TOWN OF BLACK MOUNTAIN

160 Midland Avenue • Black Mountain • N.C. • 28711
Phone: (828) 419-9300 • Fax: (828) 669-2030

MEMORANDUM

To: Town of Black Mountain Planning Board
From: Jennifer Tipton, Zoning Administrator
Re: Agenda Packet for July 23, 2018
Date: July 16, 2018

The **Town of Black Mountain Planning Board** will meet on **Monday, July 23, 2018 at 6:00 p.m.** in Town Hall at 160 Midland Avenue.

Please find the following items for your information and use at the meeting:

1. The proposed agenda;

2. Draft minutes from June 25, 2018;

3. Right-of-Way Closure Request for First Street (off of Blue Ridge Assembly Dr.);

3. Review of Boards and Commissions Manual and Code of Ethics Policy; and

4. Calendar Schedule of Meetings.

Please let Jennifer Tipton know if you are **unable** to attend this meeting. jennifer.tipton@townofblackmountain.org or (828) 419-9373.

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. Should you need assistance or a particular accommodation for this meeting, please inform Jennifer Tipton at (828) 419-9373 or by email at jennifer.tipton@townofblackmountain.org.

CC: Jessica Trotman, Planning Director
Ron Moore, Interim Town Manager

PUBLIC NOTICE

BLACK MOUNTAIN PLANNING BOARD

REGULAR MEETING

Monday, July 23, 2018 at 6:00 p.m.

The Black Mountain Planning Board will meet for their monthly meeting on **Monday, July 23, 2018 at 6:00 p.m**. at Town Hall, 160 Midland Avenue, Black Mountain, N.C. The purpose of this meeting is to elect officers, review the Boards and Commissions Manual and Code of Ethics Policy, consider a request for a right-of-way closure on First Street (off of Blue Ridge Assembly Drive) and to consider a schedule of meetings.

The meeting is open to the public.

Jennifer Tipton
Zoning Administrator

The Town of Black Mountain is committed to providing accessible facilities, programs and services for all people in compliance with the Americans with Disabilities Act (ADA). Should you need assistance or a particular accommodation for this meeting please contact, Jennifer Tipton at (828) 669-2030 or by email at Jennifer.tipton@townofblackmountain.org

Posted to the Town Bulletin Board 07/03/18

www.townofblackmountain.org

Planning Board Regular Meeting
July 23, 2018

PROPOSED AGENDA

I. CALL TO ORDER
- **Welcome**
- **Roll Call**

II. ADOPTION OF AGENDA
- **Motion:** To adopt the agenda as presented [or as amended]

III. ADOPTION OF MINUTES
- **Motion:** To adopt the minutes from June 23, 2018 as written [or as amended]

IV. OLD BUSINESS
- Right-of-Way Closure Request for First Street (off of Blue Ridge Assembly Dr.)

V. NEW BUSINESS → Road Closure Honeycutt St
- Election of Officers
- Review of Boards and Commissions Manual
- Review of Code of Ethics Policy
- Consider Calendar Schedule of Meetings

VI. COMMUNICATION FROM PARTNERING AGENCY

VII. COMMUNICATION FROM PLANNING BOARD

VIII. COMMUNICATION FROM STAFF

IX. ADJOURNMENT

TOWN OF BLACK MOUNTAIN, NORTH CAROLINA

PETITION FOR STREET CLOSING REQUEST

We, the undersigned property owners of property located abutting a private street or alleyway known as First Street,
located off of Blue Ridge Assembly Drive,
do hereby petition the Black Mountain Board of Aldermen to permanently close said street or alleyway.

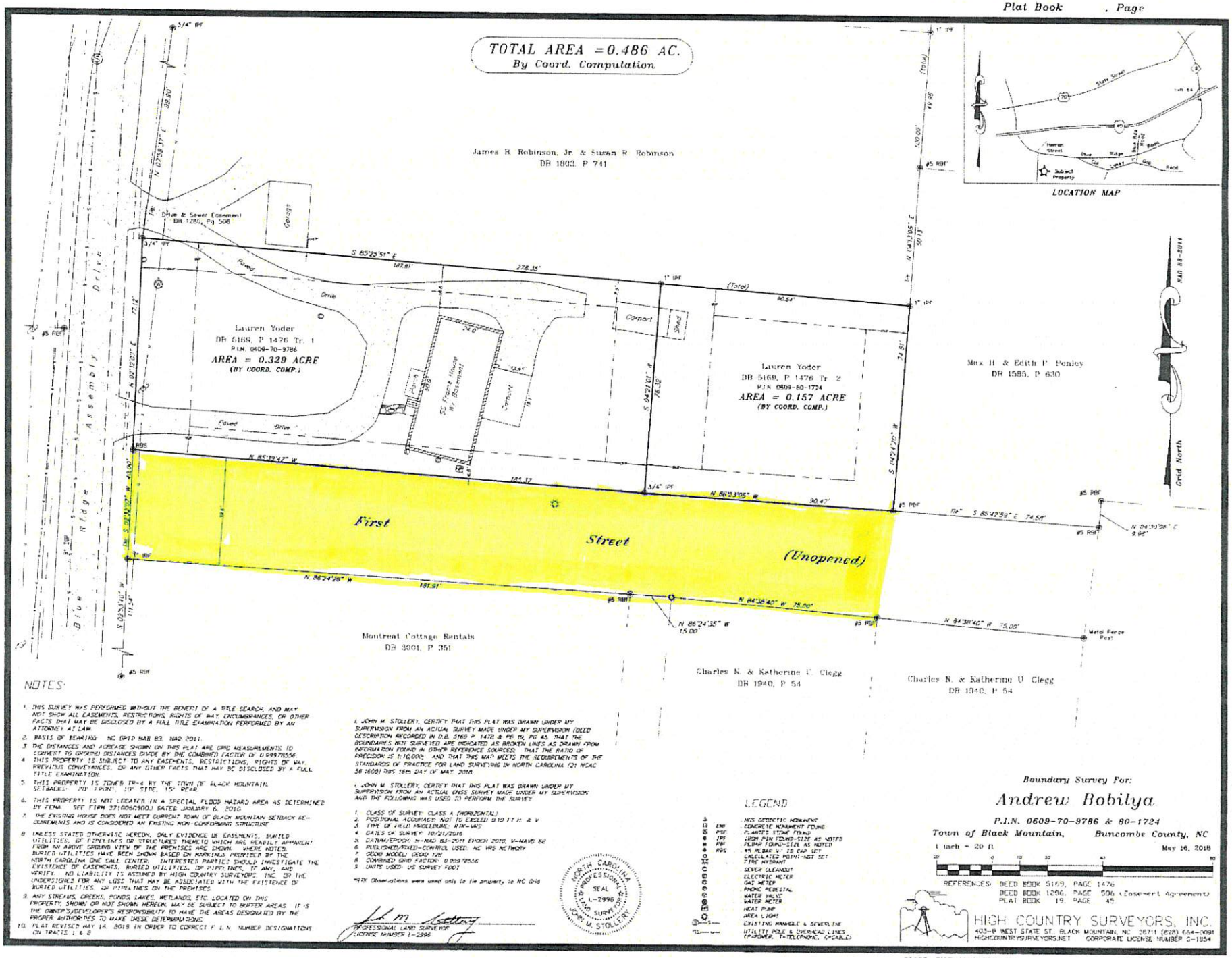
	NAME/SIGNATURE	PROPERTY/MAILING ADDRESS
1.	Andrew J. Bobilya / Kristen Dewitt Bobilya Andrew J. Bobilya / Kristen Dewitt Bobilya	32 Blue Ridge Assembly Dr. Black Mtn NC 28711
2.	Charles N Clegg / Charles N Clegg Katherine U. Clegg / Katherine U. Clegg	"Montreat Cottage Rentals" 38 Blue Ridge Assy DR
3.	Charles N. Clegg / Charles N. Clegg Katherine U. Clegg / Katherine U. Clegg	"Charles N. & Katherine U. Clegg" 38 Blue Ridge Assy DR. MAILING ADDRESS - Charles N. Clegg PO Box 185 Montreat NC 28757
4.		
5.		
6.		
7.		
8.		

Date Request Received at Town Hall: 10/10/18 *by:* Jennifer Upton

Pd $300.00
Check # 2057
10/10/18

Adopted 12/11/84
Revised 7/02

Plat Book , Page



NOTES:

1. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE SEARCH, AND MAY NOT SHOW ALL EASEMENTS, RESTRICTIONS, RIGHTS OF WAY, ENCUMBRANCES, OR OTHER FACTS THAT MAY BE DISCLOSED BY A FULL TITLE EXAMINATION PERFORMED BY AN ATTORNEY AT LAW.
2. BASIS OF BEARING: NC GRID NAD 83, NAD 2011.
3. THE DISTANCES AND ACREAGE SHOWN ON THIS PLAT ARE GRID MEASUREMENTS. TO CONVERT TO GROUND DISTANCES DIVIDE BY THE COMBINED FACTOR OF 0.99978556.
4. THIS PROPERTY IS SUBJECT TO ANY EASEMENTS, RESTRICTIONS, RIGHTS OF WAY, PREVIOUS CONVEYANCES, OR ANY OTHER FACTS THAT MAY BE DISCLOSED BY A FULL TITLE EXAMINATION.
5. THIS PROPERTY IS ZONED TR-4 BY THE TOWN OF BLACK MOUNTAIN. SETBACKS: 20' FRONT, 10' SIDE, 15' REAR.
6. THIS PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY FEMA. SEE FIRM 3710850500J DATED JANUARY 6, 2010.
7. THE EXISTING HOUSE DOES NOT MEET CURRENT TOWN OF BLACK MOUNTAIN SETBACK REQUIREMENTS AND IS CONSIDERED AN EXISTING NON-CONFORMING STRUCTURE.
8. UNLESS STATED OTHERWISE HEREON, ONLY EVIDENCE OF EASEMENTS, BURIED UTILITIES, OR PIPELINES OR STRUCTURES THERETO WHICH ARE READILY APPARENT FROM AN ABOVE GROUND VIEW OF THE PREMISES ARE SHOWN. WHERE NOTED, BURIED UTILITIES HAVE BEEN SHOWN BASED ON MARKINGS PROVIDED BY THE NORTH CAROLINA ONE CALL CENTER. INTERESTED PARTIES SHOULD INVESTIGATE THE EXISTENCE OF EASEMENTS, BURIED UTILITIES, OR PIPELINES, IF ANY, AND VERIFY. NO LIABILITY IS ASSUMED BY HIGH COUNTRY SURVEYORS, INC. OR THE UNDERSIGNED FOR ANY LOSS THAT MAY BE ASSOCIATED WITH THE EXISTENCE OF BURIED UTILITIES, OR PIPELINES ON THE PREMISES.
9. ANY STREAMS, CREEKS, PONDS, LAKES, WETLANDS, ETC. LOCATED ON THIS PROPERTY, SHOWN OR NOT SHOWN HEREON, MAY BE SUBJECT TO BUFFER AREAS. IT IS THE OWNER'S/DEVELOPER'S RESPONSIBILITY TO MAKE THE AREAS DESIGNATED BY THE PROPER AUTHORITIES TO MAKE THESE DETERMINATIONS.
10. PLAT REVISED MAY 16, 2018 IN ORDER TO CORRECT P.I.N. NUMBER DESIGNATIONS ON TRACTS 1 & 2.

I, JOHN M. STOLLERY, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN D.B. 5169, P. 1476 & PB 19, PG 45; THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS BROKEN LINES AS DRAWN FROM INFORMATION FOUND IN OTHER REFERENCE SOURCES; THAT THE RATIO OF PRECISION IS 1:10,000; AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56.1600) THIS 16th DAY OF MAY, 2018.

I, JOHN M. STOLLERY, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL GNSS SURVEY MADE UNDER MY SUPERVISION AND THE FOLLOWING WAS USED TO PERFORM THE SURVEY:

1. CLASS OF SURVEY: CLASS A (HORIZONTAL)
2. POSITIONAL ACCURACY: NOT TO EXCEED 0.10 FT H. & V.
3. TYPE OF FIELD PROCEDURE: RTK-VRS
4. DATES OF SURVEY: 10/21/2016
5. DATUM/EPOCH: H-NAD 83-2011 EPOCH 2010, V-NAVD 88
6. PUBLISHED/FIXED-CONTROL USED: NC VRS NETWORK
7. GEOID MODEL: GEOID 12B
8. COMBINED GRID FACTOR: 0.999978556
9. UNITS USED: US SURVEY FOOT

*RTK Observations were used only to tie property to NC GRID

LEGEND

- NGS GEODETIC MONUMENT
- CMF CONCRETE MONUMENT FOUND
- PSF PLANTED STONE FOUND
- IPF IRON PIN FOUND-SIZE AS NOTED
- PBF PK/BAR FOUND-SIZE AS NOTED
- RBF #5 REBAR w/ 1" CAP SET
- CALCULATED POINT-NOT SET
- FH FIRE HYDRANT
- SEWER CLEANOUT
- ELECTRIC METER
- GAS METER
- PHONE PEDESTAL
- WATER VALVE
- WATER METER
- HEAT PUMP
- AREA LIGHT
- EXISTING MANGLE & SEWER LINE
- UTILITY POLE & OVERHEAD LINES (E=POWER, T=TELEPHONE, C=CABLE)

NORTH CAROLINA PROFESSIONAL LAND SURVEYOR SEAL L-2996 JOHN M. STOLLERY

Boundary Survey For:

Andrew Bobilya

P.I.N. 0609-70-9786 & 80-1724

Town of Black Mountain, Buncombe County, NC

1 inch = 20 ft

May 16, 2018

REFERENCES: DEED BOOK 5169, PAGE 1476
DEED BOOK 1296, PAGE 506 (Easement Agreement)
PLAT BOOK 19, PAGE 45

HIGH COUNTRY SURVEYORS, INC.
405-B WEST STATE ST., BLACK MOUNTAIN, NC 28711 (828) 664-0091
HIGHCOUNTRYSURVEYORS.NET CORPORATE LICENSE NUMBER C-1054

COORD. FILE 2016-254.crd

DRAWING NO. 2018-059

Buncombe County

June 19, 2018

1:1,128

0 0.0075 0.015 0.03 mi

0 0.015 0.03 0.06 km

PLANNING BOARD STAFF REPORT

Agenda Item: Right-of-Way Closure Request **Meeting Date:** July 23, 2018

Request:
To close an unopened portion of First Street (off of Blue Ridge Assembly)

Town Staff:
Jessica Trotman – Planning Director
Jennifer Tipton – Zoning Administrator

Staff Recommendation:
To recommend the right-of-way closure to the Board of Aldermen.

