# BLACK MOUNTAIN TOWN COUNCIL MINUTES

**February 9, 2026 | Regular Session Agenda | Time: 6:00 PM**

Town Hall Council Chambers | 160 Midland Avenue, Black Mountain, NC 28711

Black Mountain Town Council held their regular session agenda on Monday, February 9, 2026, at 6:00 PM in the Council Chambers of Town Hall, 160 Midland Avenue, Black Mountain, NC 28711.

## 1. CALL TO ORDER

Mayor C. Michael Sobol called the meeting to order at 6:00 p.m. with the following members in attendance: Mayor C. Michael Sobol, Vice Mayor Archie Pertiller, Council Member Alice Berry, Council Member Doug Hay, Council Member Pam King, Council Member Ryan Stone.

## 2. PROCLAMATIONS, AWARDS, RECOGNITIONS, SPECIAL RESOLUTIONS

**Black History Month Resolution.** Mayor Sobol read a resolution honoring Black History Month and Recognizing the 100th Anniversary of its Observance. There was a unanimous vote in favor to approve the resolution.

### RESOLUTION HONORING BLACK HISTORY MONTH AND RECOGNIZING THE 100TH ANNIVERSARY OF ITS OBSERVANCE

**Resolution No. R-26-11**

**WHEREAS,** Black History Month is observed each February to recognize and honor the history, culture, and contributions of African Americans to the United States; and

**WHEREAS,** in 1926 Dr. Carter G. Woodson established Negro History Week, laying the foundation for what has become Black History Month, and the year 2026 marks the 100th anniversary of this historic national observance; and

**WHEREAS,** African Americans have made enduring contributions to the civic, cultural, social, and economic life of the Town of Black Mountain, North Carolina, and the nation; and

**WHEREAS,** this centennial observance provides an opportunity to reflect on history, recognize progress, and reaffirm a shared commitment to equity, inclusion, and respect for all;

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Black Mountain, North Carolina, that the Town hereby recognizes Black History Month during the month of February and proudly commemorates the 100th anniversary of the national celebration of Black history.

**ADOPTED this 9th day of February, 2026**

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## 3. COMMUNICATIONS FROM STAFF, COUNCILS, COMMISSIONS & AGENCIES

**3.A.** **Active Mobility Commission Annual Report.** Julie White, Active Mobility Commission (AMC) Chair, provided the Commission's yearly report to the Council which included short-, mid-, and long-term goals of the AMC.

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**3.B.** **Police Department Annual Report.** Police Chief Parker gave the Police Department's annual report to the Council. Items mentioned in the report included the following:

- Public Safety building needed repairs and building issues.
- Showed graphics comparing Black Mountain Police Dept. to surrounding municipalities with staffing, budget comparison amounts, cost per citizen yearly for public safety, agencies entry pay and supervisor pay scales comparisons.
- Review of BMPD's operating budget and what percentage goes to each line item.
- Discussed risk review and accreditation of the agency- 1 of 5 in NC that are currently accredited.
- Discussion of BMPD mobile app and flock cameras.
- Review of crime statistics, arrests, charges, number of calls, training hours of officers, police vehicle resales.
- BMPD community service programs.
- www.police1.com/community-policing International magazine featured an article on the book "Where did Henry Go?", created by two BMPD officers.

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**3.C.** **Presentation by Black Mountain Community Emergency Response Team (CERT).** David Bilstrom gave a presentation on the Community Emergency Response Team (CERT) which assists Black Mountain's public safety agencies. ***A copy of the presentation is included as Appendix A at the end of these minutes.***

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## 4. CITIZEN COMMENTS

- Mark Henegan, Bush Farmhouse owner, spoke on a hopeful agreement with the Railroad right-of-way and parking.
- Jim Wright, Owners of Pyro Wright Fireworks, based in Black Mountain. Spoke about fireworks with the Town and would like opportunity to be hired for the 4th of July fireworks display for the Town.
- David Boughner, Town resident, offered comments on Town safety with pedestrians and motorists.
- Edwin Aaronson, 167 Vance Ave., spoke about the intersection at Black Mtn. Ave and Sutton Ave., and mitigation of the railroad train horn, with the intersection configurations.
- Cheryl Hyde, spoke about community conversations event on February 17th and encouraged Pyro Wright Fireworks, and the utilization of local businesses for services.

