



TOWN OF BLACK MOUNTAIN

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

Date: **January 11, 2021**

Time: **6:00 p.m.**

Regular Session Minutes

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Conserve resources; print only when necessary.

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*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 Larry Harris called the meeting to order at 6:00 p.m. with the following members present:

Mayor Larry B. Harris
Vice Mayor Ryan Stone
Alderman Archie Pertiller
Alderman Ryan Stone
Alderman Tim Raines
Alderman Doug Hay
Alderman Pam King

The following staff members were present:

Josh Harrold, Town Manager
Savannah Parrish, Town Clerk
Ron Sneed, Town Attorney
Fred McCormick, Reporter – The Valley Echo

Mayor Harris welcomed everyone and led the Pledge of Allegiance. Pastor Anthony Rodriguez of Valley Hope church led the invocation.

2. PROCLAMATION AND AWARD RECOGNITION

- A. Martin Luther King, Jr. Proclamation – Mayor Harris presented the proclamation and declared January 18th, 2021 “Martin Luther King, Jr. Day”.

- B. Deputy Chief John Wilson retirement – Mayor Harris presented the proclamation in honor of Deputy Chief Wilson and thanked him for his long service to the Town of Black Mountain
- C. Proclamation in honor of Noah Lewkowicz for Lake Tomahawk project – Mayor Harris read the proclamation in honor of Noah Lewkowicz. His Eagle Scout project made the playground at Lake Tomahawk handicapped accessible.

3. CITIZEN COMMENTS

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

4. COMMUNICATIONS FROM STAFF, BOARDS, COMMISSIONS & AGENCIES

RAIL Committee Project Presentation – Vice Mayor Ryan Stone introduced Dr. Pierce to the Board and to the public. The railroad provided the first dependable access to and from much of Western North Carolina for the rest of the state as well as much of the nation. Many of the laborers were unjustly incarcerated. The purpose of the RAIL Committee Project is to tell story behind the construction of the railroad and to honor the memory of the laborers properly.

On a motion from Aldermen Archie Pertiller, the Board of Aldermen voted 5-0 to support the RAIL Committee Project.

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.

Manager Harrold presented the consent agenda to the Board.

A. Adoption of Minutes

Motion: *To adopt the minutes of December 14th, 2020 Regular Session Meeting and the December 29th, 2020 Special Call Meeting.*

B. Budget Amendment

Motion: *To approve Budget Amendment FY 2021 - #10 as submitted, increasing 10-10-5300-730 (Capital Outlay - Fire) by \$15,000 and increasing 10-00-3905-900 (Fund Balance Appropriated) by \$15,000.*

- C. Resolution to transfer to John Wilson the firefighting helmet and badge worn by him during his service with the Town of Black Mountain Fire Department. Motion: To adopt the resolution as presented.

Motion: *To adopt the resolution as presented.*

Manager Harrold presented the consent agenda to the Board.

Alderman Pam King moved to approve consent items A-C as presented. The motion passed with 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.*

Manager Josh Harrold read the following citizen comments:

- I'm Sue Stigleman, a resident of Black Mountain. I am writing to urge the Board of Aldermen to continue to follow the stricter COVID-19 guidelines. I work with COVID-19 information every day. The approval of vaccines is remarkable, but logistically, it will take months to get those distributed and into people's arms. Dr. Hathaway of Mission Hospital said at a recent Buncombe County Commissioners meeting "We are deep in the surge right now, and it's going to get worse." We are barely into the results of the cases, hospitalizations, and deaths that will be the results of the winter holiday gatherings and travel. Easing up on restrictions now will just increase that spread, increase the number of people who get sick, increase the pressure on our hospitals and health care workers, and increase the number of dead and the family and friends who will mourn them. Sue Stigleman ssstigleman@bellsouth.net 828-989-9373, 6 East Keesler Ave, Black Mountain
- Dear Board of Aldermen, I wish to express my support and appreciation for your recent decisions regarding the adoption of safety protocols for Black Mountain. Please continue to do whatever you can to maintain the health and safety of our residents and visitors during this current crisis! David A. Howarth
- Dear board members, I'm writing to weigh in on your vote on the county's covid restrictions. Thank-you for your recent vote to follow Buncombe county regulations. I understand that our business owners may wish for you to weaken these restrictions, but with our cases rising at a frighteningly exponential rate, and a more contagious strain spreading, I feel that it's of utmost importance maintain the restrictions. Thank-you for all you do. Be well, Martha Johnson
- To the Board of Aldermen and Mayor Harris, I watched the agenda meeting last night and heard there will be further discussion of the COVID plan for Black Mountain at the next regular meeting. I appreciate and fully support the Board of Aldermen adopting the county's more stringent guidelines and hope they will continue to do so. I also support promoting a plan to encourage residents to utilize takeout from our local restaurants to help them survive the hardship that has been thrust on them thru no fault of their own. Hopefully the town government and Chamber of Commerce can work together to quickly put together a plan to help our local restaurants. Thank you for your work to help us get thru this pandemic. Teresa Slaughter