Jennifer Tipton, Zoning Administrator

Contents of the Report:
Report Detail
Exhibit 1 – Petition for Street Closing Request
Exhibit 2 – Survey of Right-of-Way
Exhibit 3 – Aerial Map
Exhibit 4 – Letter from Fire Inspector
Exhibit 5 – Letter to Adjacent Property Owners
Exhibit 6 – Letter from Andrew Bobilya

I. SUMMARY OF REQUEST

The owners of 32 Blue Ridge Assembly are petitioning the town to close an unopened portion of First Street, which is off of Blue Ridge Assembly Drive, and is between 32 Blue Ridge Assembly Drive and 38 Blue Ridge Assembly Drive. The owners are asking to close the right-of-way so that the property can be split and used for a driveway to get to the second lot of 32 Blue Ridge Assembly Drive. The length of right-of-way is approximately 274 feet long.

II. PROCESS

Planning Board reviews the road closure request and then makes a recommendation to the Board of Aldermen to either approve or deny the road closure request.

III. ZONING

The description of the road closure is as follows:

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

BEGINNING at a No. 5 rebar marking the northern edge of First Street as said street is shown on that plat recorded in Plat Book 19 at Page 45, Buncombe County Registry, said rebar also marking the southeast corner of Tract 2 as described in that deed recorded in Book 5169 at Page 1476, Buncombe County Registry; thence from said Beginning and with the northern boundary of said street North 86°23'05" West 90.42 feet to a 3/4ths inch iron pipe marking the southern common corner of Tract 2 and Tract 1 as described in Book 5169 at Page 1476; thence continuing with the northern boundary of said street North 85°39'47" West 185.37 feet to a rebar set in the western edge of the right of way of Blue Ridge Assembly Drive; thence with the edge of the right of Blue Ridge Assembly Drive South 02°32'07" West 40.00 feet to an iron pin; thence leaving Blue Ridge Assembly Drive and running with the southern boundary of First Street South 86°24'28" East 181.91 feet to a No. 5 rebar; thence South 86°24'35" East 15.00 feet to a point; thence South 84°38'20" East 75.00 feet to a No. 5 rebar marking the northeast corner of that property described in Book 1940 at Page 54, Buncombe County Registry; thence leaving the southern boundary of First Street and running almost due north approximately 40 feet to the No. 5 rebar marking the southeast corner of Tract 2 as described in Deed Book 5169 at Page 1476, Buncombe County Registry.

Per Chapter 3, Section 3.6.2 – Dedication and closures of rights-of-way or land to the town, the Planning Board shall consider any or all of the following criteria in making a recommendation for closure of a right-of-way:

- Right-of-way identified is not part of adopted town plans.
- Right-of-way is not necessary for current or future utilities.
- Right-of-way in its current condition poses a hazard to public health, safety or welfare.
- Right-of-way is along a drainage that is part of a stormwater management plan.

- Right-of-way provides a current or future corridor for a greenway, alley, or roadway that would meet a specific transportation need.
- Abutting property owners have signed the petition in favor of the closure.

IV. ANALYSIS

1. The subject right-of-way is not part of the following adopted plans:
    * Recreation and Parks Master Plan
    * Pedestrian Transportation Plan
    * Bike Plan
    * Greenways Master Plan
    * Veteran's Park Master Plan
    * Stormwater Master Plan
    * Wellhead Protection Plan
    * Comprehensive Plan

2. The subject right-of-way is currently wooded and unobstructed and does not have any utilities running through it. The sewer line may or may not be extended into the right-of-way for the back lot depending on where the owner can make a connection.

3. The subject right-of-way does not currently pose a hazard to public health, safety or welfare.

4. The subject right-of-way is not part of any drainage (current or future) that is part of a stormwater management plan.

5. The subject right-of-way is not a current corridor for a greenway nor is it a corridor for a future greenway, alley or roadway. There are not any houses that use this right-of-way for access.

6. All property owners have signed the petition.

7. The current uses within the right-of-way are:
    *wooded area

V. STAFF RECOMMENDATION

Based upon the information and materials provided in the staff report, the Town of Black Mountain Planning staff recommends that the Planning Board recommend the road closure to the Board of Aldermen for a public hearing.

Andrew Bobilya
Kirsten DeWitt-Bobilya
32 Blue Ridge Assembly Drive
Black Mountain, NC 28711

July 7, 2018

Dear Black Mountain Planning Board:

We respectfully submit this letter for your consideration as you review our right-of-way closure request for unopened access between our property (32 Blue Ridge Assembly Drive) and the Clegg properties to the south (aka Montreat Cottage Rentals). We have asked Andrew's brother and our general contractor, Dana Bobilya, to represent us at the upcoming July 23, 2018 Planning Board meeting while we are in Michigan with our daughters helping at their summer camp. Below is a brief explanation which will hopefully describe our intent with regard to the road closure request.

We have lived in the same home in Black Mountain for the past fourteen years and always kept our eye out for a property that would allow us to build a 1,800-2,000 square foot home that more adequately meets our family's needs while also giving us the option of having a second home for either of our sets of parents to move into as they age. We recently purchased the property at 32 Blue Ridge Assembly Drive which has an adjoining lot immediately behind it (to the East). The Clegg family owns the neighboring property that adjoins the unopened ROW and they have given their full support of our request. We are now asking that the town "close" the unopened road right-of-way so that we may create a "private drive" rather than a public thoroughfare that would only access our properties. We plan to construct a private driveway to access our lot and build a single-family home where we will reside while also maintaining ownership of the existing home at 32 Blue Ridge Assembly Drive.

Thank you for considering our request. Should you have any questions, please convey them to Dana at the July board meeting and/or contact us at 828-545-1506.

Sincerely,

Andrew J. Bobilya
Kirsten DeWitt-Bobilya

Montreat Cottage Rentals

P. O. Box 185

Montreat, NC 28757

MontreatCottages.com

Ms. Jennifer Tipton, CZO
Town of Black Mountain
160 Midland Ave.
Black Mountain, NC 28711

July 17, 2018

Ms. Tipton,

My wife and I would like for you to know that we support Mr. Andrew Bobilya in his desire for the Right=-of-Way Closure.

Yours sincerely,

Charles N. Clegg

Charles N. Clegg

www.bmfire.org
spencer.elliott@townofblackmountain

Fire Prevention & Inspections Office

Black Mountain Fire Department
106 Montreat Road
Black Mountain, NC 28711
828.419.9333

6/27/2018

Jennifer,

After careful review of the proposed right-of-way closure off of Blue Ridge Assembly Drive, I have determined that fire department access code application does not apply to this right-of-way. My understanding is that there will only be one additional house built. The NC Fire Code only applies to subdivisions. A simple driveway would suffice for access. While we believe it to be helpful for fire department access considerations be addressed, there is no code that applies to a single house. We thank you and the Planning Board for inclusion on this proposal.

Regards,

Spencer Elliott
Fire Inspector/Safety Officer
Black Mountain Fire Department

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

July 13, 2018

Karen Groves
1927 Stonegate Court
Baton Rouge, LA 70815

Dear Ms. Groves,

This correspondence is to notify you that two property owners have petitioned the Town of Black Mountain to close a portion of the right-of-way, known as First Street, which abuts your property.

A map has been enclosed to show the portion of the right-of-way that the property owners are requesting to be closed.

This is your notification that the Planning Board will hear this request at their next regularly scheduled meeting on Monday, July 23, 2018 at 6:00 p.m. in the Board Room of Town Hall at 160 Midland Avenue.

If you have questions you may contact me at (828) 419-9373 or jennifer.tipton@townofblackmountain.org.

Respectfully,

Jennifer Tipton, CZO
Zoning Administrator

Enclosure (1)

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

July 13, 2018

Max and Edith Penley
15 Laurel Lane
Black Mountain, NC 28711

Dear Mr. and Mrs. Penley,

This correspondence is to notify you that two property owners have petitioned the Town of Black Mountain to close a portion of the right-of-way, known as First Street, which abuts your property.

A map has been enclosed to show the portion of the right-of-way that the property owners are requesting to be closed.

This is your notification that the Planning Board will hear this request at their next regularly scheduled meeting on Monday, July 23, 2018 at 6:00 p.m. in the Board Room of Town Hall at 160 Midland Avenue.

If you have questions you may contact me at (828) 419-9373 or jennifer.tipton@townofblackmountain.org.

Respectfully,

Jennifer Tipton, CZO
Zoning Administrator

Enclosure (1)

PLANNING BOARD STAFF REPORT

Agenda Item: Road Closure Request **Meeting Date:** July 23, 2018

Request:
To close Honeycutt Street

Town Staff:
Jessica Trotman – Planning Director
Jennifer Tipton – Zoning Administrator.

Staff Recommendation:
To recommend the road closure to the Board of Aldermen.

_____
Jennifer Tipton, Zoning Administrator

Contents of the Report:
Report Detail
Exhibit 1 – Petition for Street Closing Request
Exhibit 2 – Survey of Right-of-Way
Exhibit 3 – Aerial Map
Exhibit 4 – Letter from Fire Chief

I. SUMMARY OF REQUEST

The Town of Black Mountain Fire and Police Department are seeking to close Honeycutt Street, which runs in front of the Police and Fire Department, and is typically used as a cut-through to get to Montreat Road. There have been recent incidents involving young children running out into the road and because the road is the primary exit for emergency vehicles there is concern about having the street open to traffic and pedestrians.

II. PROCESS

Planning Board reviews the road closure request and then makes a recommendation to the Board of Aldermen to either approve or deny the road closure request.

III. ZONING

The description of the road closure is as follows:

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

All that 40 foot wide street shown on that plat recorded in Plat Book 29 at Page 86, Buncombe County Registry, and titled only "Street" on that plat, lying between Montreat Road and West Street, which said street is now known as Honeycutt Street, also sometimes spelled "Honeycut" Street.

Per Chapter 3, Section 3.6.2 – Dedication and closures of rights-of-way or land to the town, the Planning Board shall consider any or all of the following criteria in making a recommendation for closure of a right-of-way:

- Right-of-way identified is not part of adopted town plans.
- Right-of-way is not necessary for current or future utilities.
- Right-of-way in its current condition poses a hazard to public health, safety or welfare.
- Right-of-way is along a drainage that is part of a stormwater management plan.
- Right-of-way provides a current or future corridor for a greenway, alley, or roadway that would meet a specific transportation need.
- Abutting property owners have signed the petition in favor of the closure.

IV. ANALYSIS

1. The subject right-of-way is not part of the following adopted plans:
    * Recreation and Parks Master Plan
    * Pedestrian Transportation Plan
    * Bike Plan
    * Greenways Master Plan
    * Veteran's Park Master Plan
    * Stormwater Master Plan

* Wellhead Protection Plan
* Comprehensive Plan

2. The subject right-of-way is currently wooded and unobstructed and does not have any utilities running through it. The sewer line may or may not be extended into the right-of-way for the back lot depending on where the owner can make a connection.

3. The subject right-of-way does currently pose a hazard to public health, safety or welfare.

4. The subject right-of-way is not part of any drainage (current or future) that is part of a stormwater management plan.

5. The subject right-of-way is not a current corridor for a greenway nor is it a corridor for a future greenway, alley or roadway. There are not any houses that use this right-of-way for access.

6. All property owners have signed the petition.

7. The current uses within the right-of-way are:
*cut-through to Montreat Road and West Street
*parking for splash pad and downtown
*main ingress and egress for all emergency vehicles (police, fire, ems)

V. STAFF RECOMMENDATION

Based upon the information and materials provided in the staff report, the Town of Black Mountain Planning staff recommends that the Planning Board recommend the road closure to the Board of Aldermen for a public hearing.

Town of Black Mountain
North Carolina

Date: July 17, 2018

TO THE BOARD OF ALDERMEN OF THE TOWN OF BLACK MOUNTAIN

We, the undersigned, being (some) (all) of the owners of the property adjoining the street or alley described below, do hereby petition the Board of Aldermen of the Town of Black Mountain, to close the following described street or alley:

Honeycutt Street, running parallel to W State St with intersection at Montreat Rd and West St

The undersigned petitioners do certify that the closing of the above described street or alley will not be contrary to the public interest and that no individual owning property in the vicinity of said street or alley, and if it is located in a subdivision, no individual owning property in said subdivision, will be deprived of reasonable means of ingress and egress to his/her property.

The following persons, in addition to the petitioners, own property adjoining the above described street or alley:

NAME	ADDRESS
Town of Black Mountain	1160 Midland Ave

WHEREFORE, your petitioners respectfully request the Board of Aldermen of the Town of Black Mountain to adopt a resolution ordering the closing of the above described street or alley.

Witness our signatures the day and year first above written.

NAME	ADDRESS	PHONE #

Town of Black Mountain
Procedure for Closing Streets and Alleys

1. **PETITION:** Complete the attached petition by completing the date at the top, by striking out either the word "some" or "all" in the opening line by filling in, in the blank space near the center of the petition, a description of the street or alley requested to be closed, and if less than all adjoining property owners sign the petition, by filling in on the blank lines provided for listing additional property owners the names and addresses of any adjoining property owners now signing the petition. If all adjoining property owners sign the petition, put "none" on one side of the lines provided for listing additional property owners. Describe the street or alley as fully as possible. Give its width and length, the block number (if applicable) in which it is located, the direction in which it runs, and the intersecting streets or alleys at either end of the street or alley petitioned to be closed. The petition must be signed by all persons listed on the deed to the property. If any petitioner is a partnership, all partners must sign. If any petitioner is a corporation, insert the name of the corporation, affix the corporate seal and have the appropriate officers of the corporation sign. Turn the petition in to the Zoning Administrator's Office. At the time that you file the petition, enclose a check payable to the "Town of Black Mountain" in the amount of $300.00 to cover costs of legal notices and advertisements.

