the person intentionally terminates the connection? In that case it appears that under the amended quorum rules, that person is no longer counted as being present. Similarly, if the person's connection is severed due to technical issues, the person is no longer participating simultaneously and therefore no longer counted as present.

Voting: The new law provides that the vote of each member is to be counted as if the member physically present only as long as the simultaneous communication is maintained for that person. As noted earlier, under the new law, during a remote meeting all votes must be conducted by roll call. In addition, the new law provides that notwithstanding the authority in GS 143-218(b), no vote by secret or written ballots on paper or electronic may be taken in a remote meeting.

For city and county governing boards, the new law provides that the provisions of GS 153A-44 and GS 160A-75 (the voting statutes) apply. In addition, the new law modifies the voting statutes to provide that a vote or a failure by any member who is participating by simultaneous communication must treated as if the member were physically present. This applies only as long as the communication is maintained for that member.

The default "yes" rule: The city voting statute provides that if a council member is present, has not been excused from voting, and does not vote, the member is counted as voting yes. This is often called the default "yes" rule. The voting statute for boards of county commissioners does not include a default "yes" provision, but many counties have incorporated it into their local rules. How does the default "yes" rule apply to a member who is participating with simultaneous communication? Here's a suggested analysis. Since all votes are roll call, and members participating with simultaneous communication must identify themselves before they vote, only those that have done so can vote. If a person has been identified as being present for the vote, but does not vote, it should be recorded as a yes. If a person is present but doesn't identify him or herself, the person can't vote, and if the person attempts to vote it should not count. If the person has terminated the communication before the vote, or if the person has lost communication due to technical problems, the person is no longer counted as present and cannot vote.

Implications for Electronic Meetings After the State of Emergency: With the onset of the pandemic, there was broad concern about the lack of clarity regarding the authority and procedures for remote and electronic meetings. In our earlier blog posts and advising for local government officials regarding we attempted to balance adherence to the statutory language and the need to protect the health and safety. The most difficult issues have been how to meet the quorum and voting requirements for city and county governing boards. For most other public bodies, the statutes and procedures are much more open to local policies. In addition, as set out in blog posts regarding strategies for electronic meetings, here and here, there are reasonable practices for electronic meetings that preserve the obligation of access and align with existing law. As noted in my earlier in this blog, the legislature has seen fit validate all the use of electronic means in meetings undertaken between March 10 and May 4.

As we look forward to the effect of the new law, what implications might there be for the use of electronic/remote meetings when there is no emergency? One implication might be that if there was already authority to meet remotely, there would be no reason for the legislature to specifically authorize it in a state of emergency. A different argument might be that the

legislature intended to create specific powers to be authorized only in an emergency. Language in the new law supports that analysis. GS 166A-19.24(h), says: "Not Exclusive. – This section applies only during emergency declarations and does not supersede any authority for electronic meetings under Article 33C of Chapter 143 of the General Statutes." This suggests that the new provisions don't change anything that is already law under the open meetings law. There's an upside to that, in that there's a lot in the new law that is specific to extraordinary circumstances and wouldn't be necessary for normal times. The downside is that we're left with the same questions and no clear answers with respect whether and how local governments can continue some of the practices that have been so critical to maintaining access while doing business during these difficult times.

Links

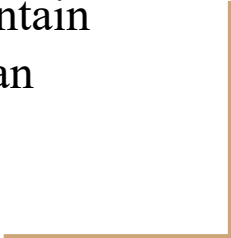
- www.ncleg.gov/Sessions/2019/Bills/Senate/PDF/S704v6.pdf
- www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_160A/GS_160A-393.html



Stormwater Utility

In Summary

Prepared for:
Town of Black Mountain
Board of Alderman
May 2020



What is a stormwater utility?

A stormwater utility operates like an electric or water utility. It may collect fees related to the control and treatment of stormwater that can be used to fund a municipal stormwater management program.

It provides maintenance, improvements, planning, regulation, permitting and administrative functions for the Town's stormwater collection system.

Funds generated from a utility are maintained in an enterprise fund which is dedicated and protected for only use of the stormwater program.

Points to Consider: Pros & Cons

While a stormwater utility is a reasonable solution to funding a highly complex regulatory demand, there are positive and negative aspects to creating a utility to be considered.