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**5. COMMUNICATION FROM MAYOR AND TOWN COUNCIL**

Mayor Sobol read remarks he gave from the recent Martin Luther King, Jr. community prayer breakfast.

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**6. COMMUNICATION FROM TOWN ATTORNEY & TOWN MANAGER –** none.

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**7. CONSENT AGENDA**

Interim Manager Hicks recommended edits to the consent agenda which included: 1) removing the call for the special meeting on March 5, 2026 at 5:00 p.m. to hear an appeal from an order to take corrective action for 850 Blue Ridge Rd, and 2) adding a resolution to apply for SRF funding with NC Division of Water Infrastructure for water system improvements. ***Council Member Alice Berry made a motion to amend the consent agenda as recommended. A vote of 5-0 in favor.***

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**7.A. Adoption of Meeting Minutes- April 23, December 15, 23, 31, 2025 and January 5, 8, 12, 21 & 23, 2026.**

***Vice Mayor Archie Pertiller made a motion to approve these meeting minutes as presented. A vote of 5-0 in favor.***

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**7.B. Monthly Tax Collector Report.**

***Vice Mayor Archie Pertiller made a motion to approve as presented. A vote of 5-0 in favor.***

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**7.C. Call for Public Hearing for Voluntary Annexation of Property Owned by Givens Highland Farms, known as Buncombe County PIN #0609-46-7498.00000 to be held on Monday, March 9, 2026, at 6:00 p.m. or as soon thereafter as possible, in the Council Room of Town Hall, 160 Midland Avenue.**

***Vice Mayor Archie Pertiller made a motion to approve the call for public hearing as presented. A vote of 5-0 in favor.***

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**7.D. Call for Public Hearing to Rezone 318 Tabernacle Road from R-1 to OI-6 (PIN #0609-46-7498.00000) from R-1 (Buncombe County zoning) to OI-6 (office and institutional) to be held on Monday, March 9, 2026, at 6:00 p.m., or as soon thereafter as possible, in the Council Room of Town Hall, 160 Midland Avenue.**

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***Vice Mayor Archie Pertiller made a motion to approve the call for public hearing as presented. A vote of 5-0 in favor.***

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**7.E. Call for Special Meeting on March 5, 2026 at 5:00 p.m. to hear an appeal from an order to take corrective action for 850 Blue Ridge Rd.***

***Item was removed from the consent agenda.***

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**7.F. Consideration of Resolution to Apply for State Revolving Fund (SRF): Hurricane Helene Funding Administered by NC Division of Water Infrastructure (NCDWI) to Support Water Supply Improvements & Water Storage Tank Improvements.**

***Vice Mayor Archie Pertiller made a motion to approve the resolution as presented. A vote of 5-0 in favor.***

**TOWN OF BLACK MOUNTAIN, NORTH CAROLINA**
**RESOLUTION AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE NORTH CAROLINA DIVISION OF WATER INFRASTRUCTURE STATE REVOLVING FUND (SRF) – HURRICANE HELENE FUNDING**

**RESOLUTION NO. # R-26-12**

**WHEREAS,** the Town of Black Mountain experienced significant impacts to its water infrastructure as a result of Hurricane Helene; and

**WHEREAS,** the North Carolina Division of Water Infrastructure (DWI) has made State Revolving Fund (SRF) Hurricane Helene funding available to assist eligible communities with water infrastructure improvements necessary to enhance system reliability, resiliency, and long-term sustainability; and

**WHEREAS,** the Town of Black Mountain is eligible to apply for up to $5,000,000 in SRF funding for water infrastructure improvements, including water supply improvements and water storage tank improvements; and

**WHEREAS,** under the SRF Hurricane Helene funding program, the Town qualifies for twenty-five percent (25%) principal forgiveness and seventy-five percent (75%) loan financing, subject to final program determinations by the North Carolina Division of Water Infrastructure; and

**WHEREAS,** submission of an application does not obligate the Town to accept funding, enter into a loan agreement, or incur debt, and any final financial commitment would require future review and formal approval by the Town Council; and

**WHEREAS,** the Town Council finds it to be in the best interest of the Town to pursue available funding opportunities to support critical water infrastructure needs while preserving the Town's ability to make informed financial decisions if funding is awarded.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Black Mountain, North Carolina, that:

1. The Town Manager, Assistant Town Manager, and/or their designees are hereby authorized to prepare and submit an application to the North Carolina Division of Water Infrastructure for up to $5,000,000 in State Revolving Fund Hurricane Helene funding for water supply and water storage tank improvements.