- As the Executive Director of the Black Mountain Swannanoa Chamber of Commerce, I would urge the Board of Alderman to reconsider their stance on the COVID Restaurant Order reducing the capacity to 30% based on the following:

- 1) The CDC has guidelines to minimize exposure within a restaurant setting. The Buncombe County and NC state health departments encourage these guidelines and my interaction with Black Mountain eateries indicates these are strictly adhered to, or at a higher level.

<https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/business-employers/bars-restaurants.html>

- 2) Black Mountain retail and dining diminish dramatically in January even in normal years. Frustrating and adding additional restrictions to the challenges of restaurant survival is adding fuel to their stresses by this order. It's like closing the barn door after the horse has gotten out. Many of restaurants and retail close for a couple of weeks in January to recover from the holiday season. Ordering reduced capacity may not impact their revenue, but it does add stress to their decision making.
- 3) The fact that Black Mountain has no Health Department in making this decision is confusing. Buncombe County Health Department oversees the entire county and is not limited in jurisdiction to Asheville. I'm unsure as to how this was a factor in the decision process.
- 4) Black Mountain businesses cannot survive solely on local business. The town needs transient customers to meet financial obligations.
- 5) The majority of COVID 28711 infections are in congregate living communities: Givens Highland Farms, NC Veterans Home and Black Mountain Center. 100 of 533 infections in the 28711 zip were in these three facilities of 9,890 countywide cases. Black Mountain has reported 533 cases, 5% of total county reported infections when Black Mountain has 3% of the county population, yet the majority of these cases are in congregate living facilities.

<https://www.google.com/search?q=buncombe+county+nc+covid+cases&oq=Buncombe+County+NC+Covid&aqs=chrome.4.69i57j69i59l2j0l3j69i60l2.8969j0j>

11 of 24 deaths in the 28711 zip code were in these facilities - 46% of local deaths..

<https://covid19.ncdhhs.gov/dashboard/cases>

<https://covid19.ncdhhs.gov/dashboard>

<https://files.nc.gov/covid/documents/dashboard/Weekly-COVID19-Ongoing-Outbreaks.pdf>

Our restaurants are not the problem in Black Mountain community spread.

6. I would strongly urge getting feedback from the restaurant segment, or any other businesses being impacted by the pandemic, and using them as the gauge to making decisions that are more stringent than state mandates. The business owners would appreciate being part of the decision process that impacts their livelihood. The Chamber will be happy work closely with the Board of Alderman and Town Manager to collect business feedback.
7. The Chamber is working with two Alderman, Pam King and Doug Hay, in developing a promotion to support our restaurants. We hope to have a draft proposal soon.