- Creates revenue without increasing tax rate
- Reduces burden on General Fund
- More equitable than property tax increase
- Stable and predictable funding source
- Dedicated and protected funding
- Flexible to meet town needs
- Potential negative public perception
- Increased expectations from citizens for stormwater services and flood prevention, which may not be related regulatory needs or at all preventable.

Why do we need a stormwater utility?

Compliance with NPDES permit is required – but it is unfunded. Adequate funding to meet the demands of the permit is required by the permit, and the Town's lack of dedicated and tracked funding is a finding of the Notice of Violation.

Stormwater management and NPDES compliance is *extremely expensive*. A utility can help reduce the demand on the general fund. Two cities had positive audits - Greenville \$63.78 per capita and Clemmons \$112.95 per capita.

If the town funded stormwater at this level, the annual budget would be between \$540,280 and \$956,799.

Compliance and Penalties

Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action.

- All NPDES MS4 permits are subject to federal and/or state compliance and enforcement actions.
- Compliance with the requirements of a state-issued Notice of Deficiency or Notice of Violation, and/or issuance of civil penalties from DEMLR, does not preclude the EPA from carrying out its own enforcement case against the permittee.
- Under state law, a daily civil penalty of not more than \$25,000 per violation may be assessed against any person who fails to act in accordance with the requirements of a permit.
- Under federal law, a daily civil penalty of not more than \$37,500 per violation may be assessed against any person who violates a permit condition.

What can the utility pay for?

- Repay the general fund for any start up costs
- All administrative overhead related to the utility and permit
- Creating capital fund for large infrastructure projects → the town has more >10 million dollars of stormwater improvements called for in the 2010 capital plan including new conveyance basins, upsizing existing infrastructure
- Required public education and outreach requirements
- Staff salary (in whole or in part) for work related to the MS4 system
- Can be used as matching funds for grants
- Required maintenance and improvements to the MS4 system (vacuuming inlets, cleaning culverts, inspections, repairs, ditching, street sweeping, testing)

Comparison of Similar MS4 Communities

	Butner	Oak Island	Pineville	Carolina Beach	Washington	Hillsborough	Black Mountain
Population	7709	7400	8418	6116	9721	7033	8150
Area in Sq Miles	14	18.6	6.6	2.5	8.2	5.33	6.7
Total # of Dwelling Units	2784	8902	4408	5492	4811	2544	3759
Median Household Income	48,870	57,670	48,125	61,197	31,967	51,640	42,500
Fee Structure	Flat	Flat	Tiered Flat	Flat	Tiered Flat	Flat	N/A
Method of Collection	Property Tax	Utility Bill	Stand Alone	Utility Bill	Utility Bill	Property Tax	N/A
Approx. Revenue	256,150	313,514	394,390	1,166,776	749,393	632,738	N/A

Types of Rate Structures

There are three primary rate structures, which can be utilized in a variety of combinations. Each have benefits and limitations to be considered. A flat tiered structure maximized revenue committed to program implementation and increased equity in fee determination.

- **Flat Rate**
 - Simple to administer
 - Not reflective of intensity of use
- **Flat Rate Tiered - Staff Recommended**
 - Simple to administer
 - Can account for some differentiation in intensity of use
- **Equivalent Residential Unit (% of impervious)**
 - Difficult / costly to administer
 - More truly reflects intensity of use