2. This authorization is for application purposes only and does not constitute approval to accept funding, execute loan documents, or incur debt on behalf of the Town.

3. Any award of SRF funding, including acceptance of principal forgiveness and loan financing terms, shall be subject to separate review and approval by the Town Council at a future public meeting.
4. The Town Manager and staff are authorized to execute all application-related documents and certifications required for submission of the SRF application.

**ADOPTED by the Town Council of the Town of Black Mountain, North Carolina, this 9th day of February, 2026.**

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## 8. PUBLIC HEARING – NONE.

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## 9. CITIZEN COMMENTS

Marilyn Sobanski spoke on the hours of Lake Tomahawk and Town Square Parks hours of operation asking the hours to be 5am-11pm, not proposed 5am-10pm.

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## 10. UNFINISHED BUSINESS

### 10.A. Approval of the Revised MOU between the Town and the Black Mountain Beautification Committee (BMBC).

Kathy Phillips, with BMBC, spoke to the Council. The Black Mountain Beautification Committee (BMBC) has revised its Memorandum of Understanding (MOU) with the Town of Black Mountain regarding collaboration on the Downtown Tree Revitalization Plan. The updated MOU outlines shared responsibilities between the Town and BMBC for tree care, revitalization, planting, maintenance, and ongoing coordination. This item was first brought before the Council at the December 8, 2025

meeting, which was tabled as Council requested a representative from BMBC attend a Council meeting for further discussion. The MOU formalizes the following primary responsibilities:

**Town of Black Mountain**

1. Allocate annual budget funds for ongoing maintenance of all downtown trees, including watering, pruning, fertilizing, and general care.
2. Provide weekly watering of downtown trees and planters and maintain rain barrels.
3. Collaborate with BMBC on maintenance planning and respond to reported needs.
4. Clean out and brick over identified empty tree wells.
5. Partner with BMBC to secure a certified arborist for annual maintenance.

**Black Mountain Beautification Committee**

1. Fund initial 2025 pruning, fertilization, air spading, and planting of approximately 15 new trees.
2. Use a donation from Circle K to purchase replacement trees and coordinate with a local arborist on appropriate species.
3. Organize volunteers for weeding and assist with monitoring tree conditions.
4. Report maintenance needs, arborist recommendations, and cost estimates to the Town.
5. Hire arborist Andrew Wagner for the initial revitalization work.
6. Upon completion of the initial 2025 project, ongoing maintenance and replacement responsibilities will rest solely with the Town of Black Mountain.

***Town Council Member Doug Hay made a motion to approve the Revised MOU between Town and Black Mountain Beautification Committee as presented. A vote of 5-0 in favor. A copy of the MOU is attached at the end of these minutes as Appendix B.***

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**10.B. Consideration of Town Code of Ordinances Amendment for Lake Tomahawk & Town Square Parks Operational Hours (Chapter 33, Article I, Sec. 33-3).**

At the January 12, 2026 Town Council meeting, discussion ensued about operational hours of Lake Tomahawk & Town Square parks. Council suggested amending the operational hours of these two parks to 5:00 a.m. to 10:00 p.m., daily, and asked this item to be brought back for formal approval, as it required a Town Code of Ordinances amendment. This text can be found in the Town Code of Ordinances as Chapter 33- Parks and Recreation, Article I- In General, Sec. 33-3: Closing Time Curfew for Public Parks and Recreational Areas. Discussion among Council ensued about hours of operation, and considering the closing time of 11:00 p.m., instead of 10:00 p.m. If issues persist with the closing time of 11:00 p.m., Council will consider another amendment.