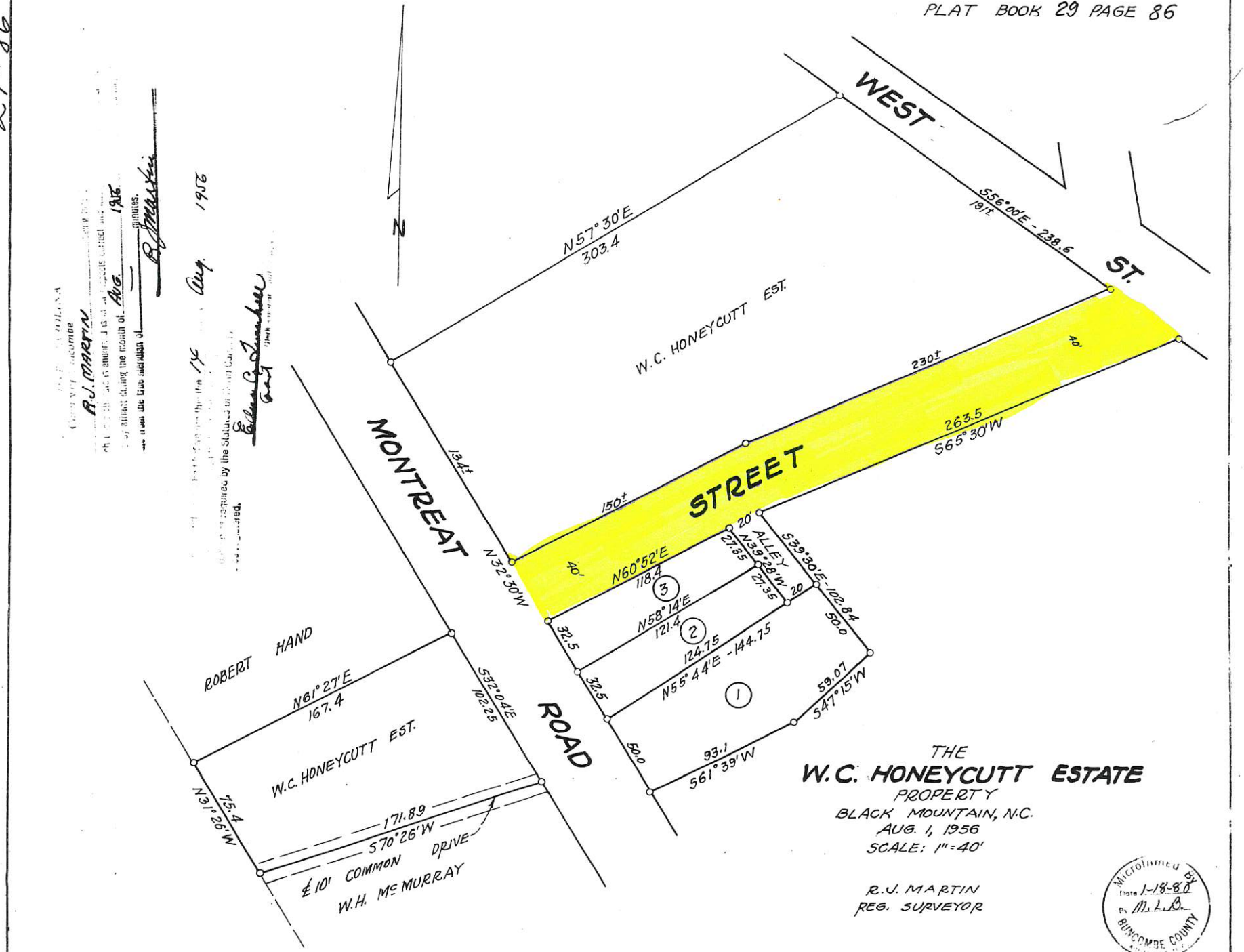
2. **MEETINGS:** This procedure requires three board meetings. The first meeting will be with the Planning Board, who will consider the petition and recommend the peitition move forward to the Board of Aldermen. The second meeting will be for the Board of Aldermen to adopt of Resolution of Intent for the closure and to call for a public hearing for the closure. The third meeting will be the public hearing before the Board of Aldermen at which time the Board of Aldermen will make a decision to approve or not approve the closure. The Board of Aldermen will reserve its right, title, and interest in any utility improvement or easement as is deemed necessary.

3. **NOTICE:** The street or alley will be posted in two prominent places prior to the Planning Board meeting as well as notice will be sent to all property owners adjoining the street or alley petitioned to be closed. Once a Resolution of Intent is adopted, the Resolution of Intent will run in the Black Mountain News for four consecutive weeks, two notices will be prominently placed on the street or alley petitioned to be closed and notices of the public hearing will be sent to all property owners adjoining the street or alley petitioned to be closed.

4. **RESOLUTION AND RECORDING:** If the Board of Aldermen approve the street or alley closing, the Town Attorney will record the resolution closing the street or alley and will provide a certified copy of the resolution to the petitioners. Any person aggrieved by the resolution may appeal within thirty (30) days to the Superior Court of Buncombe County.

29-86

PLAT BOOK 29 PAGE 86



THE
W.C. HONEYCUTT ESTATE
PROPERTY
BLACK MOUNTAIN, N.C.
AUG. 1, 1956
SCALE: 1" = 40'

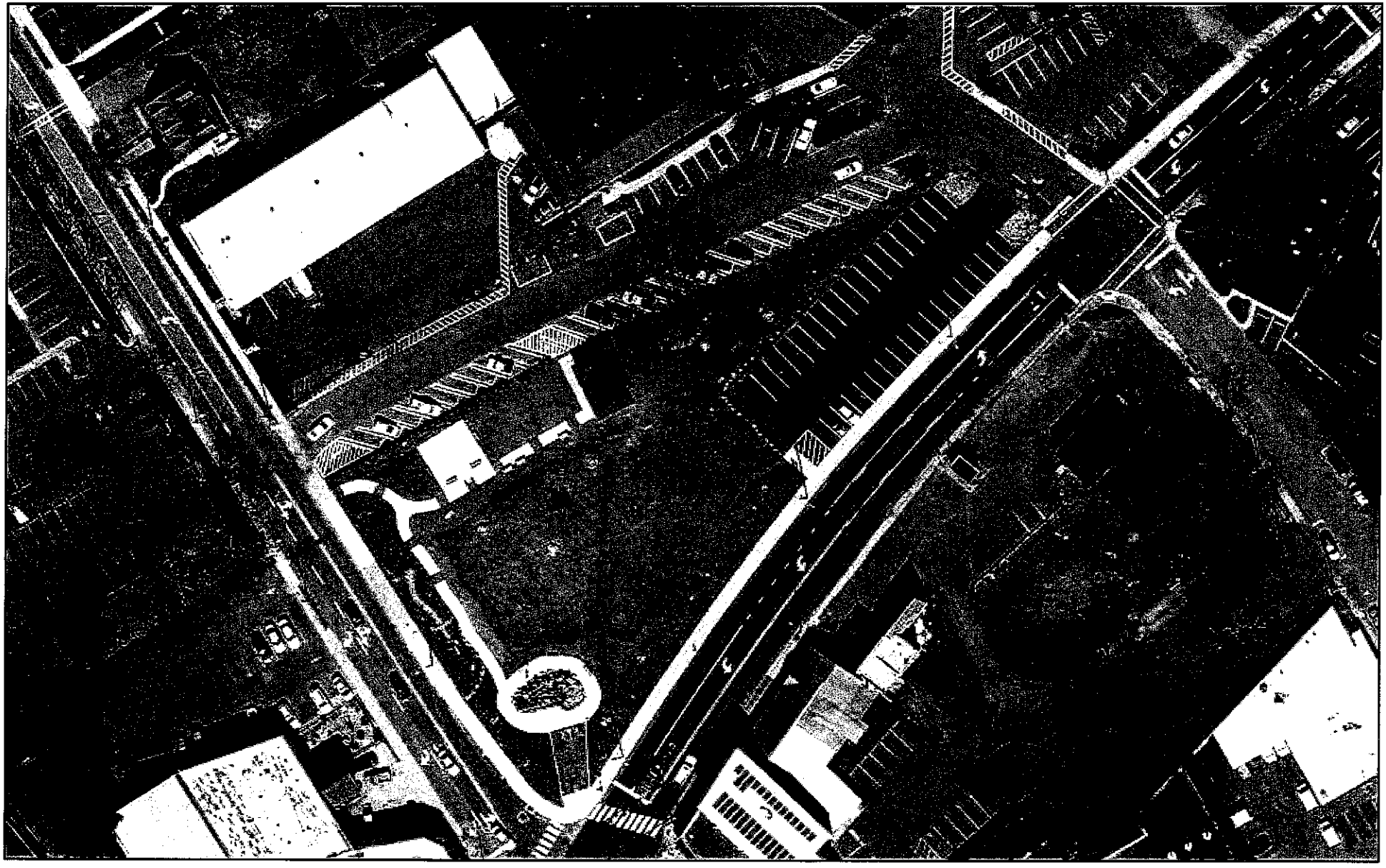
R.J. MARTIN
REG. SURVEYOR

Aug. 1956

R.J. Martin

Microfilmed
Date 1-18-80
By M.L.B.
BUNCOMBE COUNTY

Buncombe County



July 19, 2018

1:918

0 0.01 0.01 0.03 mi

0 0.01 0.02 0.04 km

NCCGIA

Office 828-419-9331
Fax 828-669-8673
Cell 828-776-4431

www.bmfire.org
steve.jones@townofblackmountain.org

Office of the Fire Chief

Black Mountain Fire Department
106 Montreat Road
Black Mountain NC 28711

This is in reference to Honeycutt Street and the safety of citizens visiting Town Square and the Splash Pad. Since the Splash Pad Opened we have observed small children running out on to Honeycutt Street without parents or guardians supervision. Often it only appears that the children are just excited about going to the Splash Pad that they take off as soon as they are out of the vehicle. We have witnessed cars slamming on the brakes, making evasive maneuvers to avoid hitting children, and other methods of avoiding the children. As recently as last week we had close calls with children in the street, on 7/11/2018 a small child got out of the car and took off running down the street while the parent was getting items out of the car and on 7/13/2018 two small children got out of the car and stood in the street while the parent went around the car to get items out for the splash pad.

The Fire Department often responds to emergencies where the response is delayed due to someone trying to find a parking space, unloading or just using the restroom. Last week we had three big buses parked on Honeycutt Street waiting on people to come from downtown, one of them was parked directly in front of the Do Not Enter Signs blocking emergency equipment from exiting the parking lot. I had to go out and ask the driver to move the bus down to the lower parking lot.

These are just a few of the incidents that we have encountered and I would be glad to discuss this further if needed.

Steve Jones

Town of Black Mountain Boards & Commissions Manual

BOARDS AND COMMISSIONS MEMBER INFORMATION

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I. Introduction

The Black Mountain Board of Aldermen consists of a Mayor and five Aldermen who are elected at large in a non-partisan election. The Mayor and Board of Aldermen hold four year, overlapping terms. Terms are staggered with the Mayor and two Aldermen being elected at one time and the remaining three Aldermen being elected in the municipal election held two years later. The governing board has the authority to adopt policies for the Town and is responsible to the citizens to ensure that the Town responds to public needs and works well to meet those needs.

The Town also has appointed boards and commissions that provide opportunities for many citizens to assist the elected governing board in shaping public policy. State law requires that some of these boards and commissions (such as the Alcoholic Beverage Control Board) play a direct role in selecting agency heads and setting operating policies for the agency. Other boards and commissions are established by the Board of Aldermen to advise them directly on matters ranging from land use to recreation. In some cases, at least some of the members of an appointed board or commission must be residents of the Town or have other specific qualifications.

Advisory board and commission members are responsible directly to the Board of Aldermen. While different members of the staff of the Town of Black Mountain are assigned by the Town Manager to assist various boards and commissions in their endeavors, the members of the advisory boards are appointed by and directly accountable to the Board of Aldermen. Chairs of the various advisory groups are requested to appear before the Board of Aldermen, from time to time, and report on the activities of their commission or board. Similarly, chairs may request to report to the Mayor and Board of Aldermen in order to provide updates and information. The governing body and their advisory boards should work to facilitate an optimal working relationship and to promote a better understanding of the endeavors in which the various boards and commissions are involved.

The Town of Black Mountain is fortunate to have a wealth of people with special expertise and qualifications who volunteer to serve on appointed boards and commissions. Many of these people have a particular concern or interest for the subject the board or commission deals with. This is especially important to the success of these boards and commissions in helping to represent the best interests of the Town.

II. Policies Concerning Boards and Commissions

Terms of Office and *Oath*

Advisory board and commission members are appointed by and serve at the pleasure of the Board of Aldermen. Appointments for all advisory bodies are made for three-year terms of office. Terms on various boards and commissions are overlapping so as to avoid replacement of all members of any one board at a single time. All terms shall become effective on the date of the first meeting in the month following the date of appointment, except that all appointments to fill the balance of

unexpired terms shall become effective upon the appointee having taken the oath of office. *(Revised 5-14-07)* By signing the oath of office, board and commission members agree to the following:

I, Name do solemnly and sincerely affirm that I will support and maintain the Constitution and the laws of the United States, and the Constitution and laws of North Carolina, not inconsistent therewith, and that I will in all respects, observe the provisions of the Charter and ordinances of the Town of Black Mountain, and will faithfully discharge the duties of my office as a member of the Name of Board or Commission of the Town of Black Mountain, North Carolina.