Respectfully,

Sharon Tabor

Executive Director

Black Mountain Swannanoa Chamber of Commerce

- dear town of black mountain board members, I don't think I've ever sent you a comment but I've been wanting to do this since the last alderman meeting which I watched on YouTube. I just wanted to give you my two cents as a black mountain resident, that I was very relieved to hear you all vote on following the county's regulations on covid. As an older person, I have been isolating since March and I look forward to the day when I can get the vaccine and resume some sort of normalcy. In the meantime, as I watch the covid numbers rising exponentially in our state, as a new more contagious strain invades the U.S. and as there is a slow roll out to the vaccine I totally support Black Mountain following the county's regulations. I realize that this is extremely difficult for local businesses, especially for our wonderful restaurants, so I fully support the ideas of doing as much take out as possible from all of our great places. I'm wondering if there is any money available in the town budget to help support these businesses as well. I understand the objections to these limitations and appreciate the great fear that businesses and their employees have as they are pushed to their limits, but if their clientele is killed or even lose their sense of taste as a result of the virus, they will not do well in the future either. thank you for working to protect all of us, Erica Burns
- With all due respect, we are concerned about the decision process to follow recent Buncombe County Guidelines. First: We are making a request to justify, with validated statistical data, the decisions made at the Special Call Meeting 29 Dec 20 to change the "capacity" % for dining in and the size of "groups". Prove the validity by comparing, in Black Mountain, statistically valid data proving an upward trend of hospitalizations and deaths in Black Mountain, caused only by COVID-19 and explain how changing current guidelines for distancing and gathering size only has a very probable result of eliminating further hospitalizations and deaths.

Second: Clearly explain how each dining inside area in Black Mountain has it's normal maximum capacity defined, such that 50% or 30% can be calculated and was fairly applied to all establishments. And third, how will this regulation be enforced by inspection for conformance since it is not a legally enacted law?"

Disclaimer and Disclosure: My wife and I and the small circle of friends we associate with follow masking, distancing, and gathering guidelines currently in effect in Black Mountain. Here are our background ideas: I share all the concerns about infection spread.....our points of contention are:

A. Not 100% sure the data has been properly vetted, reports surface about % false positives, negatives, miscounting. Those are not taken into account relative to positive tests vs. symptoms. Hospitalizations are a major concern regarding human suffering and hospital capacity for proper care.

And most importantly, mortality rates as % of population. This determines risk. For the sake of argument, I will agree they are reasonably accurate and subject to validation and interpretation but not parsed for Black Mountain.

B. Of the 5 people I know in BM, three in the service industry, who tested positive: 2 had no symptoms, 3 had mild symptoms, no medication or hospitalization, just quarantine.

C. Spread rate by aerosol from infected individuals or direct contact, including surfaces, is still based on assumptions. The data is improving over time. Spread rate has not been evaluated by calculating the impact of noncompliance with masking, improper ineffective mask use or materials and lack of distancing, proper quarantine and disinfecting. Constant partial inconsistent surface bleaching produces resistant strains of bacteria and viruses which grow and spread.

D. Capacity of dining areas is arbitrarily defined by number of toilets and not always square footage / emergency exits meeting fire code. A restaurant owner conveyed this info to me. A 6-foot distance measure is a guess and a compromise.

E. Contact tracing not working well so we do not know how many mask less individuals cause spread, lack of distancing at many ranges, wearing ineffective "masking" materials contributes or, if constant disinfection does anything other than encourage resistance to develop in virus

strains as they reproduce. It appears the guidelines have not been followed 100% of the time by our population.

F: Both short term and long term economic damage must be considered and weighed against risk. Generally the most vulnerable segments of society (service industry, small business owners, minorities, school aged children, elderly, those with pre-existing conditions) are affected the most. Debt financed stimulus is not a long term viable solution.

My conclusion is, we do not have sufficient statistically valid data to rank the effectiveness of the draconian measures taken and justification for BM to follow Buncombe County. And the lack of contrasting the data which is published vs. measures taken vs. results is a matter of concern.

The media and politicians continue to act as social media influencers, injecting opinions and bias into what should be fact based news. They use their learned skills of sotto voce and assumed gravitas. David Muir, ABC Anchor, is a classic example, including his orchestrated body language and hand motions....watch and listen closely.

Of course, I expect the governance of BM to adhere to all Federal, State, and County laws. When it pertains to guidelines, recommendations, proclamations, executive orders et cetera, I expect the Mayor and Board of Alderman to evaluate these (not enacted into law) and act on facts in the best overall interests, short and long term, of the BM electorate.