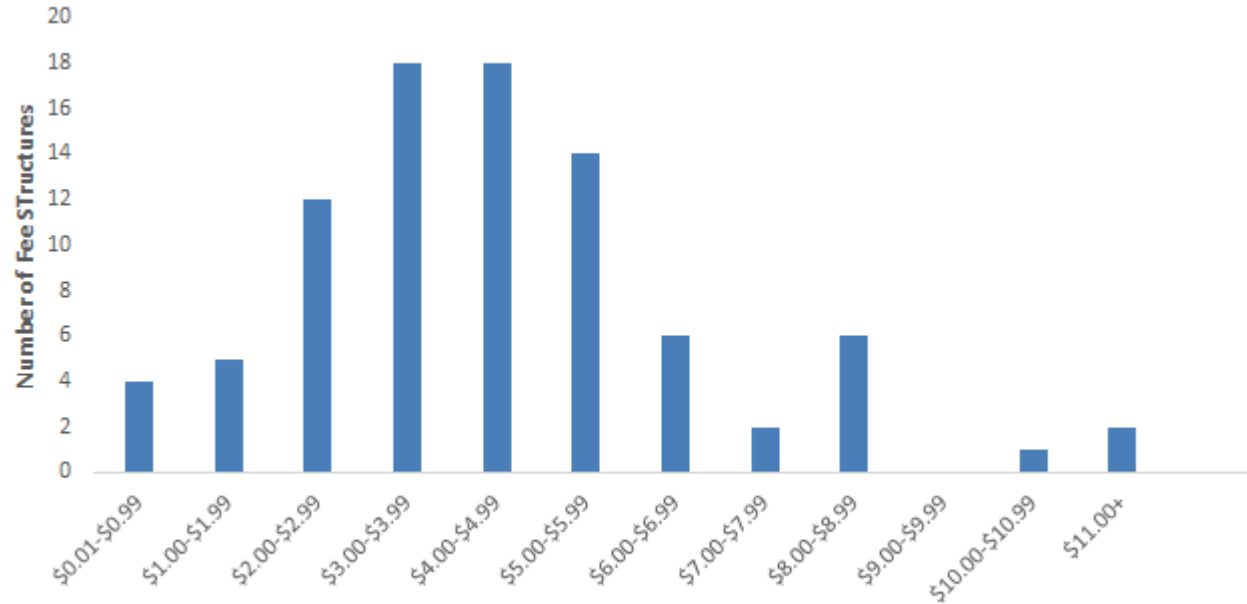
Flat Tiered Categories

The information will need to be updated and reviewed in greater detail before finalizing the fee schedule. If a use is legally non-conforming it is likely to not be captured at this time.

- Residential (to include secondary dwellings)
- Non-Residential (to include apartment complexes)
- Industrial
- Undeveloped
- Exempt - Any property owned by the Town, State of North Carolina, or Federal Government (exempting non-profits and religious organizations is strongly discouraged)

Category	Number of Parcels	Scenario 1 @ 50%		Scenario 2 @ 50%		Scenario 3 @ 50%		Scenario 4 @ 50%	
		Monthly Fee	Annual Revenue	Monthly Fee	Annual Revenue	Monthly Fee	Annual Revenue	Monthly Fee	Annual Revenue
		Annual Total		Annual Total		Annual Total		Annual Total	
EXAMPLE RATES ONLY	3332	2.50	99,960	2.08	83,166	2.00	79,968	1.88	75,169
		30		24.96		24		22.56	
Tier 2 (non-residential)	548	12.50	82,200	10.00	65,760	9.00	59,184	7.50	49,320
		150		120		108		90	
Tier 3 (industrial)	9	50.00	5,400	37.50	4,050	35.00	3,780	33.50	3,618
		600		450		420		402	
Tier 4 (undeveloped)	1208	1.00	14,496	1.00	14,496	1.00	14,496	1.00	14,496
		12		12		12		12	
Exempt	74	0	0	0	0	0	0	0	0
Revenue	--	202,056		167,472		157,428		142,603	