All board and commission members are subject to the North Carolina Public Records Act when acting as a board or commission member conducting town business. NC G.S. §§ 132-1

Term Limits

The Board of Aldermen has expressed their preference to limit advisory board and commission members' terms of service to two consecutive terms; however, they have reserved the right to override that preference when they deem the circumstances of an individual's service to the community to be of such notable importance as to warrant a continuation of service. In those situations where the Board of Aldermen deems special circumstances to exist that warrant the continuation of community service by an individual on a board or commission, any member of the Board of Aldermen may place the name of that individual into nomination and state that they believe special circumstance warrant a continuation of service. The Board of Aldermen may then reappoint said individual by voting in no less than a 4/5 majority of the membership to reappoint the individual to another term of office. This process may be repeated as often as the Board of Aldermen deems the special circumstances to warrant an additional appointment.

A person who has served more than two-thirds of a full term after being appointed to complete the term of a previous board member shall be considered to have served a full term for the purposes of determining eligibility under the provisions of this section.

Vacancies

When a vacancy occurs on a board or commission due to a resignation or the end of a three-year term, the Town Clerk's office should be notified by the chair of that board or commission as soon as possible. The vacancy may be advertised in the Black Mountain News and posted on the web site. The notice will instruct persons interested in being considered for appointment to fill out an "Application for Appointment" and set an application deadline. The notice shall also contain any residency restrictions for the board or commission. The deadline for the applications to be submitted will be determined by the Town Clerk but shall be no less than 10 days prior to a regularly scheduled monthly meeting of the Board of Aldermen. All applications will be copied and submitted to the Board of Aldermen for consideration. Vacancies shall be filled for the remainder of the unexpired term of the person being replaced.

Membership Requirements

Membership requirements are specific to the particular board or commission as set out in the Black Mountain Code of Ordinances and are further detailed herein under the description of the particular board or commission.

Advisory board and commission members are expected to be diligent in the performance of their duties and responsibilities. The Board of Aldermen may dismiss any member who 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 or overriding but temporary business concerns.) Such dismissal may be considered upon report or complaint by the advisory commission chairperson, a member of the advisory commission, or on the Board of Aldermen's own motion.

Pursuant to the requirements of Section 160A-86 of the North Carolina General Statutes, the Board of Aldermen adopted a General Principles and Code of Ethics to guide Boards Members in their lawful decision-making. Each Board or Commission Member is required to sign the Code of Ethics for Members of Boards and Commissions of the Town of Black Mountain. The purpose of this Code of Ethics is to establish guidelines for ethical standards of conduct for Board Members and to help determine what conduct is appropriate in particular cases. It should not be considered a substitute for the law or for a member's best judgment. (*Revised 7-13-15*)

Meeting Requirements

A majority of the members of any board or commission are required to be present before an official meeting may be called to order. In the event that a quorum is not present, the advisory board or commission may not act on any item brought before them. Once a quorum has been established, the committee may proceed with its work. Members who find it necessary to withdraw from the meeting prior to adjournment shall be counted as present for the purposes of a quorum unless the committee has excused said member by a majority vote. Any member choosing to withdraw from a meeting without first being excused by a vote of the committee shall be counted as present for the purposes of maintaining a quorum and shall be considered to have voted in the affirmative for any motion that is brought before the board or commission.

Officers

Each board and commission shall elect a chair person and a vice-chair person. The election of a secretary is required for those boards or commissions for which the Town does not provide staff support. The election of a secretary is optional for those boards or commissions to which the Town provides staff support. The duties of the chairman of any commission are set forth herein below. In the absence of a chair person, the vice-chair person assumes the role of the chair and is, at that point in time, vested with the responsibilities of the chair of the board or commission. The duties of the secretary are to insure that proper records are maintained, notices made, and minutes taken for the advisory board on which the secretary may serve. All officers serve one-year terms and are eligible for re-election to as many terms as the advisory board may deem appropriate.

Rules of Procedure

Each board or commission shall adopt rules of procedure that shall not be inconsistent with any other rules governing their operation as expressed in Town policies and ordinances or in conflict with State statutes and administrative codes.

III. Duties of Chair Person

Presiding at Meetings

The chair of the board/commission shall preside at meetings if he or she is present, unless he or she becomes actively engaged in debate on a particular matter. The chair may vote in all cases. In order to address the board/commission, a member must be recognized by the chair.

If the chair is absent, the vice-chair shall preside. (If both the chair and vice-chair are absent, another member designated by vote of the board shall preside.) The vice-chair or another member who is temporarily presiding retains all of his or her rights as a member, including the right to make motions and the right to vote.
If the chair sees a conflict of interest or becomes actively involved in debate on a particular matter, he or she shall designate another board member to preside over the debate. The chair shall resume presiding as soon as action on the matter is concluded.
The presiding officer shall have the following powers:

- To rule motions in or out of order, including any motion patently offered for obstructive or dilatory purposes;
- To determine whether a speaker has gone beyond reasonable standards of courtesy in his remarks and to entertain and rule on objections from other members on this ground;
- To entertain and answer questions of parliamentary law or procedure;
- To call a brief recess at any time;
- To adjourn in an emergency.

A decision by the presiding officer may be appealed to the Board upon motion of any member. Such a motion is in order immediately after a decision by the presiding officer is announced and at no other time. The member making the motion need not be recognized by the presiding officer, and the motion, if timely made, may not be ruled out of order.

Action by Board

The board shall proceed by motion made by any member, including the chair. A motion does not require a second and a member may make only one motion at a time. Each motion shall be considered and dealt with one at a time, and a new motion may not be put forth until action on the previous one is concluded. With the exception of special rules applicable only to the Zoning Board of Adjustment, a motion shall be adopted by a majority of the votes cast with a quorum present.

Notification of Absentee Member

It is the duty of the chairperson of each board or commission to be responsible for notifying the Mayor and Board of Aldermen when members of that board or commission have not met the guidelines for faithful attendance. In the event that a member of an advisory board fails to comply with the attendance policies contained herein, it shall be the responsibility of the chair of that advisory board to notify the Mayor and Board of Aldermen, in writing, of the policy violation and to request that said member be replaced.

IV. Open Meetings, Proper Notification, And Record Keeping

All meetings of all advisory boards and commissions as appointed by the Board of Aldermen shall be open to the public and shall be properly publicized. If the board/commission has a designated meeting place, day, and time each month, a copy of the regular meeting schedule shall be filed with the Town Clerk, posted at the Town Hall or regular meeting location, sent to the Black Mountain News and standard media list by the office of the Town Clerk or Deputy Clerk or advisory board support staff. Any change or cancellation of a meeting must also be posted and sent to the news and standard media list. For those committees that do not have a designated meeting date, place and time, a minimum of 48 hours' notice must be given to the public before a meeting may take place. Said notice shall contain the date, time, location, and purpose of the meeting. If an agenda is developed, the agenda may be publicized as well. The Office of the Town Clerk or Deputy Clerk shall be notified of any special call or emergency meeting in sufficient time for the 48 hour notice to be given. No meeting shall be held unless the meeting notice requirements contained herein are met.

The chair of each board/commission shall be responsible for insuring that the proper meeting notices are sent to each member of the respective boards or commissions and to the Office of the Town Clerk or Deputy Clerk. That notification may be made either through the secretary of the respective advisory board or through the staff member, if any, who provides advisory board support. The Office of the Town Clerk or Deputy Clerk shall be responsible for public notification of all meetings in accordance with locally adopted procedures and the North Carolina General Statutes.

The chair of each board or commission shall be responsible for insuring that proper rules are adopted for transaction of business and that proper records, including minutes of all proceedings, are kept in accordance with the guidelines specified herein. (*Revised 4-9-12*)

V. Procedure For Taking Minutes

Minutes of a board/commission are the official written record of actions taken by the board/commission. It is the responsibility of the chair, through either the secretary or the clerk, to keep a record of the proceedings of the board/commission. Minutes should be kept in a permanent minute book and are open to public inspection. The minutes provide future generations with the past history of a board/committee. They are used for many types of research and can be consulted

for purposes of verification that certain actions were taken, when those actions were taken, and why. It is imperative that the minutes be a clear, concise, informative and accurate record of the proceedings of the meeting.

The minutes must be "full and accurate" (G.S. 160A-72; G.S. 143-318.10e) for they are the legal evidence of what the advisory board has said and done. "Full and accurate" does not generally mean, however, that a verbatim transcript of a meeting's proceedings must be made. Including a detailed record of comments may well be counterproductive and the board or commission may find itself spending an excessive amount of time at its next meeting discussing the details of this record, which could have been omitted altogether. Rather, the minutes must record the results of each vote taken by the board or commission, and they should also show the existence of any condition that is required before a particular action may validly be taken. The full text of each motion should be recorded, including the full text of all ordinances and resolutions passed by the advisory board.

Minutes should include the following essential facts:

1. The name of the board/commission, date, time and place of the meeting.

2. The minutes should state that the meeting was legally convened.

3. Show that a quorum was present at all times during the meeting. The late arrival and the early departure of members (including whether someone leaving was excused by the remaining members) should be noted.

4. The names of the members present and absent.

5. The names of any person addressing the board/commission, a summary of subject matter presented and any action taken as a result of the person's appearance before the board/commission.

6. A record of all motions. A motion must be recorded verbatim, along with the name of the person making the motion and the person seconding the motion (if applicable). The results of each vote must be recorded and upon the request of any member of the board/commission, votes for and against a motion shall be recorded.

7. A record of all ordinances and resolutions introduced (if applicable). Ordinances and resolutions must be recorded verbatim as adopted by the board/commission. Short resolutions and ordinances should be incorporated into the body of the minutes. Lengthy resolutions and ordinances may be attached as an addendum to the minutes.

8. The exact words of each amendment to any motion, order, ordinance or resolution.

9. A record of all subjects before the board/commission and actions taken.

10. Draft copies of advisory board minutes are generally sent by the secretary or the clerk to members several days before the meeting at which they are to be considered for approval. The circulated draft minutes are a public record that must also be made available for public inspection. The minutes do not become the official record of the committee's action until it approves them.

11. The advisory board may correct minutes that it has already approved if it later finds that they are incorrect. In such a case the correction should be noted in the minutes of the meeting at which the correction is made, with an appropriate notation and cross-reference at the place in the minute book where the provision being corrected appears. Non-substantive corrections, such as those pertaining to grammar or spelling, may be corrected outside of the meeting by way of individual members contacting the secretary or clerk for their particular board or commission.

12. A statement that the meeting adjourned and at what time.

13. Minutes should be signed by the respective chair and clerk, if applicable.

14. The secretary or clerk may ask for assistance from the Town staff in publishing the minutes.

15. Under the open meetings law, "full and accurate" minutes must also be kept of the meetings of "public bodies" that are part of municipal government. Included are all city council committees, all other boards and committees of the city that perform either legislative, policy-making, quasi-judicial, administrative, or advisory functions, and all subcommittees of these other boards and committees. The Board of Aldermen establishes procedures to ensure that the minutes of these various boards are properly recorded and maintained.

The minutes should **not** include:

1. Any personal opinions or comments (unless meeting is a bona fide Public Hearing).

2. Irrelevant comments or discussion surrounding a topic under discussion or action being taken.

A copy of the minutes, after approval, shall be filed in a permanent minute book and a copy delivered to the Office of the Town Clerk.

VI. Order Of Business

- Call meeting to order
- Ascertain quorum present
- Discussion and revision of proposed agenda; adoption of agenda (optional for some boards/commissions)
- Approval of the minutes
- Old business

- New business
- Informal discussion
- Adjourn

Unless the Board or Commission deems a different "order of business" more appropriate for its work and sets it by policy, or by motion at the start of the meeting. *(Revised 5-14-07)*

VII. Terms & Duties of Boards/Commissions

1. ABC BOARD

Purpose

The ABC Board is responsible for the general oversight of the Town operated ABC store.

Membership

The Alcohol Beverage Control (ABC) Board shall consist of three members. Residency requirements are limited to persons residing in the corporate limits of Black Mountain. The residency requirement will become effective July 1, 2007.
The North Carolina General Statute 18B-700(a) requires the Board of Aldermen to appoint the Chair of the ABC Commission.

Powers

The ABC Board shall have all of the powers and duties imposed by Section 18B-701 and 702 of the North Carolina General Statutes.

1. Buy, sell, transport, and possess alcoholic beverages as necessary for the operation of its ABC stores
2. Adopt rules for its ABC system, subject to the approval of the Commission
3. Hire and fire employees for the ABC system
4. Designate one employee as manager of the ABC system and determine his responsibilities
5. Require bonds of employees as provided in the rules of the Commission
6. Operate ABC stores as provided in Article 8
7. Issue purchase-transportation permits as provided in Article 4

8. Employ local ABC officers or make other provision for enforcement of ABC laws as provided in Article 5

9. Borrow money as provided in G.S. 18B-702

10. Buy and lease real and personal property, and receive property bequeathed or given, as necessary for the operation of the ABC system

11. Invest surplus funds as provided in G.S. 18B-702

12. Dispose of property in the same manner as a city council may under Article 12 of Chapter 160A of the General Statutes

13. Perform any other activity authorized or required by the ABC law.

Duties and Functions

1. Generally. – A local board may transact business as a corporate body, except as limited by this section. A local board shall not be considered a public authority under G.S. 159-7 (b)(10).

2. Borrowing Money. – A local board may borrow money only for the purchase of land, buildings, equipment and stock needed for the operation of its ABC system. A local board may pledge a security interest in any real or personal property it owns other than alcoholic beverages. A city or county whose governing body appoints a local board shall not in any way be held responsible for the debts of that board.

3. Audits. – A local board shall submit to the Commission an annual independent audit of its operations, performed in accordance with generally accepted accounting standards and in compliance with a chart of accounts prescribed by the Commission. The audit report shall contain a summary of the requirements of this Chapter, or of any local act applicable to that local board, concerning the distribution of profits of that board and a description of how those distributions have been made, including the names of recipients of the profits and the activities for which the funds were distributed. A local board shall also submit to any other audits and submit any reports demanded by the Commission.