Courtney C. Halcomb & James A. Full, 6 Gold Leaf Walk Way, Black Mountain, NC

- The new edict against restaurants that is more restrictive than even the governors orders is not based on any science. It's just a feel like you did something order. Yeah, you did something: you put restaurant owners and their employees out of business for no good reason. Lockdowns don't work, just look at California vs Florida. Shame on you all. Carl Mims
- I am writing in regards to the recent decision by the board to go above and beyond the North Carolina Covid restrictions for restaurant capacity. I do not understand the logic for making this decision. As we have seen throughout the US (California as case in point), these restrictions do not appear to be slowing the spread of Coronavirus. I feel like it was something you did to make the townspeople think you were actually doing something to help the problem. However, one of the beauties of Black Mountain is its wonderful restaurants. Unfortunately, after speaking with some staff at these restaurants, they do not think they will be able to survive with 30% capacity. I believe everyone these days knows the inherent risks of being around other people and we must all take it upon ourselves to act responsibly and not spread the virus. By closing restaurants, you are hurting Black Mountain. Please reconsider your decision. Best regards, Pam Mims
- I am reaching out to the Town of Black Mountain, its Mayor and other elected officials to express my shock and concern for the new restrictions on our local retail businesses in particular restaurants!!!! We are residents of this great town and my husband and I are visiting our local restaurants in Black Mountain and some in Asheville as well on a regular basis and have been all year in 2019 to the present. They all seem to be following cdc guidelines and local mandates/orders as far as social distancing, face masks etc. and we feel perfectly safe and of course have not contracted the virus from any of them. They are operating safely and at 50% capacity in the past and there is no data showing or proving that a large or extreme number of COVID cases are contracted at restaurants. I see now they are reduced to 30% capacity and some are stating they will have to close due to this! This is ridiculous and insane that they are targeted as high risk when there is no data supporting that but we can still go to Lowe's, grocery stores, Walmart's etc that often have way more people in them at a time and less social distancing. This is America and we are a free country and we are forcing many of these businesses to close when there is no proven link to extreme spread and restaurants. They were following guidelines and operating safely so why are we the people and our leaders pushing this and or allowing this? We are taking away from these business owners and their employees the right to make a living. Many will go under being restricted to this level and this is unacceptable! I would like our mayor and other elected officials to consider pushing back on this and help these local businesses, their owners and employees. We have to find a balance between protecting people and reducing spread while

still allowing our retail, restaurants and other businesses to survive. Our economy and people's ability to make a living and support themselves and their families do matter also.... Bailouts are not enough! Susan Kemmet

7. UNFINISHED BUSINESS

A. Asheville Regional Housing Consortium:

There is one Board appointment and one Alternate to be filled for the Asheville Regional Housing Consortium.

Nomination for Member: Archie Petiller

By: Pam King

***Motion**: To appoint Archie Petiller to serve as member of the Asheville Regional Housing Consortium and to appoint Jessica Trotman as the alternate member. The motion passed with a vote of 5-0.*

B. Metropolitan Sewer District (MSD) Board of Directors:

There is one Board appointment to be filled for the Metropolitan Sewer District (MSD) Board of Directors.

Nomination for Member: Bob Watts

By: Tim Raines

***Motion**: To appoint Bob Watts to serve as **member** of the Metropolitan Sewer District (MSD). The motion passed with a vote of 5-0.*

8. NEW BUSINESS

A. Town of Black Mountain COLA Increase.

Due to COVID-19 and uncertain revenue projections, the fiscal year 20-21 budget allocated 1% COLA to begin in January. The Town budgeted a 15% decrease in revenues for fiscal 20-21 and the revenues thus far came in significantly better than -15%. The total amount for the increase in Cost of Living Adjustment from 1% to 3% is \$55,691.33

Vice Mayor Ryan Stone moved to increase the cost of living raise for town staff from 1% to 3%. The motion passed with a vote of 5-0.

B. Budget Amendment for COLA Increase.

In order to complete the cost of living adjustment, the budget will need an amendment.