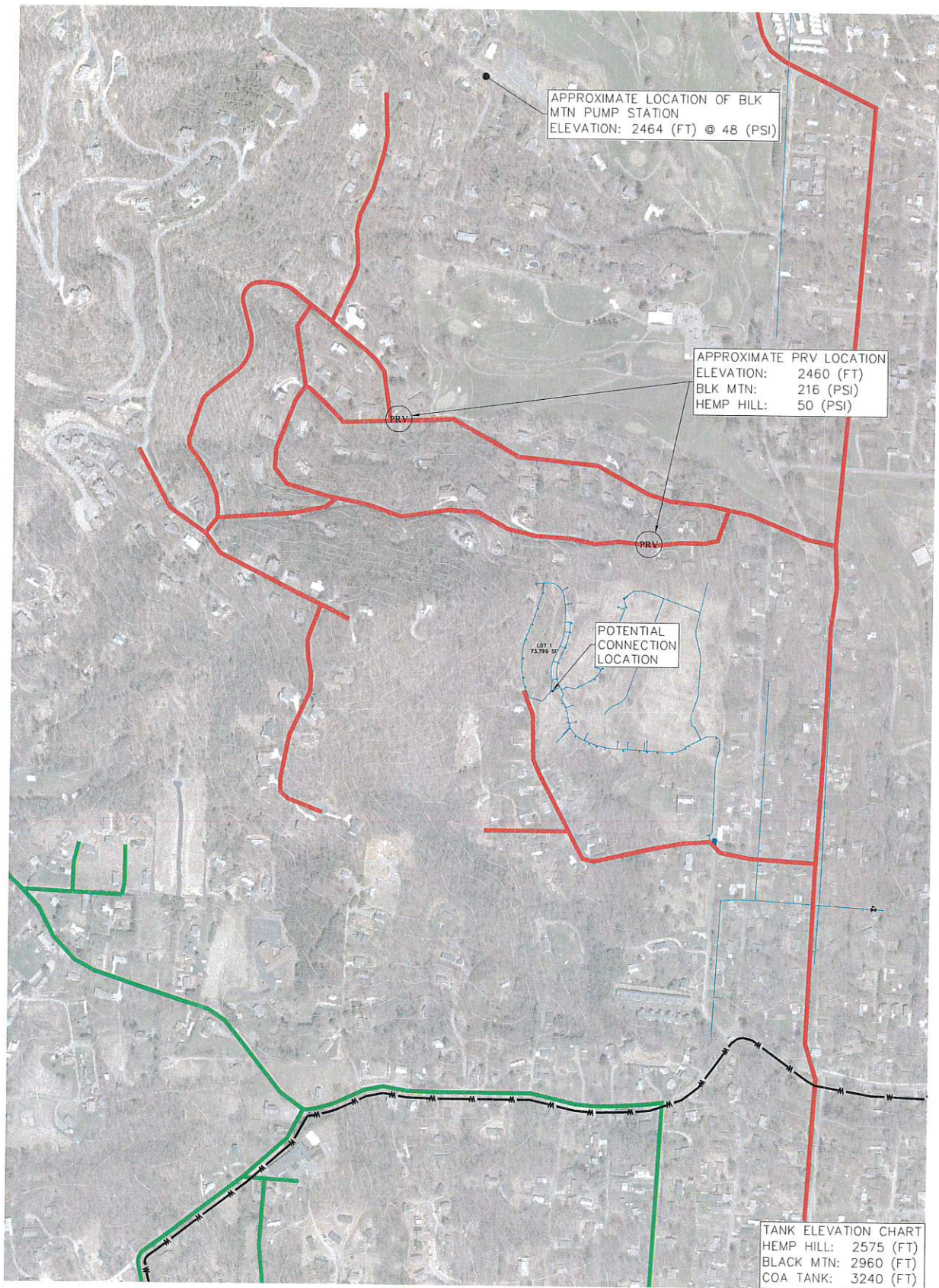
On average, a residential property served by a stormwater utility in North Carolina will pay **\$6.68 per month**.



Data Source: 2018-19 NC Stormwater Fees Survey: Environmental Finance Center at the University of North Carolina (n = 88)

How to create a stormwater utility.

1. Community education and outreach (survey)
2. Present full proposal, including recommendations for structure, rates, and parcel determination
3. Create a rate scenario and adopt fee schedule for only the first year based on known expenses, established goals and public input and apply the rate structure to parcels
4. Adopt ordinance to establish
5. Adopt ordinance to establish enterprise fund



CITY OF ASHEVILLE /TOWN OF BLACK MOUNTAIN WATER SYSTEM INTERCONNECTIONS

FEBRUARY 2020

LEGEND

- BLUE REMAIN COA LINES
- GREEN PHASE II LINES TO TOBM
- RED PHASE III LINES TO TOBM
- BLACK TOBM MAIN TRUNK LINE
- (PRV) PRESSURE REDUCING VALVE