4. Deposits and Investments. – A local board may deposit moneys at interest in any bank or trust company in this State in the form of savings accounts or certificates of deposit. Investment deposits shall be secured as provided in G.S. 159-31 (b) and the reports required by G.S. 159-33 shall be submitted. A local board may invest all or part of the cash balance of any fund as provided in G.S. 159-30(c) and (d), and may deposit any portion of those funds for investment with the State Treasurer in the same manner as State boards and commissions under G.S. 147-69.3.

5. Compliance with Commission Rules. – The Commission shall adopt, and each local board shall comply with, fiscal control rules concerning the borrowing of money, maintenance of working capital, investments, appointment of a financial officer, daily deposit of funds, bonding of employees, auditing of operations, and the schedule, manner and other procedures for distribution of profits. The Commission may also adopt any other rules concerning the financial operations of local boards which are needed to assure the proper accountability of public funds.

6. Applicability of Criminal Statutes. – The provisions of G.S. 14-90 and G.S. 14-254 shall apply to any person appointed to or employed by a local board, and any person convicted of a violation of G.S. 14-90 or G.S. 14-254 shall be punished as a Class H felon.

Meetings

The ABC Board meets on the third Thursday of every month at 3:00 p.m. at the ABC Store on Highway 9 in Black Mountain. All meetings of the Board are open to the public. *(Revised 5-14-12)*

Compensation

Members of the ABC Commission shall serve at the rate of compensation established by the Board of Aldermen.

2. GREENWAYS COMMISSION

Purpose

The Greenways Commission exists to advise the Board of Aldermen about greenways development and management, to work with staff to develop the greenways system, and to actively promote public education and awareness of the benefits of greenways.

Membership

The Greenways Commission shall consist of seven (7) members. All members must be full-time residents of the East Buncombe Fire District (recognizing that the Black Mountain Greenways Commission may choose to promote construction of a regional network that expands beyond the limits of the Town.) Candidates for membership should demonstrate special interest, experience, or education about Greenways. Also, experience with grant writing and landscaping would be considered an asset to the work of the Commission.

Powers, Duties, and Functions

It shall be the function and duty of the Greenways Commission to perform the following functions and duties:

1. Advise the Board of Aldermen and the Parks and Recreation Commission on issues concerning Greenways, including the safe and accessible walkability of the Town, interconnectedness of Town facilities, and pertinent decisions regarding the accessibility of natural areas and open space.
2. Coordinate with the Planning Board and other committees or boards as appropriate to ensure that the Greenways system is integrated with the Town's overall transportation network.
3. Receive public input and give voice to public demand for Greenways
4. Coordinate with Town staff and the Board of Aldermen to set priorities for spending funds allocated for Greenways projects.
5. Identify outside funding sources to support Greenways and actively pursue those opportunities.
6. Maintain liaisons with groups of similar interest and intent within the region, in an effort to explore opportunities for connections that expand the Greenways network.
7. Provide outreach and education activities to promote the benefits of Greenways to the local population.
8. Work with Town staff to recruit and coordinate volunteers to support Greenways development and maintenance.
9. Maintain and revise the Greenways master plan as needed, in coordination with the Recreation and Parks Commission and the Board of Aldermen.

Meetings

The Greenways Commission meets on the third Tuesday of the month at 7:00 p.m.

The Greenways Commission shall elect a chairman and a vice-chairman. Other offices may be created as may be determined as necessary. The term of the chairman and other officers shall be one year, with eligibility for reelection.

Staff Support, Liaison Members

Staff support to the Greenways Commission shall be provided by the Assistant Town Manager, the Director of Recreation and Parks, and the Health Initiative Administrator as appropriate. The Board of Aldermen may appoint a member of the Board to serve as a liaison member to the Greenways Commission. One member of the Greenways Commission shall attend all meetings of the Recreation and Parks Commission. This responsibility may rotate among Greenways Commission members as needed.

Compensation

Members of the Greenways Commission shall serve without compensation except that they may be reimbursed for actual expenses incident to the performance of their duties within the limits of any funds available to the commission.

3. HISTORIC PRESERVATION COMMISSION

Purpose

There is hereby established a Black Mountain Historic Preservation Commission for the purpose of designating historic districts and landmarks within the Town of Black Mountain. In addition, the Historic Preservation Commission shall develop and recommend to the Board of Aldermen rules and regulations governing the designation and maintenance of historic properties in the Town.

Membership

The Historic Preservation Commission shall consist of five members all of whom shall reside within the territorial jurisdiction of Black Mountain. A majority of the members of the Commission shall have demonstrated special interest, experience or education in history, architecture, archaeology or related fields.

Powers, Duties, and Function

1. Undertake an inventory of properties of historical, pre-historical, architectural and/or cultural significance.

2. Recommend to the Board of Aldermen areas to be designated by ordinance as "historic districts," and individual structures, buildings, sites, areas or objects to be designated by ordinance as "landmarks".

3. Recommend to the Board of Aldermen that designation of any area as a historic district, or part thereof, or designation of any building, structure, site, area or object as a landmark, be revoked or removed for cause.

4. Review and act upon proposals for alterations, demolition or new construction within historic districts, or for the alteration or demolition of designated landmarks.

5. Conduct an educational program with respect to historic districts and landmarks within its jurisdiction, and advise property owners about treatment of historical characteristics of their properties.

6. Cooperate with the state, federal and local governments in pursuance of the purposes of this ordinance; to offer or request assistance, aid, guidance or advice concerning matters under its purview or of mutual interest. The Board of Aldermen, or the Commission when authorized by the Board of Aldermen, may contract with the State or the United States, or any agency of either, or with any other organization provided the terms are not inconsistent with state or federal law.

7. Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee or agent of the Commission may enter any private building or structure without express consent of the owner or occupant therefore.

8. Prepare and recommend the official adoption of a preservation element as part of the Town of Black Mountain comprehensive plan.

9. Negotiate with property owners who propose to demolish or relocate designated landmarks and/or significant properties in designated districts, in an effort to find a means of preserving the properties.

10. Institute action to prevent, restrain, correct, or abate violations of the ordinance establishing the commission or of ordinances designating historical landmarks or districts.

11. The Commission may appoint advisory bodies and committees as appropriate.

12. The Commission shall also prepare and adopt principles and guidelines for altering, restoring, moving, or demolishing properties designated as landmarks or within historic districts.

13. The Commission shall adopt rules of procedure governing its meetings and the conduct of official business and bylaws governing the election of officers and related matters.

Meetings

The Historic Preservation Commission shall meet on the third Wednesday of each month at 6:00 p.m.

Compensation

Members of the Historic Preservation Commission shall serve without compensation except that they be reimbursed for actual expenses incident to the performance of their duties within the limits of any funds available to the commission.

4. PLANNING BOARD

Purpose

The Planning Board is established to advise the Board of Aldermen on matters related to land use and community development. The Planning Board shall be governed by the terms of G.S. §§ 160A-360 through 160A-387 and by the terms of the Town Zoning Ordinance enacted December 1982 and the Subdivision Regulations enacted September 1985, and any subsequent amendments thereto. All Board members shall thoroughly familiarize themselves with the provisions of these statutes and ordinances.

Membership

The Planning Board shall consist of seven members all of whom reside within the corporate limits of the Town of Black Mountain. *(Revised 5-14-07)*

Powers, Duties, and Functions

The Planning Board shall be governed by the terms of G.S. §§ 160A-360 through 160A-387 and by the terms of the Town Zoning Ordinance enacted December 1982 and the Subdivision Regulations enacted September 1985, and any subsequent amendments thereto. All Board members shall thoroughly familiarize themselves with the provisions of these statutes and ordinances.

It shall be the function and duty of the Planning Board to perform the following duties:

1. Make studies within its jurisdiction and surrounding areas.
2. Determine objectives to be sought in the development of the study areas.
3. Prepare and adopt plans for achieving these objectives.
4. Develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner.
5. Advise the Board of Aldermen concerning the use and amendment of means for carrying out plans.
6. Exercise any functions in the administration and enforcement of various means for carrying out plans that the Aldermen may direct.
7. The Planning Board shall have power to promote public interest in and an understanding of its recommendations, and to that end it may publish and distribute copies of its recommendations and may employ such other means of publicity and education as it may determine.
8. Perform any other related duties that the Aldermen may direct.

Meetings

The Planning Board meets on the 4th Monday of each month at 6:00 p.m. In addition, special meetings may be called at any time by the chairman. *(revised 02-24-14)*

Compensation

Members of the Planning Board shall serve without compensation except that they be reimbursed for actual expenses incident to the performance of their duties within the limits of any funds available to the commission.

5. RECREATION COMMISSION

Purpose

The Recreation Commission advises the Board of Aldermen on matters related to public recreational opportunities as provided by the Town of Black Mountain.

Membership

The Recreation Commission shall consist of five members. A minimum of three-fifths of the membership shall be made up of full-time residents within the corporate limits of Black Mountain. The remaining two –fifths of the memberships may be made up of residents 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.

Powers, Duties, and Functions

1. Serve as the recreation advisory body to the Mayor and Board of Aldermen for the Town of Black Mountain

2. Assist the staff of Recreation and Parks to develop rules, regulations and procedures governing the operation and conduct of the recreation facilities, to be submitted to the Board of Aldermen for approval

3. Act as the recreation liaison between the citizens and the Board of Aldermen for the Town of Black Mountain

4. Recommend policies to the Recreation Director and Board of Aldermen with the scope of responsibilities as outlined in town ordinances

5. Consult with and advise the Recreation Director and Aldermen in matters affecting parks and recreation policies, programs, personnel, finances, facilities, land acquisition and disposal, and the long range vision for parks and recreation

6. Review and monitor park-planning documents from other governmental jurisdictions in regards to proposals for sites and/or activities within or near the Town of Black Mountain

7. Through staff, maintain liaison with Buncombe County and City of Asheville and State of North Carolina Recreation Resources park officials on changes, proposals, etc., for park facilities which impact on the Black Mountain area; and provide such information to the Board of Aldermen

8. Review existing park sites with the Town of Black Mountain and provide recommendations to the Board of Aldermen on the development of these sites; ensure coordination of existing and proposed parks and recreation activities with those of other jurisdictions and organizations to eliminate unnecessary duplication of services and facilities

9. Develop and maintain an overall park and recreation master plan for the Town of Black Mountain, to include the following: proposed locations for park sites; types of recreation activities and/or facilities to be provided; a five-year capital improvement program for both acquisition and development (as well as operational and maintenance costs)

10. Ensure that staff monitors park/activity usage; that staff reports usage to Recreation Commission; Commission reports same to Board of Aldermen

11. Ensure that staff monitors conditions of park facilities; that staff reports condition problems to Recreation Commission; Commission reports it to Board of Aldermen with recommendations on alternatives for changes, modifications, improvements

12. Participate in the preparation of any special plans or studies authorized by the Board of Aldermen having a bearing on parks and recreation issues pertinent to or affecting the Town of Black Mountain

13. Subject to review and approval by the Board of Aldermen, who shall rule on the propriety and legality of acquisitions, accept on behalf of the Town of Black Mountain any grant, gift, bequest or donation of any personal property offered or made for recreation purposes and, with the approval of the Board of Aldermen, may accept any grant, gift, or devise of real estate. Title to any such gift, grant or devise of personal property or real estate shall vest in the town as owner. Any gift or bequest of money or other personal property or grant of devise of real estate, shall be held, used and finally disposed of in accordance with the terms or conditions under which such grant, gift, or devise is made or accepted. The Recreation Commission shall have no authority to enter into any contract or incur any obligations binding the Town of Black Mountain. Funds received by the gift, bequest, or grant shall be budgeted and disbursed by the Board of Aldermen through the Recreation Department in accordance with the terms of such gift, bequest or grant.

14. Make full and complete reports to the Board of Aldermen at such times as may be requested and such other times as the Board of Aldermen may deem proper.

Meetings

The Recreation Commission shall meet on the fourth Thursday of each month at 5:30 p.m. In addition, special meetings may be called at any time by the chairman. *(Revised 10-11-10)*

Compensation

Members of the Recreation Commission shall serve without compensation except that they be reimbursed for actual expenses incident to the performance of their duties within the limits of any funds available to the commission.

6. URBAN FORESTRY COMMISSION

Purpose

The Urban Forestry Commission assists in the administration of the Town of Black Mountain tree ordinance as it pertains to advice on the regulation of tree planting, maintenance, and removal on publicly owned and maintained property within the Town.

Membership

The Urban Forestry Commission shall consist of five members who shall be appointed by the Board of Aldermen. A minimum of three-fifths of the membership shall be made up of full-time residents within the corporate limits of Black Mountain. 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.

Powers, Duties, and Functions

1. It shall be the responsibility of the Commission to study, investigate, counsel and develop and update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal, or disposition of trees and shrubs in parks, along streets, and in other public areas. Such plan, which will be presented annually, shall constitute the official comprehensive town tree plan.

2. The Commission, when requested by the Board of Aldermen, shall consider, investigate, make finding, report, and recommend upon any special matter of question coming within the scope of its work.

3. The Commission shall serve as an advisory board to the Board of Aldermen with the following duties and responsibilities:

   a. To facilitate the planting, growth, and protection of trees within the city.

   b. To foster the communication among citizens of the town that would provide the needed protection of trees and to coordinate active measures to support their health and growth within the town.

   c. To conduct a tree survey of existing trees along streets and on public property within the town.

   d. 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 Board's purpose.

4. The Commission will be responsible for establishing guidelines for the spacing of city trees in accordance with the three species size classes in the official street tree species list. These guidelines will cover spacing between street trees, the distance street trees may be planted from curbs or curb lines and sidewalks, the distance street trees may be planted from any street corner, the location of the street trees relative to overhead and underground water line, sewer lines, transmission line, or other utility, and any other areas involving the spacing of street trees, park trees, city-owned trees.