***Council Member Hay made a motion to approve the following Town Ordinance amendment with closing hours of Lake Tomahawk & Town Square Parks being 11:00 p.m. A vote of 5-0 in favor.***

**ORDINANCE TO AMEND TOWN CODE OF ORDINANCES CHAPTER 33 – PARKS AND RECREATION, ARTICLE I – IN GENERAL, SEC. 33-3: CLOSING TIME CURFEW FOR PUBLIC PARKS AND RECREATIONAL AREAS.**

**ORDINANCE #: O-26-02**

**WHEREAS,** the Black Mountain Code of Ordinances was adopted by the Town Council on the 13th day of December 1993, and

**WHEREAS,** the Town of Black Mountain seeks to promote public safety for residents; and

**WHEREAS,** the Town Council finds it necessary to clarify and update existing ordinances governing closing time curfews for public parks and recreational areas; and

**NOW, THEREFORE BE IT ORDAINED** that Chapter 33- Parks and Recreation, Article I – In General, Sec. 33-3, of the Town of Black Mountain Code of Ordinances, be amended as follows (additions are underlined in bold and deletions are shown in red struck text):

CHAPTER 33 – PARKS & RECREATION

ARTICLE I – IN GENERAL

**Sec. 33-3. Closing time curfew for public parks and recreational areas.**

All public parks and recreational areas owned by the town and within the corporate limits of the town shall be closed to the general public between the hours of 9:00 p.m. and 6:00 a.m. and it shall be unlawful for any person to remain in or to enter said public parks and recreational areas during such hours; provided, however, that the provisions of this section shall not apply to the following:

(1) Employees or those employed by the town to maintain, protect, or conserve said parks and areas in the regular performance of their duties. This shall include any duly authorized law enforcement officer with jurisdiction in said parks or areas and in the performance of his official duties.

(2) Persons using the town clubhouse at Lake Tomahawk and surrounding pool and picnic area and the Black Mountain Golf Course when said parks, pool or other said areas designated in this subsection are open to use by persons having a lease, contract or prior agreement for the use thereof, or by the invitee and licensees of said persons.

(3) Any public park, recreational area or portion thereof where prior written permission has been obtained from the town manager or recreation director for an activity to extend beyond the hour of darkness. The ~~board of aldermen~~ **Town Council** may designate such other persons as it shall, from time to time, deem necessary to grant such written permission as set forth in this subsection.

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(4) The two lighted tennis courts near the Black Mountain Pool, which will be allowed to remain open until 10:30 p.m.

**(5) Lake Tomahawk Park and Town Square Park shall be closed to the general public between the hours of 11:00 p.m. and 5:00 a.m. and it shall be unlawful for any person to remain in or to enter these parks during such hours.**

(Code 1975, § 12-8; Code 1993, § 98.03; Ord. No. 0-80-7, 6-16-1980; **Ord No. O-26-02, 2-9-2026**).

**READ, APPROVED AND ADOPTED,** by a vote of 5-0 on this the 9th day of February 2026.

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## 11. NEW BUSINESS

### 11.A. Proposal for Financial Consultant Assistance with NC League of Municipalities "The League" (Amendment to Disaster Recovery Services MOA).

Interim Manager Hicks stated The League has agreed to provide contracted consultants to assist the town staff in learning and maintaining best practices in local government finance processes. The consultants will be on site as needed, at least until a full-time Finance Director can be hired. As a part of their services, they will be assisting Town staff in developing a detailed analysis of our grant funding and FEMA projects. Mr. Hicks stated The League will provide up to $30,000 in services without charge to the Town. The initial Memorandum of Agreement (MOA) with NCLM for Disaster Recovery Services was approved by the Town Council at the October 13, 2025 meeting, Resolution # R-25-67. This agenda item authorizes Amendment #1 to the existing Disaster Recovery Services MOA.

***Vice Mayor Archie Pertiller made a motion to approve this proposal for financial consultant assistance with the NCLM, the Amendment #1 to Disaster Recovery Services MOA, as presented. A vote of 5-0 in favor.***

***A copy of the MOA Amendment #1 is included at the end of these minutes as Appendix C.***

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### 11.B. Consideration of Golf Course Equipment Lease Proposal.