NORTH
NOT TO SCALE



ENGINEERS COST ESTIMATE

ITEM #	DESCRIPTION	UNIT	QTY	UNIT COST	TOTAL AMOUNT
SITE, GRADING, & PAVING					
1	Mobilization / General Requirements	LS	1	\$50,000	\$50,000
				SUBTOTAL	\$50,000
WATER LINE					
2	6" DIP Line (Chapel Rd Connection)	LF	50	\$30	\$1,500
3	2" PVC Line (between Allen Mountain Dr & Mount Allen Hts)	LF	200	\$13	\$2,600
4	8" DIP (for interconnection meter & backflow)	LF	40	\$50	\$2,000
5	Master Meter in Below Ground Vault	EA	1	\$50,000	\$50,000
6	8" RPZ in Above Ground Heated Enclosure	EA	1	\$25,000	\$25,000
7	Asphalt Repair	EA	3	\$15,000	\$45,000
8	Pressure Reducing Valve w/ enclosure	EA	2	\$60,000	\$120,000
9	Demolition of Existing Master Meter & Back Flow Preventer	LS	1	\$5,000	\$5,000
10	Replace BM Estates pumps and change to 3 phase power	LS	1	\$250,000	\$250,000
				SUBTOTAL	\$501,100
SUBTOTAL					\$551,100
CONTINGENCY (25%)					\$137,775
TOTAL					\$688,875
NOTES:					
1. Soft Costs (ie. Engineering, Surveying, Legal) are not included in the above estimate. 2. The ENGINEER maintains no control of labor costs, materials, equipment or services furnished by others, the Contractor(s)' methods for determining prices, or competitive or market conditions. The estimates herein for project and construction costs represent the ENGINEER'S best judgment, and are based on his experience and qualifications as a Professional Engineer who possesses familiarity with the construction industry. The ENGINEER does not guarantee the accuracy of the cost estimates, which may vary from bids or actual project and construction costs. These estimates do not include Engineering design fees, legal fees, or application fees that will be required to complete the project.					

Competitors Membership Rates 2020

Marion Lake Club Membership

Stockholder Membership / Non-Stockholder

Family - Multi Player \$1500 / \$1550
Family - Single Player \$1370 / \$1420
Single \$1280 / \$1335
Under 36 (31 -36) \$1020 / \$1070
Family Social \$1000
Golf Only \$900
Out-of-County \$680

Cart Fees

18 Hole Cart \$17
9 Hole Cart \$8.50

Reems Creek Golf Membership

Single \$1800
Family \$2200

Cart Fees

Trail Fee \$900 (Bring your own cart)
18 Hole Cart \$20
9 Hole Cart \$13

Mimosa Hills Golf Membership

Individual \$3180 + \$300 Initiation Fee
Family \$3780 + \$300 Initiation Fee
Out of County Individual \$1320

Cart Fees

18 Hole Cart \$18
9 Hole Cart \$9

Etowah Golf Membership

Individual \$2100 + \$250 Initiation Fee
Family \$2400 + \$250 Initiation Fee
Non Resident (60 Miles Away) \$1800 + \$250 Initiation Fee
Young Professional (39 years and younger) \$1950 + \$250 Initiation Fee

Cart Fees

\$20 Per Player (9 or 18)

Asheville Golf Course Membership

Individual \$1250

Family \$1750

Cart Fees

18 Hole Cart \$17

9 Hole Cart \$10

65 Prepaid carts \$1000 (Add \$1000 for family)

Broadmoor Golf Membership

Not Available – Daily Fee Only

2020 Proposed Black Mountain Golf Course Rates

- Current Rates in black
- Proposed Rates in red
- Adopted Rates in blue

NEW*Special Player Pass **\$200** (\$25 weekdays/ \$35 weekends)

Family	\$1200	\$1800	\$1600
Individual	\$950	\$1200	\$1100

Cart Fees

Ride 18	\$17	\$20	\$19
Ride 9	\$9	\$10	\$10

*Riding (Cart Fee) is required daily before 11am by all players 4/1 thru 9/30. Walking will be allowed anytime 10/1 thru 3/31.

2020 Greens Fees

Weekday

Ride 18	\$35	\$40	\$38
Ride 9	\$20	\$20	\$20
Walk 18(After 11am)	\$20	\$20	\$20
Walk 9(After 11am)	\$12	\$12	\$12

Weekend

Ride 18	\$45	\$50	\$48
Ride 9	\$24	\$25	\$25
Walk 18(After 11am)	\$24	\$25	\$25
Walk 9(After 11am)	\$14	\$15	\$15

Senior Riding 18 Only (Mon-Fri) \$30 **\$35** **\$30**

Twilight After 2pm Every day (1pm Winter Time)