5. The Commission 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.

6. 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.

Meetings

The Urban Forestry Commission shall meet on the first Tuesday of every month at 5:30 p.m. In addition, special meetings may be called at any time by the Chairman.
(Revised 07-08-14)

Compensation

Members of the Commission shall serve without compensation except that they be reimbursed for actual expenses incident to the performance of their duties within the limits of any funds available to the commission.

7. ZONING BOARD OF ADJUSTMENT

Purpose

The Board of Adjustment is established as a "quasi-judicial" administrative Board that operates on a level between the enforcement officials of the Town and the courts. The purpose of the Zoning Board of Adjustment is to hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with enforcement of an ordinance adopted pursuant to the land use regulations adopted by the Town. In addition, under the provisions of the Town's zoning regulations, the Zoning Board of Adjustment is responsible for the issuance of Conditional Use Permits.

Membership

Members of the Zoning Board of Adjustment, and alternate members as hereinafter provided for, shall be full-time residents within the corporate limits of Black Mountain. In addition to five regular members, the Board of Aldermen shall appoint three alternate members. Any vacancy in the membership shall be filled by the first alternate member, whether on a temporary or permanent basis, with the second alternate filling the vacancy left by succession of the first, and the third alternate filling the vacancy left by succession of the second. The Board of Aldermen would only, and always, be appointing new members to the ZBA into the third alternate position. This rotation allows for orderly succession of trained individuals, ensuring that the most experienced members available at any time will be seated to hear a case. Alternate members, while serving in the capacity of a regular member, shall have and may exercise all of the powers and duties of a regular member. *(Revised 10-11-10)*

Powers, Duties, and Functions

1. Administrative Review. Hear and decide appeals where it is alleged there is error in any order, requirements, decision or determination made by the Zoning Administrator in the enforcement of the zoning ordinance
2. Variance. Authorize, upon appeal in specific cases, a variance from the terms of the zoning ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the zoning ordinance will, in an individual case result in practical difficulty or unnecessary hardship, so that the spirit of the zoning ordinance shall be observed, public safety and welfare secured, and substantial justice done.

3. Conditional Use Permits. Hear requests for conditional use permits and grant the permits in accordance with the guidelines set forth by the applicable ordinances.

4. Appeals. Appeals to the Zoning Board of Adjustment concerning interpretation or administration of this zoning ordinance may be taken by any person aggrieved or by an officer, department or board of the town.

Decisions

The concurring vote of four members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which it is required to or to effect any variation of the zoning ordinance. On all appeals, applications and matters brought before the Zoning Board of Adjustment, the Board shall inform, in writing, the applicant of its decisions. The Board must also inform, in writing, all persons who, at the meeting, specifically request a copy of the decision.

Meetings

Meetings of the Board shall be held on the third Thursday of each month at 6:00 p.m. and at other such times as the Board may determine. The Chair, or in their absence the Vice Chair, may administer oaths. *(Revised 3/8/10)*

Compensation

Members of the Zoning Board of Adjustment shall serve without compensation except that they be reimbursed for actual expenses incident to the performance of their duties within the limits of any funds available to the commission.

VIII. Appendices

Code of Ethics for Members of Boards and Commissions of the Town of Black Mountain, North Carolina

WHEREAS, Section 160A-86 of the North Carolina General Statutes requires local governing boards to adopt a code of ethics and, pursuant to Section 160A-86, the Black Mountain Board of Aldermen has previously adopted a Code of Ethics for the Mayor and Board of Aldermen, and

WHEREAS, it is appropriate that members of Town boards, committees, and commissions, as well as Mayoral and Board of Aldermen appointees to non-Town bodies (hereinafter "Board Members"),also adhere to a Code of Ethics.

NOW THEREFORE, in recognition of our blessings and obligations as citizens of the State of North Carolina and as public officials representing the citizens of the Town of Black Mountain, and acting pursuant to the requirements of Section 160A-86 of the North Carolina General Statutes, we the Board of Aldermen do hereby adopt the following General Principles and Code of Ethics to guide Boards Members in their lawful decision-making.

GENERAL PRINCIPLES UNDERLYING THE CODE OF ETHICS

- The stability and proper operation of democratic representative government depend upon public confidence in the integrity of the government and upon responsible exercise of the trust conferred by the people upon their elected officials.

- Governmental decisions and policy must be made and implemented through proper channels and processes of the governmental structure.

- Board Members must be able to act in a manner that maintains their integrity and independence, yet is responsive to the interests and needs of those they represent.

- Board Members must always remain aware that they may, at various times, play different roles:
  - — As advisors, who balance the public interest and private rights in considering and recommending, among other things, ordinances, policies, and decisions
  - — As decision-makers, who arrive at fair and impartial determinations.

- Board Members must know how to distinguish among these roles, to determine when each role is appropriate, and to act accordingly.

- Board Members must be aware of their obligation to conform their behavior to standards of ethical conduct that warrant the trust of the Mayor and Board of Aldermen and the citizens of Black Mountain. Each Board Member must find within his or her own conscience the touchstone by which to determine what conduct is appropriate.

CODE OF ETHICS

The purpose of this Code of Ethics is to establish guidelines for ethical standards of conduct for Board Members and to help determine what conduct is appropriate in particular cases. It should not be considered a substitute for the law or for a member's best judgment.
Section 1.

Board Members should obey all laws applicable to their official actions. Board Members should be guided by the spirit as well as the letter of the law in whatever they do.

At the same time, Board Members should feel free to assert policy positions and opinions without fear of reprisal from fellow Board members or citizens. However in doing so, Board Members:

(a) shall be mindful that they were appointed by the Mayor or Board of Aldermen, or by another appointing authority to a Town Board, Committee, or Commission and, therefore, if they are advising or advocating a position that is contrary to a Council policy, that they notify the Mayor and Board of Aldermen of such as soon as practicable;

(b) who serve in an advisory capacity shall be mindful that their chief responsibility is to advise the Mayor and Board of Aldermen or other decision-making body

rather than to advocate to the public at large, particularly when the position of advocacy is contrary to a Council policy;

(c) shall understand that they hold a position of trust on behalf of the Town and its citizens; and

(d) shall assert policy positions and opinions on matters within or related to the jurisdiction and subject matter of the body on which they serve only through the transparency of official proceedings of the body or in a capacity and manner appropriate for a member of such body. Board Members shall not represent their individual views as being representative of the full body unless they have been formally authorized by the body to do so.

These guidelines are especially important to Chairpersons who must recognize that they are often viewed as speaking for the body.

To declare that a Board Member is behaving unethically because one disagrees with that official on a question of policy (and not because of the council member's behavior) is unfair, dishonest, irresponsible, and itself unethical.

Section 2.

Board Members should act with integrity and independence from improper influence as they exercise the duties of their offices. Characteristics and behaviors consistent with this standard include the following:

- Adhering firmly to a code of sound values
- Exhibiting trustworthiness
- Using their best independent judgment to pursue the common good as they see it, presenting their opinions to all in a reasonable, forthright, consistent manner
- Remaining incorruptible, self-governing, and unaffected by improper influence while at the same time being able to consider the opinions and ideas of others
- For Board Members who act in a quasi-judicial capacity, disclosing contacts and information about issues that they receive outside of public meetings and refraining from seeking or receiving information about quasi-judicial matters outside of the quasi-judicial proceedings themselves
- Treating other Board Members and the public with respect and honoring the opinions of others even when the board members disagree with those opinions
- Showing respect for their offices and not behaving in ways that reflect badly on those offices
- Recognizing that they are part of a larger group and acting accordingly

- Recognizing that individual Board Members are not generally allowed to act on behalf of the body but may only do so if the body specifically authorizes it, and that the body must take official action as a body

Section 3.a.

Board Members should avoid impropriety in the exercise of their official duties. Their official actions should be above reproach and they should not use their official position for personal gain. Although opinions may vary about what behavior is inappropriate, the Board of Aldermen will consider impropriety in terms of whether a reasonable person who is aware of all of the relevant facts and circumstances surrounding the Board Member's action would conclude that the action was inappropriate.

Section 3.b.

If a Board Member believes that his or her actions, while legal and ethical, may be misunderstood, the official should seek the advice of the Town Attorney and should consider publicly disclosing the facts of the situation and the steps taken to resolve it (such as consulting with the attorney).

Section 4.

Board Members should faithfully perform the duties of their offices. They should act as the especially responsible citizens whom others can trust and respect. They should set a good example for others in the community, keeping in mind that trust and respect must continually be earned.

Board Members should faithfully attend and prepare for meetings.

Board Members should be willing to bear their fair share of the body's workload. To the extent appropriate, they should be willing to put the Town's interests ahead of their own.

Section 5.

Board Members should conduct the affairs of the board in an open and public manner. They should comply with all applicable laws governing open meetings and public records, recognizing that doing so is an important way to be worthy of the public's trust. They should remember when they meet that they are conducting the public's business. They should also remember that local government records belong to the public and not to them or Town employees.

In order to ensure strict compliance with the laws concerning openness, the Mayor and Board of Aldermen members have made it clear that an environment of transparency and candor is to be maintained at all times in the governmental unit. They should take deliberate steps to make certain that any closed sessions held by the body are lawfully conducted and that such sessions do not stray from the purposes for which they are called.

Sanctions
Following the review of an allegation against a member of a Town board or commission conducted pursuant to Section 2, the Town Board of Aldermen may sanction the member who was the subject of the review. Potential sanctions include removal of the member, adoption of a Resolution of Censure, and any other lawful sanction within the Board of Aldermen's power.

ACKNOWLEDGEMENT OF RECEIPT OF Code of Ethics for Members of Boards, Committees, and Commissions of the Town of Black Mountain, North Carolina

On the date written below, I received the "Code of Ethics for Members of Boards, Committees, and Commissions of the Town of Black Mountain, North Carolina" I acknowledge this policy contains basic information related to serving as a volunteer on a board or commission.

I understand that I am responsible for reviewing the contents of this policy and asking questions if I do not understand any part of it.

DATE: _____

NAME: _____

BOARD OR COMMISSION:

_____

SIGNATURE: _____

(A signed copy of this form will be maintained in the Town Clerk's Office with the application once appointed to serve.)

Town of Black Mountain
Boards & Commissions Meeting Schedule

ABC Board

- ***3 Member Board each serving a 3- year term.***
- **Meetings will be held on the 3rd Thursday, 3:00 p.m. at the ABC Store.**
- The ABC Board is responsible for the general oversight of the Town operated ABC store.
- Members must live within corporate limits of Black Mountain.
- Board of Aldermen will appoint the Chair.

Greenways Commission

- ***7 Member Commission each serving a 3-year term.***
- **Meetings will be held on 3rd Tuesday, 7:00 p.m. at Town Hall.**
- The Greenways Commission exists to advise the Board of Aldermen about greenways development and management, to work with staff to develop the greenways system, and to actively promote public education and awareness of the benefits of greenways.
- Members must be full-time residents of the East Buncombe Fire District (recognizing that the Black Mountain Greenways Commission may choose to promote construction of a regional network that expands beyond the limits of the Town.)
- Commission will elect Chair and Vice Chair.

Historic Preservation Commission

- ***5 Member Commission each serving a 3-year term.***
- **Meetings will be held on 3rd Wednesday, 6:00 p.m. at Town Hall.**
- The Historic Preservation Commission's purpose is to designate historic districts and landmarks within the Town of Black Mountain. In addition, this commission shall develop and recommend to the Board of Aldermen rules and regulations governing the designation and maintenance of historic properties in the Town.
- Members must live within the territorial jurisdiction of the municipality. Commission shall adopt rules of procedure governing its meetings and the conduct of official business and bylaws governing the election of officers and related matters.
- Commission will elect Chair and Vice Chair.

Planning Board

- ***7 Member Board each serving a 3-year term.***
- **Meetings will be held on the 4th Monday, 6:00 p.m. at Town Hall.**
- The Planning Board is established to advise the Board of Aldermen on matters related to land use and community development. The Board shall be governed by the terms of GS §§ 160A-360 through 160A-387 and by the terms of the Town Zoning Ordinance enacted December 1982 and Subdivision Regulations enacted September 1985, and any subsequent amendments thereto. All Board members shall thoroughly familiarize themselves with the provisions of these statutes and ordinances.
- Members must reside within the corporate limits of the Town of Black Mountain.
- The Planning Board will appoint the Chair.

Recreation Commission

- ***5 Member Commission each serving a 3-year term.***
- **Meetings will be held on the 4th Thursday, 5:30 p.m. at Town Hall.**
- The Recreation Commission advises the Board of Aldermen on matters related to public recreation opportunities as provided by the Town of Black Mountain.
- A minimum of three-fifths of the membership shall be made up of full-time residents within the corporate limits of Black Mountain. The remaining two-fifths of the membership may be made up of residents who reside in the East Buncombe Fire District but not within the corporate limits of any incorporated municipality.
- The Commission will appoint the Chair.

Urban Forestry Commission

- ***5 Member Commission each serving a 3-year term.***
- **Meetings held on the 1st Tuesday, 5:30 p.m. at Town Hall.**
- The Urban Forestry Commission assists in the administration of the Town of Black Mountain tree ordinance as it pertains to advice on the regulation of tree planting, maintenance, and removal on publicly owned and maintained property within the Town.
- A minimum of three-fifths of the membership shall be made up of full-time residents within the corporate limits of Black Mountain. The remaining two-fifths may be residents who does 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.
- The Commission will appoint the Chair and Vice Chair.

Zoning Board of Adjustment

- ***5 Members (each serving a 3-year term)/3 Alternates (without expiring term).*** Any vacancy in the membership shall be filled by the first alternate member, who shall serve the remainder of the unexpired term. The Board of Aldermen would only, and always, be appointing new members to the Board into the third alternate position.
- **Meetings will be held on the 3rd Thursday, 6:00 p.m. at Town Hall.**
- The Zoning Board of Adjustment (ZBA) is established as a "quasi-judicial" administrative Board that operates on a level between the enforcement officials of the Town and the courts. The purpose of the ZBA is to hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with enforcement of an ordinance adopted pursuant to the land use regulations adopted by the Town. In addition, under the provisions of the Town's zoning regulations, the ZBA is responsible for the issuance of Conditional Use Permits.
- Members must be full-time residents within the corporate limits of Black Mountain.
- The ZBA Board will appoint the Chair.