Alderman Archie Pertiller moved to approve Budget Amendment FY 2021 - #11 as presented. The motion passed with a vote of 5-0.

C. Buncombe County Dispatch Consolidation

This intergovernmental agreement will allow Black Mountain to join Buncombe County's dispatch services. The Town of Black Mountain spends approximately \$240,000 per year in salaries and benefits. Buncombe County's cost to perform dispatch services for Black Mountain will be approximately \$161,000 per year. Vice Mayor Ryan Stone commended the Town Manager for the project, which he feels will increase interagency communication and quality of service, but also for ensuring all involved Black Mountain employees will have jobs either with the Town or with Buncombe County.

Alderman Pam King moved to approve the intergovernmental agreement to combine dispatch services as presented. The motion passed with a vote of 5-0.

D. Buncombe County Emergency Order

On Tuesday, December 29th, 2020 the Black Mountain Board of Aldermen voted to follow Buncombe County's order to adopt additional measures to reduce transmission of COVID-19. The new local order signed on Dec. 23, 2020, reduces the capacity for indoor dining in restaurants from 50% of stated fire capacity to 30% and lowers the number for an indoor mass gathering for social gatherings with individuals from outside your household from 10 persons to 2 persons.

There was discussion among the Board to determine if they should continue to follow the County's more restrictive guidance or revert to following the guidance from the State of North Carolina.

Vice Mayor Ryan Stone moved to continue to follow Buncombe County's order to adopt additional measures to reduce transmission of COVID-19. The motion failed with a vote of 3-2.

The Town of Black Mountain will not follow Buncombe County's order, but will continue to follow guidance from the State of North Carolina.

6) PUBLIC HEARING

A. Public Hearing for Voluntary Annexation of property owned by Wm C Honeycutt, Jr. ETAL #O-20-20

Alderman Archie Pertiller moved to open the public hearing for the proposed voluntary annexation for Buncombe County PIN #0619-88-6353.00000. The motion passed with a vote of 5-0.

Planning Director Jessica Trotman presented the information. There is a sixteen and a half acre parcel located off of Brooks Cove Road (identified as Buncombe County PIN #0619-88-6353.00000) that is located outside of city limits. The developer is seeking the use of Town water and as such, is asking for a voluntary annexation into the Town. The Planning Board heard this request at their November 23, 2020, meeting and felt that the property would be a good addition and is a developable lot near UR-8 and would allow stream buffer protection.

Jesse Gardner of Civil Design Concepts, who represents the developer, presented the project to the Board of Aldermen and expressed the desire to only annex if the Board was willing to zone the property to UR-8.

Jessica Trotman reminded the Board that the development would be subject to the Town's stricter storm water ordinance and that density would be less than if the developer did not annex and built in Buncombe County.

Mayor Harris stated that the Board has the option of tabling or continuing the public hearing until such a time that the board members have the opportunity to deliberate further before making a decision.

Manager Harrold read the public comments related to the rezoning which are attached and made part of these minutes.

Alderman Pam King moved to close the public hearing. The motion passed with a vote of 5-0.

Vice Mayor Ryan Stone moved to continue the public hearing until the February 8, 2021 Regular Session meeting. The motion passed with a vote of 5-0.

- B. Public Hearing for Rezoning of property owned by Wm C Honeycutt, Jr. ETAL #Z-O-20-06

Alderman Archie Pertiller moved to continue the public hearing until the February 8, 2021 Regular Session meeting. The motion passed with a vote of 5-0.

Motion:

To open the public hearing to rezone 99999 Laurel Drive from R-1 to UR-8.

To close the public hearing.

To adopt Zoning Ordinance #Z-O-20-06 (statement of consistency included) to

rezone 99999 Laurel Drive from R-1 to UR-8.

C. Public Hearing to Close Portion of Unopened, Platted Right-of-Way Parallel and
Between W. College Street and Goldmont Street **#R-20-10**

A petition has been filed to close a portion of a right-of-way between W. College Street and Goldmont Street. The properties that abut the right-of-way are 218 W. College Street and 74 Goldmont Street. The requested closure is approximately 50 feet in the length and 15 feet wide. The right-of-way is not identified in any adopted plans nor is part of a proposed greenway or roadway system. The right-of-way is not part of a stormwater system nor is it in any drainage area. The Planning Board did not recommended the closure with a vote of 5-0 at the October 26, 2020 meeting.

Jessica Trotman informed the Board that the Planning Board will hear from Public Works at their next meeting, and will consider closing the entire right-of-way rather than a portion.

Manager Harrold read the public comments which are attached and made past of these minutes.

Alderman Pam King moved not to approve Resolution #R-20-10 for the street closure. The motion passed with a vote of 5-0.

D. Public Hearing for Text Amendments to Village of Cheshire Master Plan **#O-20-19**

Vice Mayor Ryan Stone moved to open the public hearing for Ordinance #O-20-19 for amendments to the Village of Cheshire Master Plan. The motion passed with a vote of 5-0.

Planning Director Jessica Trotman presented the information. Jacobs Cottages was added to the Cheshire Master Plan in 2015. Six additional lots were added in 2016. During all of this, the actual design requirements were not adopted. The amendment proposed is to add the design requirements for the Cottage Court design and incorporate that into the Village of Cheshire Master Plan.

The Planning Board considered this amendment at their November 23, 2020, meeting and made the following motion: To recommend the amendment as presented applicable only to the Jacobs Cottages development and that the amendment is consistent with the comprehensive plan and reasonable because it allows adequate density development on existing infrastructure and is keeping with the compatibility of the existing Jacobs Cottage neighborhood. The motion was approved by a vote of 5-0 with Jesse Gardner recusing himself from voting as he represents the client proposing the text amendment.

Alderman Archie Pertiller moved to close the public hearing. The motion passed with a vote of 5-0

Vice Mayor Ryan Stone moved to adopt Ordinance #O-20-19 as presented [or as amended]. The motion passed with a vote of 5-0

*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.*

7) COMMUNICATION FROM STAFF

- A. Town Attorney – Ron Sneed, The Town is acquiring a small easement on the edge of Montreat for water meter infrastructure. Attorney Sneed will have the information regarding the easement at the next meeting.
- B. Town Manager – Josh Harrold, the Town Manager was contacted about the possibility of using Lakeview Center as a COVID-19 vaccine location and will work towards that. He reminded the Board the Town offices would be closed on January 18, 2021 for Dr. Martin Luther King, Jr. Day. Manager Harrold has been working with local restaurants to identify good locations for curbside pickup parking due to COVID-19 restrictions. There is a building that will be burned as a training exercise for the Fire Department. Friends of Fonta Flora State Trail has approached Manager Harrold about a cost share for hiring a staff person for the project. Black Mountain's portion would be \$5000. Manager Harrold stated that the Town does have the money in the budget. The Board expressed their support and approval for the \$5000 cost share.

8) COMMUNICATION FROM MAYOR AND BOARD OF ALDERMEN

Alderman Tim Raines asked the public that in light of unrest in the Nation's capital that we all remain peaceful and pray for the peace of the nation.

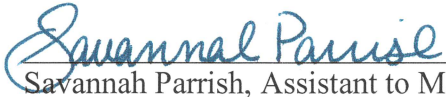
Alderman Doug Hay acknowledged that many are feeling pandemic fatigue but encouraged the continued practice of the 3 Ws and patience as the vaccine beings distribution.

Vice Mayor Ryan Stone reminded the public that there is a special call meeting on January 14, 2021 at 8:30 AM.

9) ADJOURNMENT

There being no further business Mayor Larry B. Harris adjourned the meeting at 8:42 PM.

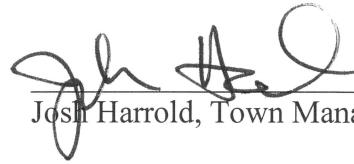
ATTEST:



Savannah Parrish, Assistant to Manger/Town Clerk



Larry B. Harris, Mayor



Josh Harrold, Town Manager