Ride 18	\$28	\$30	\$30
Ride 9	\$18	\$18	\$18
Walk 18	\$20	\$20	\$20
Walk 9	\$10	\$10	\$10



TOWN OF BLACK MOUNTAIN BOARD OF ALDERMEN
BUDGET WORKSHOP CIP MEETING MINUTES
May 28, 2020

THE BLACK MOUNTAIN BOARD OF ALDERMEN held a budget workshop and capital improvement plan meeting on Thursday May 28, 2020 at 8:30 a.m. in the board room of Town Hall, 160 Midland Avenue, Black Mountain, NC. The purpose of the meeting was to discuss the FY2020-21 budget and capital improvement plan projects for the Town. The budget public hearing is scheduled for Monday, June 22, 2020 at 5:30 p.m. at Town Hall.

1. CALL TO ORDER

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

Mayor Don Collins
Vice Mayor Maggie Tuttle
Alderman Larry Harris
Alderman Tim Raines
Alderman Ryan Stone
Alderman Jennifer Willet

The following staff members were present:

Josh Harrold, Town Manager
Angela L. Reece, Town Clerk | Assistant to Manager

The following staff members were present via Zoom conference call:

Charlotte Sullivan/Interim Financial Services Director
Ronald E. Sneed, Attorney
Shawn Freeman, Police Chief
Scottie Harris, Fire Chief
John Wilson, Deputy Fire Chief
Jessica Trotman, Planning Director
Jamey Matthews, Public Services Director
Joshua Henderson, Recreation Services Director

Mayor Don Collins called the meeting to order and opened the floor for discussion.

Town Manager Harrold began the discussion presenting the FY2020-21 Budget Overview as outlined below:

COVID-19

The World Health Organization identified the novel coronavirus (COVID-19) as a global pandemic on March 11, 2020. On March 12th of 2020, Black Mountain issued an emergency declaration in response to the coronavirus (COVID-19) pandemic. Town operated facilities were closed to the public on March 16th 2020 in an effort to reduce the potential of spreading the virus.

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The financial implications of COVID-19 across the U.S. are staggering with many businesses closing due to local and state orders as well as voluntarily closing to help flatten the curve. Local governments aren't exempt from the financial implications and it continues to be challenging to predict the actual implications. Staff continues to research economic data at the local and State level as we put together the FY20-21 budget. We are preparing for decreased revenues from sales and property tax as well as decreases in golf and rental revenues. As you will see below, my recommendations are substantially different from typical years. Challenging times are ahead for the Town of Black Mountain for this upcoming fiscal year and possibly years to come. It is important that we remain as flexible as possible during these challenging times.

TOWN SERVICES

The Town of Black Mountain stays committed to the continuation of all of its existing services for the upcoming fiscal year to include recreation and parks, finance, administration, planning and zoning, building inspections, public services, residential garbage and recycling, police, and fire. Garbage and recycling services will transition from contracted services to town-operated beginning October 1, 2020. All services are proposed to continue at current service delivery levels for the upcoming fiscal year; however, we may need to reexamine our levels of service depending on the impacts of COVID-19.

GRANTS

We continue to look for grants during the year to supplement our programs and services for every department. In FY 2020-21 we will continue implementation of the NCDOT STP-DA funding for Phase II of the Riverwalk Greenway, PARTF Grant for improvements at Veterans Park including streambank restoration, playground, outdoor pavilion and overflow parking, PARTF Grant matching funds for Riverwalk Phase II, and NCDWR funding to continue streambank restoration at the Town's golf course. Due to NCDOT budget shortfalls, right of way acquisition and construction for Riverwalk Phase II has been delayed until further notice. The design portion of Riverwalk Phase II should be completed this fiscal year.

Manager Harrold advised the Board that design work on River Walk Phase II will be completed but right-of-way acquisition and construction has been placed on hold by NCDOT due to funding constraints. Manager Harrold noted a reduction in the Capital Improvement line item from \$80,000 to \$50,000 for the project due to projected decreases in revenues across the budget.

FUND BALANCE

The total fund balance for the Town of Black Mountain General Fund is **estimated** to be \$4,503,679 or 47% of **projected** General Fund expenditures at 06/30/2020. This includes restricted fund balances, capital reserve fund and our unassigned fund balance.

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Based on our most recent audit for the period ending June 30, 2019, ***unassigned*** fund balance was \$2,778,006 or 32.1% of General Fund expenditures. This compares with \$2,812,979 or 30.5% at the end of fiscal year 2018, a decrease of \$34,973. The Town has a fund balance policy requiring a percentage of 30%.

DEBT

The Town is currently budgeted to expend \$467,528 on debt service in FY 20-21. This amount includes debt in the amount of \$151,765 related to the Police Department communications upgrade approved in the FY18-19 budget, \$90,000 for the Sanitation Department for equipment and infrastructure, and \$225,763 in Public Buildings. At 6/30/20, the Town will have outstanding debt of \$3,588,795. The Town will be taking on \$624,500 in debt for sanitation services. The debt is for sanitation trucks and infrastructure. Due to the unknown revenue shortfalls, it is critical to maintain as much cash on hand as possible.

CAPITAL RESERVE FUNDS

It is estimated that the Capital Reserve Fund for the General Fund will have a balance of \$530,000 at June 30, 2020. This represents money for building renovations and vehicle replacement at the Fire Department. The Water Capital Reserve Fund currently has a balance of \$450,000 which is designated for automated water meter replacement.

Capital Project Funds, which differ slightly from Capital Reserve Funds, have been set up for the, Swannanoa Watershed Restoration, Riverwalk Greenway Phase II, Tomahawk Stream, Veterans Park, and Commerce Park Infrastructure because the Town anticipates expending funds on these projects in FY 20-21 and future years.

GENERAL FUND HIGHLIGHTS

The FY 20-21 recommended General Fund budget is \$9,414,965 a 1.37% increase from FY 19-20.

PERSONNEL

Five new positions are proposed for the Sanitation department at an average salary of \$47,000 per year including benefits.

A 1.0 % COLA salary adjustment accounts for an increase of \$22,000. This will take effect in January 2021.

Four part time positions have been eliminated in order to balance the budget. These positions are in the Recreation department. The community garden positions account for \$44,189 and will be absorbed by existing full time Recreation department employees and volunteers. One and a half janitorial positions have been eliminated at Lakeview and account for \$10,080.

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OPERATING

Police – \$10,750 has been budgeted to replace eight tasers for the department. \$7,000 has been budgeted for uniforms.

Fire - \$25,000 has been budgeted for turnout gear. The Town's goal is that every full time firefighter should have two sets of turnout gear. \$14,400 has been budgeted to replace nine AED's in all departments. \$5,000 has been budgeted for testing air packs. \$10,400 has been budgeted to purchase two battery powered ventilation fans. \$5,000 has been budgeted for fire hose replacement.

Sanitation – This is a new department for FY 20-21. Due to increased rates from our private contractor the Town will now be providing this service internally. The operating budget is \$419,400 for FY 20-21. This is approximately nine months due to the contract with Wastepro ending on September 30, 2020. Disposal charges have also increased from \$132,000 to \$168,000. The increase is a result of recycling and yard waste disposal increases.

Manager Harrold discussed the sanitation budget stating he has proposed \$419,400 for the remainder of Fiscal Year 20-21 and reminded the Board of Aldermen the town will still be under contract with Waste Pro until September 1, 2020. Mayor Collins clarified providing sanitation services in-house will save Black Mountain Tax payers approximately \$300,000.

Recreation – Pool – Chemicals and assorted equipment replacement have increased expenses by \$14,000.

Manager Harrold clarified these expenses are for maintenance of the pool and for operating costs to open the pool in spring of 2021. Manager Harrold discussed preferences for opening the pool later in the summer and all Board members conceded it was unwise to attempt this due to COVID19 and the logistics and liability of doing so.

CAPITAL

Public Buildings - \$48,137 has been budgeted for IT needs, repair and painting at Town Hall, and replacement of HVAC at Black Mountain Center for the Arts.

Planning - \$50,000 has been budgeted for Riverwalk Greenway matching funds. This is a reduction of \$30,000 from FY 19-20. \$120,000 has been budgeted for Lake Tomahawk Dam repair.

Streets - \$20,000 has been budgeted for construction of Cherry Street pedestrian curb extensions.

DEBT

In spring 2020, the Town ordered four new sanitation trucks for \$572,000. Due to COVID-19, experts are projecting a substantial shortfall in revenues. Without knowing the impacts to the

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fourth quarter of FY19-20 and beyond, assuming debt is the more prudent option instead of spending fund balance. The principal and interest payment associated with this debt increase the FY20-21 budget by \$90,000.

Board members agreed assuming debt would be wise due to COVID-19 but preferred to pay it off with proceeds from the sale of the old public works building on Highway 70 as soon as possible.

GENERAL FUND REVENUES

Ad Val/DMV Taxes - Budgeted 98% or \$3,965,595 for Ad Val and 95% or \$214,797 for DMV taxes. These revenues make up 45% of all General Fund revenues. I don't anticipate much of an impact from COVID-19 on these revenues.

Sales tax – Budgeted \$199,655 lower than FY19-20 levels, based on COVID-19 projections. FY19-20 revenue is projected to be down by over \$100,000. FY18-19 projections fell short of the budgeted amount by \$11,670.

Franchise Taxes – Budgeted \$25,000 lower than FY19-20 levels, based on State projections. Similar situation as sales tax mentioned above, except that actual franchise taxes peaked in FY14-15, and have actually slightly decreased since.

Buildings Permits – Budgeted \$2,500 higher than FY19-20 levels based on relatively flat construction projections. Building permit revenue has exceeded budgeted amounts in recent years.

Fund Balance Appropriated – Currently a balanced budget. In the last five fiscal years, the Town has averaged appropriated fund balance of \$234,000.

WATER FUND HIGHLIGHTS

The FY 20-21 Water Fund is recommended at \$1,814,500, a 4.62% increase from FY 19-20.

PERSONNEL

A 1.0 % COLA salary adjustment accounts for an increase of \$3,750. This takes effect in January 2021.

OPERATING

Total water operating expenses have increased by \$76,874 mainly related to an increase in the amount of capital needed by the department because of the 600 water accounts the Town is expected to take over from the City of Asheville.

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CAPITAL

Capital is budgeted at \$413,000. Major budgeted items include, Asheville water line transfer infrastructure (\$300,000) and well pumps (\$113,000).

Alderman Larry B. Harris recalled discussions at the previous board meeting clarifying of the \$700,000 Project Engineer estimate \$250,000 was for upgrades to the pumping station near the Country Food Store.

DEBT

Decrease of \$2,828. The Water Fund is responsible for one half of the debt payment on the Foam and Fabric building.

WATER FUND REVENUES

The Town has budgeted a 5% rate adjustment for FY 20-21. For a resident of the Town using 5,000 gallons of water per month, this would equate to a monthly increase of \$1.63.

GOLF FUND HIGHLIGHTS

The FY 20-21 Golf Fund is recommended at \$629,300, a 2.3% increase from FY 19-20. This includes a 1.0% COLA salary adjustment at \$983. This will take effect in January 2021.

PERSONNEL

No full time positions are anticipated for the Golf Course in FY 20-21. Two part-time positions have been eliminated. The operations division continues to spend wisely while keeping the course well maintained.

OPERATIONS

The total operating cost of the golf course is \$6,700 higher than FY 19-20 levels. This is due to fuel and utility increases.

CAPITAL

There are no capital improvements budgeted for the golf course in FY 20-21.

GOLF FUND REVENUES

In May 2020, golf course rates for individual and family memberships will be increased effective May 15th. Green fees are also being increased. Additional options such as a Player's Pass and a walking fee will provide more options for golfers and provide us the opportunity to make the golf course self-sufficient.

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Manager Harrold discussed mass gatherings for town sponsored events such as the Fourth of July Fireworks and Park Rhythms events. He also asked for guidance on summer camps. Board members conceded to make a decision on the fireworks at a later date but decided to cancel summer camps and Park Rhythms events for this year citing the same safety and liability reasons for not opening the pool. The fireworks show could be held later in August or September with a 30 day notice to the vendor if COVID19 restrictions are lifted by that time.

The Board will hold the Budget Public Hearing on Monday, June 22, 2020 at 5:30 p.m. at Town Hall.

There was no further discussion.

There being no further business, on a motion by Vice Mayor Maggie Tuttle and with a vote of 5-0, Mayor Don Collins adjourned the meeting at 9:45 a.m.

ATTEST:

Don Collins, Mayor

Angela L. Reece, Town Clerk

Josh Harrold Town Manager