The "Riggins Rules":

Suggested Do's & Don'ts for the Conduct of Public Hearings and the Deportment of Members of Boards, Commissions, & Other Bodies

by Fred Riggins

[Editor's Note: The "Riggins Rules" were brought to my attention by Bev Moody. Bev spent 26 years with the City of Phoenix Planning Department before moving to his current position with the Arizona Department of Commerce. During that time he knew the late Fred Riggins, a former Chairman of the Phoenix Planning Commission and author of these "Suggested Do's & Don'ts" (since re-titled the "Riggins Rules" in his honor). Bev Moody notes that the Riggins Rules have been left just as Fred Riggins wrote them in 1967 "because in their bluff, crusty, no-nonsense style, the man himself shines through." As Bev further explains, "you may notice that Mr. Riggins did not follow the principles of non-sexist language that prevail today ... please be forgiving as he was raised in and wrote these in less sensitive times — and it doesn't detract from the good advice he offers."

We'd very much like to get some reaction from you, our readers, to any of the Riggins Rules that particularly strike you — ones that you agree with or ones you disagree with. Or, perhaps you've had an experience that relates to one of Riggins' observations. Please take a few minutes to jot down your comment(s) and mail them to us at: P.O. Box 4295, Burlington, VT 05406, or FAX them to: (802) 862-1882].

1. Don't accept an appointment or nomination to a Board, Commission, or Council unless you expect to attend 99.9999 percent of the regular and special meetings, including inspection trips, briefings and public functions where your presence is expected.

If your participation falls below 85 percent during any six months' period, you should tender your resignation. You aren't doing your job. Your aren't keeping well enough informed to make intelligent decisions, and you are making other people do your work for you and assume your not inconsiderable responsibility. Your effectiveness and the regard given to your opinions by other members will be in direct ratio to your attendance.

2. Do create a good impression of city government. Remember that this is the first important contact that many of the people in the audience have had with the administration of their city and for some this is the most important matter in which they have ever been involved. Many will never be back again and many will never have another such contact and experience. Your performance will create in their minds the picture which they will always carry with them of "the way the city is run." Make it as pleasant and comforting a picture as possible.

3. Do be on time. If the hearing is scheduled at 7:30, the gavel should descend at the exact hour, and the hearing begin, if there is a quorum. If you have to wait ten minutes for a quorum and there are 100 people in the room, the straggler has wasted two full working days of someone's time besides creating a very bad beginning for what is a very important occasion for most of those present.

4. Don't dress like a bum. Shave, wear a tie, and remember that a coat is never out of place. The people in the audience think you are a very important person. Don't disappoint them by your appearance, conduct, and attitude.

5. Don't mingle with friends, acquaintances, unknown applicants or objectors in the audience before the meeting or during a recess period, if it can be politely avoided. You will invariably create the impression with the uninformed that there is something crooked going on, especially when you vote favorably on the case of the applicant you were seen conversing with. When the other fellow's case comes up and you deny it, he says, "Well, it's easy enough to see that you've gotta know the right people if you ever expect to get anywhere around here." Save your socializing and fraternizing for some other time and place.

6. Don't discuss a case privately and as a single member of a body with an applicant or objector prior to the filing and prior to

the hearing if it can be politely avoided. In the event that it is not avoidable, and many times it is not, be very non-committal, don't be too free with advice, and by all means explain that you are only one member of the body, that you have not had an opportunity to study the matter thoroughly, that you have not seen the staff recommendation, and that you have no way of knowing what opposition there may develop or what will occur at the public hearing.

Be certain that the person concerned understands that you cannot commit yourself in any manner, except to assure him that he may expect a fair and impartial hearing. Even if the case looks pretty good to you, it is wise to be pessimistic about his chances of securing approval. If you give him any encouragement and any advice and he is then denied, he will hate you until your dying day and tell everyone in town that he did just exactly what you told him to do and then, like a dirty dog, you voted against him.

7. Do your homework. Spend any amount of time necessary to become thoroughly familiar with each matter which is to come before you. It is grossly unfair to the applicant and to the City for you to act on a matter with which you have no previous knowledge or with which you are only vaguely familiar. And you will make some horrible and disturbing decisions.

8. Don't indicate by word or action how you intend to vote during the portion of the hearing devoted to presentations by the applicant, presentations by any persons appearing in objection, and comments by members of the staff.

During this period your body is the judge and the jury and it is no more appropriate for you to express an opinion as to the proper decision, prior to hearing *all* of the testimony, than it would be for a judge or jury member to announce his firm conviction in the middle of a court trial regarding the guilt or innocence of the defendant. This is not clearly understood by a majority of persons sitting on hearing bodies.

It is not too difficult to phrase one's questions or comments in a manner that implies that you are seeking information rather than stating an irrefutable fact and that your mind is closed to further argument.

One does not say, "I happen to know that the applicant has no intention of placing an apartment building on this site. In fact, it has been sold subject to zoning and the purchaser intends to put a mobile home park here if he can get a special permit." Rather than this, one could say, "We have been furnished with some information which indicates that perhaps your plans are not too firm regarding the development you propose. In fact, there are some who are concerned about a rumor that the property is being sold and that the new owner planned to put a mobile home park at this location, if he can secure the necessary permit. Would you care to comment on this concern of the neighborhood and tell us if there is any truth in this rumor?" The same result is accomplished, the information is brought out and made part of the record and you don't look as if you are leading the attack to secure defeat of the applicant's request.

9. Don't fail to disqualify yourself if either directly or indirectly you have any financial interest in the outcome of the hearing, *and* let your conscience be your guide where it could be said that moral, ethical, political, or other considerations, such as personal animosity, would not permit you to make a fair and impartial decision.

In disqualifying yourself, *do not* state your reasons inasmuch as the mere stating of your reasons can be construed as exerting undue influence on your fellow members. To avoid all accusations of undue influence, it is generally wise to leave the room and ask that the record show that you did so and that you did not indicate by word or action whether

continued on next page

"Riggins Rules"

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you were in favor of, or opposed to, the matter under discussion.

10. Do rotate the seating in some regular manner each successive meeting to prevent a "strong" member from gradually dominating a "weak" and indecisive member always seated next to him. This will also prevent the forming of little cliques or a not infrequent grouping of members to the left of the Chair who always oppose those to the right of the Chair, regardless of the merits of the case, to the great detriment of the applicant, the City and other interested parties.

11. Do be polite and impartial, as helpful as possible to the nervous, the frightened and the uneducated, and patient with the confused.

12. Do be attentive. Those appearing before you have probably spent hours and hours preparing and rehearsing their arguments. The least you can do is *listen* and make them think that you are as interested as you should be. Refrain from talking to other members, passing notes and studying unrelated papers.

13. Don't interrupt a presentation until the question period, except for very short and *necessary* clarifying remarks or queries. Most applicants have arranged their remarks in a logical sequence and the thing about which you are so concerned will probably be covered if you can force yourself to be quiet for a few minutes. You can wreck his whole case by a long series of unnecessary questions at the wrong time. He will be your enemy forever.

14. Don't permit more than one person at the podium and microphone at any one time.

15. Don't permit a person to directly question or interrogate other persons in the audience. All questions should be addressed to the Chair and to the hearing body. When this person has finished his discussion and stated the questions to which he would like to have answers, then the Chair will permit those who care to make an answer to come forward and do so, but only voluntarily. Do not permit anyone to *demand* answers to all and sundry questions, especially if it is obviously done for the purposes of harassment.

16. Don't use first names in addressing *anyone at all* during the course of the hearing. This includes audience, applicants, members of your particular body, even if the person concerned is your brother or your best friend.

Nothing, repeat *nothing* creates a more unfavorable impression on the public than this practice. It is poor "hearing manners," destroys the formality of the occasion, and makes the uninformed certain that some sort of "buddy-buddy deal" is about to be consummated. If you just can't bring yourself to calling someone Mr. or Mrs., use the third person form and call him "the applicant," or "the person who is objecting," or "the gentleman (or lady)," who is appearing here in connection with this case.

17. Do show great respect for the chair, always addressing the Chairman as "Mr. Chairman," "The Chairman," or "Chairman Jones," and always wait to be recognized before continuing. This will set an example for applicants and others wishing to be heard and will contribute a great deal toward the orderliness of the proceedings.

18. Don't be critical of attorneys who sometimes feel impelled to give unnecessarily lengthy presentations on behalf of their clients. Avoid the strong temptation to make matters as difficult as possible for them. They are just trying to make a living and must convince their clients that they are really earning the rather substantial fee which they feel their service merits.

19. Don't indulge in personalities and don't permit anyone else to do so.

20. Don't try to make the applicant or any other person appearing before you look like a fool by the nature of your questions or remarks. This is often a temptation, especially when it is apparent that someone is being slightly devious and less than forthright in his testimony. But don't do it. If you must "expose" someone, do it as gently and kindly as possible.

21. Don't become involved in altercations. Some persons seem to come to hearings with the express purpose of "telling them guys down there how the cow ate the cabbage." If you answer their irrelevant rantings, you are immediately involved in a *fight*.

Don't answer or try to defend yourself. You are there to hear testimony and make decisions based thereon, not to head up a debating society. Remember, you are the judge and

the jury. In most cases, it is sufficient to say, "thank you very much for coming here and giving us the benefit of your thinking. I am sure that the members of this body will give your remarks serious consideration when they are making their individual determinations on the merits of this case. Is there anyone who wishes to be heard?"

22. Do invite interested persons to come forward where they can see when an applicant is discussing or talking from a diagram, site plan, or exhibit which is not visible to the audience.

23. Do not permit people to speak from the audience. If it is important enough for them to speak at all, it is important enough for them to be recognized, come forward, give their name and address and say what they care to, if their remarks are pertinent.

24. Do not permit people to leave the podium and microphone and approach closer to the hearing body except in unusual circumstances, usually to show a small exhibit or to explain some detail. This ordinarily breaks down into a small mumbling session at one end of the dais with one or two members of the hearing body; the others are uncertain about what is going on. The conversation usually does not get recorded, cannot be heard by the audience, and is almost impossible to control from the Chair.

25. Don't become involved in neighborhood quarrels or wind up as the referee even if you are a veritable Solomon. No matter how fair or impartial you should be, both sides will be mad at you. Stick to the merits of the case and rule out-of-order testimony which is irrelevant, personal, hearsay, and not pertinent to the matter being heard.

26. Don't be vindictive and "punish" the applicant for some real or imagined affront to you or your Body on some previous occasion, perhaps bearing no relation to the present hearing. It must be assumed that he is there legally, he has a right to be heard, and he has a right to a fair and impartial hearing on the merits of his present case without reference to something which he might or might not have done in the past or will perhaps do in the future.

27. Don't try to be a hero to beautiful women, little old ladies, widowed mothers with tiny infants in their arms, and the financially and socially distressed. Be sympathetic, but objective, and don't get carried away with such a strong desire to help that you throw the rule book out the window. Ninety-nine times out of a hundred you will do them some questionable service at the expense of their neighbors or the City and your kind-hearted action will come back to haunt you much sooner than anyone could have imagined. Stick to the rules.

28. Don't assume the role of a fairy godfather to those who have become involved in bad business deals or other self-imposed difficulties.

29. Do not fail to give a reason when making a motion for approval or denial of an applicant's request. If you fail to do this, the applicant, any objectors, a reviewing body of higher authority, or the courts may well assume that your decision was an arbitrary one not supported by the facts and should be reversed. Always mention the staff recommendation.

30. Do not take staff recommendations lightly. These recommendations are made after much study by professional people with years of experience in their field and are based on pertinent laws, ordinances, regulations, policies, and practices developed by you and your predecessors. The recommendations of a good staff in possession of all the facts will almost always produce a *technically correct* recommendation.

Your job is to temper this recommendation with information developed during the hearing which was not available to the staff. It is not unusual for a staff to voluntarily reverse or change the details of its recommendation during the course of a hearing. Always announce the staff recommendation prior to hearing any testimony and always make appropriate mention of it in the final decision.

31. Don't forget that the staff is there to help you in any way possible. It is composed of very capable professional people with vast experience. Lean on them heavily. They can pull you out of many a bad spot if you give them a chance. Or they may just sit and let you stew, if you do not give them the respect which is their due.

Remember that their usual practice is to remain silent unless they are specifically asked to comment. Most of them consider it presumptuous and unprofessional to inject any unsolicited comments into the hearings.

continued on next page

"Riggins Rules"
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Always ask them to comment prior to the final vote.

32. Don't try to answer technical questions even if you are sure that you know the answer. You probably *don't* and will wind up looking like a fool. Refer these matters to the staff. That is one of the things they are there for. They have intimate day-by-day working experience with all pertinent ordinances and can nearly always give a timely, up-to-the-minute, professional dissertation on any subject in their field. And besides, it makes them more important and helps create an image of competency which is most helpful in assuring the public that their case has received more than a cursory glance and an arbitrary decision.

Lay members of a hearing body who "explain" ordinances to the audience usually wind up their less than accurate remarks with the pretty lame comment, "That's the way I understand it and if I am wrong, I would appreciate it if the staff would correct me." The staff usually does correct them, and ordinarily at some length. *Don't* try to show how smart you are, because you're not.

33. Don't try to ease your conscience and toss the applicant a bone by granting him something less than he asked for, something he doesn't want, and something he can't use. In *all* cases where it is appropriate, *give him what he asked for or deny it.* To do otherwise will only encourage applicants to ask for the "moon and the stars" in the hope that they will, at the worst, get the minimum requirements. A reputation for approving or denying applications as filed will result in much more realistic requests and make your job much easier.