This item is for a lease agreement with Wells Fargo for the purchase of golf equipment from Beard Equipment Company in Piedmont, South Carolina. The proposal from Wells Fargo will expire on March 11, 2026. Beard Equipment Company has the proposed equipment in stock and is ready to deliver, upon authorization, from the Town. Beard Equipment has been holding this equipment for quite some time and would like to have a determination from the Town if we intend to purchase. Any further delays could result in the equipment being sold, and any reorders could take 18-24 months for delivery.

Interim Manager Hicks stated in reviewing the proposal from Wells Fargo, there are several items to be aware of. 1) The lease is for 60 months at a cost of $5,592.80 per

month. The total cost over the 60-month period would be $335,568.00. At the end of the lease, you can purchase the equipment at fair market value, or you can turn the equipment in. 2) By leasing the equipment, the equipment becomes taxable for County and Town property taxes. 3) Beard Equipment will pay the taxes and then bill the Town for the amount. 4) Over the term of the lease, this will result in a few thousand dollars of extra cost beyond the lease. 5) At the end of the lease, if you choose to turn the equipment in, you could be subject to additional fees for excessive miles/hours or excessive wear. That determination would be made by the vendor, like when you return a leased automobile to the dealer. 6) An advantage of the lease is that at the end of the lease, you can turn the equipment in and enter into a new lease with new equipment. 7) New equipment every 5 years would more than likely result in lower maintenance costs.

The equipment that would be leased is as follows:

## Equipment Schedule A

WELLS FARGO

*Wells Fargo Equipment Finance, Manufacturer and Dealer Finance*
801 Walnut Street | 3rd Floor | Des Moines, IA 50309

Contract Number **603-0283362-003** dated as of **December 12, 2025** (the "**Agreement**")

| Qty | Make | Model | Year | Equipment Type | Serial/VIN Number | Annual Operating Hours/Miles | Excess Usage Hourly/Mileage Charge |
|---|---|---|---|---|---|---|---|
| 1 | John Deere | ProGator 2020A | 2025 | New Gas Utility Vehicle | 1TC202ATKSS18 0893 | | |
| 1 | John Deere | 2550 | 2025 | New Riding Greensmower | 1TC2550HCSS06 0174 | | |
| 1 | John Deere | 2550 | 2025 | New Riding Greensmower | 1TC2550HHSS06 0164 | | |
| 1 | John Deere | 2550 | 2025 | New Riding Greensmower | 1TC2550HCSS06 0166 | | |
| 1 | John Deere | HD200 | 2025 | New Sprayer | 1TC200GXHSS16 0179 | | |
| 1 | John Deere | 1220 | 2025 | New Bunker Rake | 1TC1220HCSS02 0244 | 1 | |
| 1 | John Deere | TX Turf | 2025 | New Gas Utility Vehicle | 1M0TURFJATM21 0009 | | |
| 1 | John Deere | TX Turf | 2025 | New Gas Utility Vehicle | 1M0TURFJETM21 0015 | | |

***After some discussion, Vice Mayor Archie Pertiller made a motion to authorize the Interim Town Manager to enter into the agreement for leasing equipment for the golf course as presented. A vote of 5-0 in favor.***

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**11.C. Approval of Conceptual Feasibility Study – Golf Course Maintenance Building.** ***Item was tabled until a later date.***

**11.D. Consideration of Fireworks Proposals.**

Interim Manager Hicks stated the Town has been contacted by 2 companies regarding the July 4, 2026 fireworks display. To be on the schedule for the 4th, the Council will need to determine if they are willing to obligate funds for the July 4, 2026 show. The current vendor that the Town has previously used is Pyro Shows from Lafollette, Tennessee. Their quoted price is $20,475.00. The Town has received a second proposal from Pyro Wright Fireworks. This firm is currently located in Black Mountain and has expressed a desire to provide the service to the Town. Their quoted price is $18,500. For $20,000, Pyro Wright would also be a sponsor for the Black

Mountain Christmas Parade.

Mr. Hicks stated that some towns are also adding an additional component for the 250th anniversary of our country, which will be July 4, 2026. The additional price from Pyro Wright to add a heavy minute in the beginning, and the finale with an additional 20 seconds of red, white and blue would be an additional $3,000.00. The additional cost from Pyro Shows would range from $3,000.00 to $6,000.00.

These funds would need to be allocated in the FY 26/27 budget. Costs have increased due to tariffs and the cost of materials themselves. Council discussion ensued on fireworks based on the following: funding, other expenditures, people who are traumatized by the fireworks' noise, disturbance of wildlife, the value of it being a community event, how it benefits businesses and brings people into town, and in favor of using Black Mountain business for this event.

***Town Council Member Doug Hay made a motion to approve the agreement for July 4, 2026 fireworks with Pyro Wright Company as proposed. A vote of 3-2 in favor. Council Member Alice Berry and Pam King opposed.***

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**11.E. Request to Use System Development Fees (SDF) to Relocate Water Line.**

This request seeks authorization to use System Development Fee (SDF) funds to relocate an existing water line that does not meet current code requirements due to its proximity to a sewer line. The current configuration presents a compliance issue and potential public health risk. Relocating the water line will bring the infrastructure into compliance with applicable codes, reduce risk of contamination, and protect the long-term integrity of the water system. Use of SDF funds is appropriate, as the project supports system improvements necessary to maintain safe and reliable utility services. The estimated cost of the relocation is $55,000.00. Sufficient SDF funds are currently available to cover the cost. Public Works Director Jamey Matthews stated that approximately 552 feet of water line would need to be replaced.

***Vice Mayor Archie Pertiller made a motion to approve using System Development Fees (SDF) to relocate the water line as presented and recommended. A vote of 5-0 in favor.***

**A RESOLUTION AUTHORIZING THE USE OF WATER SYSTEM DEVELOPMENT FEE FUNDS FOR WATER LINE RELOCATION**

**RESOLUTION NO. R-26-13**

**WHEREAS,** an existing water line does not meet current code requirements due to its proximity to a sewer line, creating a compliance issue and a potential public health risk; and

**WHEREAS,** relocating the water line will bring the infrastructure into compliance with applicable codes, reduce the risk of contamination, and protect the long-term integrity and safety of the water system; and

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**WHEREAS,** the proposed project constitutes a system improvement necessary to maintain safe, reliable, and compliant utility services; and

**WHEREAS,** System Development Fee (SDF) funds are intended to support water system capacity, infrastructure improvements, and projects necessary to accommodate development and maintain system reliability; and

**WHEREAS,** the proposed relocation of the existing water line is estimated to cost **$55,000.00**, and sufficient Water System Development Fee funds are currently available to fully fund the project; and

**WHEREAS,** use of SDF funds for this project is consistent with the intended purpose of the fees and supports continued compliance with water system standards;

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Black Mountain, North Carolina, that the use of Water System Development Fee funds in the amount of **$55,000.00** is hereby approved for the relocation of the existing water line; and

**BE IT FURTHER RESOLVED** that the Town Manager, or their designee, is authorized to take all actions necessary to implement this project consistent with this resolution; and

**BE IT FURTHER RESOLVED** that this resolution shall become effective upon adoption.

**Adopted this 9th day of February, 2026.**

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**11.F. Consideration of Ordinance Regulating Representation of Third-Party Fire Inspection Reporting Fees.**

Fire Chief John Coffey and Fire Marshal Doug Morrow spoke to the Council on this item. The Town of Black Mountain requires inspection, testing, and maintenance (ITM) reports for fire protection and life safety systems. These reports are required by the North Carolina Fire Code and are essential for ensuring buildings in our community remain safe and compliant. The electronic reporting platform charges a standard fixed fee per report submission. This fee is set by the platform and is the same for all contractors. It is intended only to support the reporting system used by the Town.

The Fire Marshal's Office has identified instances where contractors invoiced property owners for a "Compliance Engine" or "reporting system" fee that was higher than the actual platform fee, without itemizing or disclosing any additional administrative charge. This practice creates confusion for business owners and gives the appearance that the Town, or reporting platform, is charging more than is required.

This proposed ordinance does not regulate the overall pricing of contractor services. Contractors remain free to determine their own fees for inspections, labor, travel, and administrative work. Instead, the proposed ordinance ensures:

- Accurate representation of the actual third-party reporting fee.
- Clear itemization of any additional contractor administrative charges.
- Transparency for local businesses so they can distinguish between required reporting fees and contractor service fees.

The ordinance prevents a contractor from labeling a charge as a Town, or platform fee, if it is not. The ordinance regulates truthful labeling and documentation of required reporting fees, not private business pricing. The benefits of the adoption of this ordinance will:

- Protect Black Mountain businesses from misleading fee descriptions.
- Promote fairness and consistency among contractors.
- Strengthen transparency in Town-required compliance processes.
- Provide the Fire Marshal with a clear enforcement mechanism when fee misrepresentation occurs.

This ordinance will be made part of the Black Mountain Code of Ordinances within Chapter 21 - Fire Prevention, Article III- Third Party Fire Inspection Reporting.

***Town Council Member Pam King made a motion to approve adopting the Ordinance regulating representation of third-party fire inspection reporting fees as presented. A vote of 5-0 in favor.***

**AN ORDINANCE TO AMEND TOWN OF BLACK MOUNTAIN CODE OF ORDINANCES CHAPTER 21 - FIRE PREVENTION, ARTICLE II - FIRE CODE, SECS. 21-26 THROUGH 21-50, AND TO AMEND CHAPTER 21 - FIRE PREVENTION, TO ADD AN ARTICLE III - THIRD PARTY FIRE INSPECTION REPORTING, SECS. 51-59**

**ORDINANCE NO: O-26-01**

**NOW, THEREFORE, BE IT ORDAINED** that Chapter 21 - Fire Prevention, Article II - Fire Code, be amended to add the following text (additions are underlined in bold):

- **Secs. 21-36 – 21.50. – Reserved.**

**BE IT FURTHER ORDAINED** that Chapter 21 - Fire Prevention, be amended to add a new section, Article III - Third Party Fire Inspection Reporting, beginning at Sec. 21-51, through Sec. 21-59, containing the following text (additions are underlined in bold):

**Chapter 21 – Fire Prevention.**

**Article III – Third Party Fire Inspection Reporting.**

**Sec. 51. – Authority.**

**This ordinance is adopted pursuant to the Town's authority under North Carolina General Statutes Chapter 160D, including the authority to administer and enforce the North Carolina**

**Fire Code and to establish administrative requirements for inspections, permits, and reporting related to fire protection and life safety systems.**

**Sec 52. – Purpose.**

**The purpose of this ordinance is to ensure accurate representation and transparency of fees associated with required electronic submission of fire protection system inspection, testing, and maintenance reports to the Town through a designated third-party reporting system.**

**This ordinance regulates how required reporting fees are described and documented and does not regulate the overall price a contractor may charge for services.**

**Sec. 53. – Applicability.**

**This ordinance applies to any contractor, service provider, or company that performs inspection, testing, maintenance, certification, or service on fire protection or life safety systems where reports are required by the Fire Code Official to be submitted through a Town-designated electronic reporting system.**

**Covered systems include, but are not limited to:**

- **(a) Automatic fire sprinkler systems.**
- **(b) Fire alarm and detection systems.**
- **(c) Commercial kitchen hood and suppression systems.**
- **(d) Fire pumps and standpipes.**
- **(e) Portable fire extinguishers.**
- **(f) Special hazard suppression systems.**
- **(g) Any other system for which reporting is required under the North Carolina Fire Code.**

**Sec. 54. – Definitions.**

- **(a) Third-Party Reporting System.**
  **An electronic system designated by the Town for submission and tracking of required fire protection system reports.**
- **(b) Pass-Through Reporting Fee.**
  **The exact fee charged by the third-party reporting system to submit a required report to the Town.**
- **(c) Administrative or Service Fee.**
  **Any fee charged by a contractor in addition to the pass-through reporting fee for services such as preparation, handling, documentation, or processing.**

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**Sec. 55 - Fee Representation Requirements.**

**(1) Pass-Through Fee Limitation.**
**A contractor shall not charge a property owner more than the actual pass-through reporting fee while representing the charge as:**

**(a) "Compliance Engine Fee"**

**(b) "Reporting System Fee"**

**(c) "Town Reporting Fee"**

**(d) or any similar description implying the charge is the Town's or reporting platform's required fee.**

**(2) Itemization of Additional Charges.**
**Any amount charged beyond the pass-through reporting fee shall be:**

**(a) Listed separately, and**

**(b) Clearly labeled as an Administrative Fee, Service Fee, or similar term that does not imply it is a Town or reporting platform fee.**

**(3) Prohibited Misrepresentation.**
**It shall be a violation of this ordinance to misrepresent an administrative or service fee as a required Town fee or third-party reporting system fee.**

**Sec. 56 - Documentation Requirement.**

**Upon request of the Fire Code Official, a contractor shall provide documentation sufficient to verify the actual pass-through reporting fee assessed by the third-party reporting system for a specific report submission.**

**Sec. 57. - Enforcement and Civil Penalties.**

**(a) Violation.**
**Failure to comply with the requirements of this ordinance shall constitute a violation of the Town's fire code administrative regulations adopted pursuant to N.C.G.S. Chapter 160D.**

**Each improperly represented invoice or report submission shall constitute a separate violation.**

**(b) Notice of Violation.**
**The Fire Code Official may issue a written Notice of Violation (NOV) to any contractor or service provider found to be in violation of this ordinance. The NOV shall describe the violation and provide a reasonable time for correction when appropriate.**

**(c) Civil Penalties.**

**In addition to any other remedies allowed by law, the following civil penalties may be assessed:**

| Offense | Civil Penalty |
|---|---|
| First Violation | $100 |
| Second Violation | $250 |
| Third and Subsequent Violations | $500 per violation |

**Each improperly represented invoice shall be treated as a separate offense.**

**(d) Continuing Violations.**
**Each day a violation continues after written notice may be considered a separate violation.**

**(e) Additional Remedies.**
**The Town may pursue any other remedies authorized by law, including:**

**(1) Withholding acceptance of required reports until compliance is achieved.**
**(2) Suspension of a contractor's privilege to submit reports through the Town's designated reporting system.**
**(3) Injunctive or equitable relief as permitted under North Carolina law.**

**(f) Appeal.**
**Any person assessed a civil penalty under this section may appeal the citation in accordance with the Town's established administrative appeal procedures.**

**Sec. 58. – Severability.**

**If any section or portion of this ordinance is found invalid, the remainder shall remain in full force and effect.**

**Sec. 59. - Effective Date.**

**This ordinance shall take effect upon adoption.**

**READ, APPROVED AND ADOPTED,** by a vote of 5 - 0 on this the 9th day of February 2026.

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**11.G. Discussion of Town Council Retreat.** ***This item was tabled.***

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**11.H. Discussion of Norfolk Southern Railroad Lease.**

Interim Manager Hicks updated the Council on the proposed lease agreement and new rate from Norfolk Southern for the leased area for parking along Sutton Ave. Mr. Hicks stated the lease rate would be increasing to $12,000 annually and will be adjusted annually based on CPI.

***Town Council Member Doug Hay made a motion to approve Norfolk Southern Railroad Lease as presented. A vote of 5-0 in favor. A copy of the signed lease is included at the end of these minutes as Appendix D.***

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**11.I. Discussion of Interim Town Manager to Hire Staff Vacancies.**

Discussion ensued regarding the Interim Town Manager hiring of some current staff vacancies Council Member Hay asked Interim Manager Hicks to prioritize positions with staff and report back to Council with the priority list.

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**12. CLOSED SESSION- PURSUANT TO N.C.G.S. § 143-318.11 (A)(3): ATTORNEY-CLIENT PRIVILEGE**

***Town Council Member Doug Hay made a motion to enter closed session pursuant to N.C.G.S. § 143-318.11(a)(3) to consult with the Town Attorney. A vote of 5-0 in favor. The time was 8:58 p.m.***

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**13. ADJOURNMENT**

Council returned from Closed Session at 9:10 p.m. ***Town Council Member Alice Berry made a motion to return to open session. A vote of 5-0 in favor.*** With no additional items to be discussed, Mayor Sobol adjourned the meeting.

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C. Michael Sobol, Mayor

Attest:

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Wesley M. Barker, Town Clerk

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