34. Do vote by roll call, except for routine administrative matters. This is wonderful character training for each member of the body and emphasizes the "moment of truth" when he must look the applicant in the eye, make his own individual decision, and say *"aye"* or *"nay"* in a loud clear voice, all alone, with no one to hide behind. The alternate voting method is difficult for the Secretary to record, doesn't mean anything on a tape recording, is many times quite confusing, and gives cowards an opportunity to change their minds and vote twice when they are caught in the minority.

35. Don't show any displeasure or elation, by word or action, over the outcome of a vote. This is very bad hearing manners and won't lead to the maintenance of a friendly cooperative spirit among members of a Body. It will lead to the creation of little cliques whose members vote in a block and become more interested in clobbering each other than in making fair and equitable decisions.

36. Do discourage any post-mortem remarks by applicant, objectors, or members after the final vote and decision is announced, especially those afterthoughts designed to reopen the case. It will invariably result in an unpleasant wrangle. Just say, "I'm sorry, but the final decision has been made. If you wish to submit additional testimony, it will be necessary for you to state your reasons by letter and the Body will decide at a subsequent meeting whether or not they wish to reopen the case. The next case on the agenda will be ——."

37. Do not hesitate to continue a case or take it under advisement if more information or greater deliberation is truly necessary, but do not use these administrative actions merely to avoid or delay making a decision before a hostile applicant or audience.

38. Do sit down and have a long soul searching session with yourself if you find that you are consistently "out in left field," that no one seems inclined to second your profound motions, and that you are quite often a minority of one. You might be theoretically right, and probably are, but give some thought to what is practical, possible, and just. Don't be "stiff-necked" in your opinions. *Give* a little.

39. Don't select chairmen on a seniority basis alone and *don't* pass the office along from member to member as a reward and honor. The nicest guy in the world, the hardest working, the most interested and your most valuable member can be indescribably horrible in the Chair. This is just one of those facts of life which is hard to explain, but, unfortunately, all too true.

As occasion presents itself, give prospective chairmen a chance to preside, head up a sub-committee, report on special projects, and otherwise prepare themselves and demonstrate their abilities and leadership under pressure. ◆

Public Records

In General

GS 132-1 establishes a very broad definition of "public record", generally unlimited by the form of the material in question or by the circumstances under which it was received or created. The statute begins by including within the definition not only documents and other papers but also "maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records and artifacts,.....regardless of physical form or characteristics." The statue then goes on to state that "public record" means the listed items "made or received pursuant to law or ordinance in connection with the transaction of public business" by any agency of North Carolina government or its subdivisions.

The public records and public information compiled by the agencies of North Carolina government or its subdivisions are the property of the people. Therefore, it is the policy of this State that the people may obtain copies of their public records and public information free or at minimal cost unless otherwise specifically provided by law. As used herein, "minimal cost" shall mean the actual cost of reproducing the public record or public information.

Phone record transcripts and emails are considered public record and can be subject to being revealed for public view.

Closed Sessions

North Carolina General Statutes
143-318.11 (a)

Calling a closed session: A public body may hold a closed session only upon a motion duly made and adopted at an open meeting. Every motion to close a meeting shall cite one or more of the permissible purposes listed below.

(1) To prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes. **NOTE:** Must state name or citation of law that renders the information to be discussed privileged or confidential. *NCGS § 143-318.11(a)(1)*

(2) To prevent the premature disclosure of an honorary degree, scholarship, prize, or similar award. *NCGS § 143-318.11(a)(2)*

(3) To consult with an attorney employed or retained by the public body in order to preserve the attorney – client privilege between the attorney and the public body, which privilege is hereby acknowledged. General policy matters may not be discussed in a closed session and nothing herein shall be construed to permit a public body to close a meeting that otherwise would be open merely because an attorney employed or retained by the public body is a

participant. The public body may consider and give instructions to an attorney concerning the handling or settlement of a claim, judicial action, mediation, arbitration, or administrative procedure. If the public body has approved or considered a settlement, other than a malpractice settlement by or on behalf of a hospital, in closed session, the terms of that settlement shall be reported to the public body and entered into its minutes as soon as possible within a reasonable time after the settlement is concluded. **NOTE:** Must identify parties in existing lawsuit. *NCGS §143-318.11(a)(3)*

(4) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations. The action approving the signing of an economic development contract or commitment, or the action authorizing the payment of economic development expenditures, shall be taken in an open session. *NCGS §143-318.11(a)(4)*

(5) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or leases; or (ii) the amount of compensation and other material terms of an employment contract or proposed employment contract. *NCGS §143-318.11(a)(5)*

Closed Sessions- North Carolina General Statutes 143-318.11(a)

(6) To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee. General personnel policy issues may not be considered in a closed session. A public body may not consider the qualifications, competence, performance, character, fitness, appointment, or removal of a member of the public body or another body and may not consider or fill a vacancy among its own membership except in an open meeting. Final action making an appointment or discharge or removal by a public body having final authority for the appointment or discharge or removal shall be taken in an open meeting. *NCGS §143-318.11(a)(6)*

(7) To plan, conduct, or hear reports concerning investigations of alleged criminal misconduct. *NCGS §143-318.11(a)(7)*

(8) To formulate plans by a local board of education relating to emergency response to incidents of school violence. *NCGS §143-318.11(a)(8)*

(9) To discuss and take action regarding plans to protect public safety as it relates to existing or potential terrorist activity and to receive briefings by staff members, legal counsel, or law enforcement or emergency service officials concerning actions taken or to be taken to respond to such activity. *NCGS §143-318.11(a)(9)*

Open Meetings

What kinds of groups are subject to the open meetings law?

The law extends to any public body.

What is a public body?

It is any authority board, commission, committee, council, or other body of state or local government that meets both of two conditions. First, it must have at least two members. And second, it must be authorized to exercise at least one of the following five functions; legislative, policy-making, quasi-judicial, administrative, or advisory. It is hard to image a formal group that is not authorized to exercise at least one of the listed functions.

What is an "official meeting"?

An official meeting occurs whenever a majority of the members of a group meet – in person or by some electronic means, such as a conference telephone or TV – in order to do any of the following:

- Conduct a hearing,
- Deliberate,
- Take action or
- Otherwise transact public business.

Code of Ethics for Members of Boards and Commissions of the Town of Black Mountain, North Carolina

WHEREAS, Section 160A-86 of the North Carolina General Statutes requires local governing boards to adopt a code of ethics and, pursuant to Section 160A-86, the Black Mountain Board of Aldermen has previously adopted a Code of Ethics for the Mayor and Board of Aldermen, and

WHEREAS, it is appropriate that members of Town boards, committees, and commissions, as well as Mayoral and Board of Aldermen appointees to non-Town bodies (hereinafter "Board Members"),also adhere to a Code of Ethics.

NOW THEREFORE, in recognition of our blessings and obligations as citizens of the State of North Carolina and as public officials representing the citizens of the Town of Black Mountain, and acting pursuant to the requirements of Section 160A-86 of the North Carolina General Statutes, we the Board of Aldermen do hereby adopt the following General Principles and Code of Ethics to guide Boards Members in their lawful decision-making.

GENERAL PRINCIPLES UNDERLYING THE CODE OF ETHICS

- The stability and proper operation of democratic representative government depend upon public confidence in the integrity of the government and upon responsible exercise of the trust conferred by the people upon their elected officials.

- Governmental decisions and policy must be made and implemented through proper channels and processes of the governmental structure.

- Board Members must be able to act in a manner that maintains their integrity and independence, yet is responsive to the interests and needs of those they represent.

- Board Members must always remain aware that they may, at various times, play different roles:
  - As advisors, who balance the public interest and private rights in considering and recommending, among other things, ordinances, policies, and decisions
  - As decision-makers, who arrive at fair and impartial determinations.

- Board Members must know how to distinguish among these roles, to determine when each role is appropriate, and to act accordingly.

- Board Members must be aware of their obligation to conform their behavior to standards of ethical conduct that warrant the trust of the Mayor and Board of Aldermen and the citizens of Black Mountain. Each Board Member must find within his or her own conscience the touchstone by which to determine what conduct is appropriate.

CODE OF ETHICS

The purpose of this Code of Ethics is to establish guidelines for ethical standards of conduct for Board Members and to help determine what conduct is appropriate in particular cases. It should not be considered a substitute for the law or for a member's best judgment.

Section 1.

Board Members should obey all laws applicable to their official actions. Board Members should be guided by the spirit as well as the letter of the law in whatever they do.

At the same time, Board Members should feel free to assert policy positions and opinions without fear of reprisal from fellow Board members or citizens. However in doing so, Board Members:

(a) shall be mindful that they were appointed by the Mayor or Board of Aldermen, or by another appointing authority to a Town Board, Committee, or Commission and, therefore, if they are advising or advocating a position that is contrary to a Council policy, that they notify the Mayor and Board of Aldermen of such as soon as practicable;

(b) who serve in an advisory capacity shall be mindful that their chief responsibility is to advise the Mayor and Board of Aldermen or other decision-making body rather than to advocate to the public at large, particularly when the position of advocacy is contrary to a Council policy;

(c) shall understand that they hold a position of trust on behalf of the Town and its citizens; and

(d) shall assert policy positions and opinions on matters within or related to the jurisdiction and subject matter of the body on which they serve only through the transparency of official proceedings of the body or in a capacity and manner appropriate for a member of such body. Board Members shall not represent their individual views as being representative of the full body unless they have been formally authorized by the body to do so.

These guidelines are especially important to Chairpersons who must recognize that they are often viewed as speaking for the body.

To declare that a Board Member is behaving unethically because one disagrees with that official on a question of policy (and not because of the council member's behavior) is unfair, dishonest, irresponsible, and itself unethical.

Section 2.

Board Members should act with integrity and independence from improper influence as they exercise the duties of their offices. Characteristics and behaviors consistent with this standard include the following:

- Adhering firmly to a code of sound values
- Exhibiting trustworthiness
- Using their best independent judgment to pursue the common good as they see it, presenting their opinions to all in a reasonable, forthright, consistent manner
- Remaining incorruptible, self-governing, and unaffected by improper influence while at the same time being able to consider the opinions and ideas of others

- For Board Members who act in a quasi-judicial capacity, disclosing contacts and information about issues that they receive outside of public meetings and refraining from seeking or receiving information about quasi-judicial matters outside of the quasi-judicial proceedings themselves

- Treating other Board Members and the public with respect and honoring the opinions of others even when the board members disagree with those opinions

- Showing respect for their offices and not behaving in ways that reflect badly on those offices

- Recognizing that they are part of a larger group and acting accordingly

- Recognizing that individual Board Members are not generally allowed to act on behalf of the body but may only do so if the body specifically authorizes it, and that the body must take official action as a body

Section 3.a.

Board Members should avoid impropriety in the exercise of their official duties. Their official actions should be above reproach and they should not use their official position for personal gain. Although opinions may vary about what behavior is inappropriate, the Board of Aldermen will consider impropriety in terms of whether a reasonable person who is aware of all of the relevant facts and circumstances surrounding the Board Member's action would conclude that the action was inappropriate.

Section 3.b.

If a Board Member believes that his or her actions, while legal and ethical, may be misunderstood, the official should seek the advice of the Town Attorney and should consider publicly disclosing the facts of the situation and the steps taken to resolve it (such as consulting with the attorney).

Section 4.

Board Members should faithfully perform the duties of their offices. They should act as the especially responsible citizens whom others can trust and respect. They should set a good example for others in the community, keeping in mind that trust and respect must continually be earned.

Board Members should faithfully attend and prepare for meetings.

Board Members should be willing to bear their fair share of the body's workload. To the extent appropriate, they should be willing to put the Town's interests ahead of their own.

Section 5.

Board Members should conduct the affairs of the board in an open and public manner. They should comply with all applicable laws governing open meetings and public records, recognizing that doing so is an important way to be worthy of the public's trust. They should remember when they meet that they

are conducting the public's business. They should also remember that local government records belong to the public and not to them or Town employees.

In order to ensure strict compliance with the laws concerning openness, the Mayor and Board of Aldermen members have made it clear that an environment of transparency and candor is to be maintained at all times in the governmental unit. They should take deliberate steps to make certain that any closed sessions held by the body are lawfully conducted and that such sessions do not stray from the purposes for which they are called.

Sanctions
Following the review of an allegation against a member of a Town board or commission conducted pursuant to Section 2, the Town Board of Aldermen may sanction the member who was the subject of the review. Potential sanctions include removal of the member, adoption of a Resolution of Censure, and any other lawful sanction within the Board of Aldermen's power.

ACKNOWLEDGEMENT OF RECEIPT OF Code of Ethics for Members of Boards, Committees, and Commissions of the Town of Black Mountain, North Carolina

On the date written below, I received the "Code of Ethics for Members of Boards, Committees, and Commissions of the Town of Black Mountain, North Carolina" I acknowledge this policy contains basic information related to serving as a volunteer on a board or commission.

I understand that I am responsible for reviewing the contents of this policy and asking questions if I do not understand any part of it.

DATE: _____

NAME: _____

BOARD OR COMMISSION: _____

SIGNATURE: _____

(A signed copy of this form will be maintained in the Town Clerk's Office with the application once appointed to serve.)

Please Sign and Return this page to the Town Clerk

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TOWN OF BLACK MOUNTAIN
2018 - 2019
PLANNING BOARD MONTHLY MEETING SCHEDULE

REGULAR MEETING

AUGUST 27	FEBRUARY 25
SEPTEMBER 24	MARCH 25
OCTOBER 22	APRIL 22
NOVEMBER 26	MAY 27* 5/20
DECEMBER 24* 12/17 cancelled	JUNE 24
JANUARY 28	JULY 22

Other meetings called as necessary.

The Planning Board Regular meetings are held on the fourth Monday of every month at 6:00 p.m. at Town Hall, 160 Midland Avenue, Black Mountain, NC 28711.

Jennifer Tipton
Zoning Administrator

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

Adopted:

Published in the Black Mountain News:

Posted: