BLACK MOUNTAIN TOWN COUNCIL MINUTES

July 13, 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, July 13, 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: Vice Mayor Archie Pertiller, Town Council Member Alice Berry, Council Member Larry Harris, Council Member Lawrence Lytle (joined after he was officially sworn in at the organizational meeting), Town Council Member Ryan Stone.

The following staff members were present: Interim Town Manager Richard Hicks; Town Clerk Wesley Barker; Fire Chief John Coffey; Deputy Police Chief Chris Kuhn; Recreation & Parks Director Jacob Guiot; Planning Director Michelle Kennedy; Recovery & Capital Programs Director Matt Begley; Planner & Zoning Administrator Russell Cate; Stormwater Technician & Floodplain Administrator Anne Phillip; Senior Admin Jennifer Tipton; Interim Project Manager Chad Goins.

Mayor Sobol led those in attendance in the pledge of allegiance and a moment of silence, then read the ethics statement.

Council Member Alice Berry announced she had a conflict with item number 12.E. on the agenda entitled "Concur with NCDOT Award of Bid for Ninth Street Bridge Project," and would excuse herself when this item was discussed.

2. ORGANIZATIONAL MEETING

2.A. Appointment to Fill the Vacant Seat on the Town Council

The Council began with an Organizational Meeting to appoint and fill the vacant seat on the Town Council that was vacated by Doug Hay who resigned from the Town Council on June 30, 2026.

The Town Charter states: “If the elected mayor or an elected councilmember shall fail or refuse to be qualified, or if the holder of any elective office is unable to discharge the duties of such office, or if a vacancy shall otherwise occur in any elective office, such vacancy shall be filled by the remaining members of the council. In the event such vacancy occurs within 135 days of the next general election, the person appointed by the council to fill the vacancy shall serve the

remainder of the unexpired term. Otherwise, a successor shall be elected at the next general election and the person appointed to fill the vacancy shall serve only until the elected successor takes office. The elected successor shall then serve the remainder of the unexpired term."

**based on the charter and the date when the council vacancy occurred (6/30/26) until the next general election (11/3/26), the number of days was within 135 days of the next general election, therefore the person appointed to fill this vacancy shall serve the remainder of this unexpired term which expires December 2028.

Previously, when a vacancy occurred on the Council, the remaining Council members decided to advertise the vacant seat and invited interested citizens to apply for this vacant seat. The only three requirements for appointing an individual for a Council seat are that they must be 1) a registered voter in Buncombe County, 2) live in the municipal limits of Black Mountain, and 3) be 21 years of age or older. Once the applications were received, Council would review and, in an open meeting, the applicant would be chosen by nomination, or via ballot voting method, with the majority vote being the nominee for appointment.

The Town Council directed the Town Clerk to advertise for this vacancy and seek interested applicants, with the application period open from June 30th through July 10th, 2026. The following citizens submitted an application, or those who applied for the vacant seat in May 2026, requested their application to be considered once again (in alphabetical order): Paul Haynes, Shane Lunsford, Lawrence Lytle, Debra Norman, Cheryl Milton, Lisa Raleigh, John Richardson, Michael Roberts, Sharon Tabor, Brittany Williams.

Council then proceeded to vote via ballot for the vacant seat. The Town Clerk reported that there was no consensus on a majority after the first round of votes with the following applicants receiving a vote: Lawrence Lytle, Cheryl Milton, Lisa Raleigh, Brittany Williams. The Town Attorney advised that the Council should vote again to see if a consensus could be reached. After the second round of votes, a majority vote prevailed with the following applicants receiving votes: Lawrence Lytle (3 votes) and Lisa Raleigh (1 vote). **A copy of the ballots are included at the end of these minutes as Appendix A.**

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2.B. Administration of the Oath of Office to the Appointed Council Member

Mr. Lawrence Lytle was then called up to be issued the oath of office as Town Council member by the Town Clerk. Council Member Lytle then took a seat at the dais.

2.C. Appointment to the Black Mountain-Swannanoa Chamber of Commerce Executive Board- Primary Member

Former Council Member Doug Hay was the Town Council's appointed primary delegate for the Black Mountain-Swannanoa Chamber of Commerce's Executive Board. Council Member Alice Berry is the current alternate delegate. Council discussed appointing a

member as the primary delegate. ***Council Member Larry Harris made a motion to appoint Lawrence Lytle as the primary delegate to the Black Mountain-Swannanoa Chamber of Commerce Board. A vote of 5-0 in favor.***

2.D. Appointment to Land of Sky Regional Council Board of Directors - Alternate Delegate

Former Council Member Doug Hay served as the alternate delegate to the Land of Sky Regional Council Board of Directors. At the May 11, 2026 Council meeting, Council Member Larry Harris was appointed as the primary delegate to this board. Council considered an alternate delegate appointment who would attend the meeting if Council Member Harris were unable. ***Vice Mayor Archie Pertiller made a motion to appoint Lawrence Lytle to the Land of Sky Regional Council Board of Directors as the alternate delegate. A vote of 5-0 in favor.***

2.E. Appointment to the Friends of Fonta Flora State Trail Board of Directors - Alternate Delegate

Former Council Member Doug Hay served as an alternate delegate to the Friends of the Fonta Flora State Trail Board. Mayor Sobol is the current primary delegate to this board. Council discussed an alternate delegate to attend these meetings for the Town, if Mayor Sobol is unable to. ***Council Member Larry Harris made a motion to appoint Lawrence Lytle to the Friends of Fonta Flora State Trail Board of Directors as the alternate delegate. A vote of 5-0 in favor.***

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3. PROCLAMATIONS, AWARDS, RECOGNITIONS, SPECIAL RESOLUTIONS

3.A. Resolution Recognizing Doug Hay for his service to the Town of Black Mountain.

Council Member Alice Berry read a resolution recognizing Doug Hay for his service to the Town as a Council Member.

Council Member Larry Harris made a motion to approve the resolution as presented and read. A vote of 5-0 in favor.

A RESOLUTION OF THE TOWN COUNCIL RECOGNIZING DOUG HAY FOR HIS SERVICE TO THE TOWN OF BLACK MOUNTAIN
RESOLUTION NO. # R-26-57

WHEREAS, Doug Hay faithfully served the citizens of the Town of Black Mountain as a member of the Town Council from December 2020 through June 2026; and

WHEREAS, throughout his tenure, Doug demonstrated a steadfast commitment to public service through thoughtful leadership, careful consideration of issues, and informed decision-making in the best interests of the Town, its citizens, and staff; and

WHEREAS, Doug's passion for recreation and public safety, together with his dedicated leadership during the Town's response to Hurricane Helene, particularly in supporting Town services, residents, and employees, exemplified his commitment to the Black Mountain community; and

WHEREAS, Doug represented the Town with distinction through his service on the Black Mountain-Swannanoa Chamber of Commerce Board, the Land of Sky Regional Council Board of Delegates, and the Friends of Fonta Flora State Trail Board; and

WHEREAS, the Town Council wishes to formally recognize and express its sincere appreciation for Doug's commitment, service, and contributions to the Town of Black Mountain and its citizens;

NOW, THEREFORE, BE IT RESOLVED that the Black Mountain Town Council hereby wishes to formally recognize and express our gratitude and appreciation to Doug Hay for his dedicated service and sends best wishes all future endeavors.

ADOPTED by the Black Mountain Town Council this 13th day of July 2026.

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4. COMMUNICATIONS FROM STAFF, COUNCILS, COMMISSIONS & AGENCIES

4.A. Salvation Army of Buncombe County Presentation.

Captain Sherrie Stokes, Corps Officer with The Salvation Army North & South Carolina Division, Asheville Corps, and her husband, Phillip Stokes, provided a presentation to the Council about the Salvation Army's presence in Buncombe County, with regard to Social Services, Financial Assistance, Prevention of Homelessness, the Center of Hope, Community Center, and Community Care (visitation to local shut-ins & nursing home facilities).

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4.B. Update on the BearWise Recognized Community Program.

Planning Director Michelle Kennedy and Jill Bielawski spoke to the Council on the BearWise Program for Black Mountain. Ms. Kennedy stated that Town staff has implemented the following initial steps:

- **Citizen Engagement** - Black Mountain has for many years had a voluntary group of residents utilizing BearWise best practices. Members of that group have now become the inaugural Town BearWise advisory group. This group will work alongside Town staff to establish a community action plan that includes community based educational programming, outreach materials, establishment of a bear sighting/encounter protocol and other BearWise practices. It is the goal of the

advisory group to work with Town staff in helping Black Mountain become a Recognized Bear Wise Community.

- **BearWise Ordinances** – After discussion with NC Wildlife Resources Commission staff, the Planning Department recommends establishing ordinances that are consistent with existing ordinances in the City of Asheville and Buncombe County. These ordinances include trash regulations, nuisance and wildlife feeding ordinances. We anticipate final ordinance recommendations to Council for the August 2026 meeting, to include:
    - Bear resistant trash container requirements
    - Time restrictions on placement of trash placed on curb for collection
    - Construction site trash containment
    - Wildlife feeding protocols
    - Progressive fines – beginning with education and warnings and progressing to fines for repeat violations

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4.C. Presentation on the Fairway Dr. / Tomahawk Ave. Stormwater Project.

Matt Begley, Recovery & Capital Programs Director and Anne Phillip, Stormwater Technician & Floodplain Administrator, presented on the Fairway Dr./Tomahawk Ave. stormwater project giving an overview of, and the status of, the project.

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5. CITIZEN COMMENTS

- Matthew Deforest spoke in support of the proposed bear ordinances, noting the issues when trash is left out for the bears to get into.
- Ken Floyd, President of the Black Mountain-Swannanoa Chamber, spoke about a recent Chamber business survey that was conducted with Black Mountain businesses.
- Cheryl Pitt, spoke in support of bear ordinances.
- Paul Langston and Richard Weeks both spoke about the Baptists on Mission organization and their Black Mountain location on Montreat Rd.
- Frank Cappelli spoke about continued concerns with Town staff.
- Cheryl Hyde, Black Mountain-Swannanoa Chamber Director, spoke about small businesses and the need for more communication from elected officials to these business owners.
- John Richardson spoke about the continued challenges with Town staff and his business.

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6. COMMUNICATION FROM MAYOR AND TOWN COUNCIL- none.

7. COMMUNICATION FROM TOWN ATTORNEY & TOWN MANAGER

Town Attorney Craig Justus provided a brief update on the State's adopted budget and

some new legislative rules that would impact off-street parking rules and requirements for communities.

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8. CONSENT AGENDA

8.A. Adoption of Meeting Minutes: May 7, 11, 20, 21, 27, 28, 2026 and June 1, 4, 2026.

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

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8.B. Monthly Tax Collector Report.

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

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8.C. Resolution to Adopt 2026 Buncombe Madison Hazard Mitigation Plan.

State and Federal requirements state that Buncombe County, Madison County, and the jurisdictions within those counties adopt the new Regional Hazard Mitigation Plan in order for the plan to be approved and considered "in force" with NCEM and FEMA. This is critical to the ability to request funding after a hazard of significance occurs. Below is an outline which provides a summary of changes and enhancements from the 2021 plan.

1. **Comprehensive Hurricane Helene integration throughout the plan**: Recovery impacts, lessons learned, and observed damages were incorporated into the planning process, risk assessment, capability assessment, and mitigation strategy.
2. **Integration of recovery data, planning and resilience initiatives**: Mitigation actions were cross-referenced with local recovery efforts, including Envision Buncombe, the Helene Recovery Plan, MARC, Rebuild Hot Springs, Marshall Relief Alliances, and other regional recovery initiatives. Added an Appendix that documents some of the post-Helene assessments and recovery efforts that are used in (or used to inform) the plan update.
3. **New linkage between mitigation actions and recovery priorities**: Each mitigation action was reviewed for alignment with recovery goals, resilience objectives, and ongoing implementation efforts.
4. **Updated community engagement approach**: Public and stakeholder outreach methods were adapted to account for ongoing Helene recovery, emphasizing flexible and accessible participation opportunities coordinated closely with ongoing local outreach efforts.
5. **Addition of Substantial Damage Estimates (SDE) procedures**: New FEMA requirements/guidance were implemented, including substantial damage determination

processes and post-disaster floodplain management capabilities.
6. **Changes to summary conclusions on hazard risk**: Hurricanes/coastal hazards, wildfires and excessive heat increase from moderate risk to high-risk hazards based on findings from hazard profiles and input received from the hazard mitigation planning committee. Radiological emergencies and terrorism hazards increased to moderate risk from previous low-risk designation. Added two new hazards: food emergencies (moderate risk) and civil disturbance (low risk).

Vice Mayor Archie Pertiller made a motion to approve the resolution to adopt the 2026 Buncombe-Madison Hazard Mitigation Plan as presented. A vote of 5-0 in favor.

RESOLUTION TO ADOPT THE 2026 BUNCOMBE MADISON REGIONAL HAZARD MITIGATION PLAN

RESOLUTION NO. # R-26-59

WHEREAS, Buncombe County and Madison County are vulnerable to an array of hazards that can cause loss of life and damages to public and private property; and

WHEREAS, the Town of Black Mountain, along with both counties, desires to work together and seek ways to mitigate situations that may aggravate such circumstances; and

WHEREAS, the development and implementation of a hazard mitigation plan can result in actions that reduce the long-term risk to life and property from natural hazards; and

WHEREAS, it is the intent of this Council to protect its citizens and property from the effects of natural hazards by preparing and maintaining a local hazard mitigation plan; and

WHEREAS, it is also the intent of this Council to fulfill its obligation under North Carolina General Statutes, Chapter 166A: North Carolina Emergency Management Act and Section 322: Mitigation Planning, of the Robert T. Stafford Disaster Relief and Emergency Assistance Act to remain eligible to receive state and federal assistance in the event of a declared disaster affecting the Town of Black Mountain; and

WHEREAS, the Town of Black Mountain, in coordination with Buncombe County, Madison County and the other participating municipalities within those counties, has prepared a multi-jurisdictional hazard mitigation plan with input from the appropriate local and state officials; and

WHEREAS, the North Carolina Emergency Management and Federal Emergency Management Agency have reviewed the Buncombe Madison Regional Hazard Mitigation Plan for legislative compliance and has approved the plan pending the completion of local adoption procedures.

NOW, THEREFORE, BE IT RESOLVED by the Black Mountain Town Council as follows:

1. That this Council hereby adopts the 2026 Buncombe Madison Regional Hazard Mitigation Plan.

2. That this Council agrees to take such other official action as may be reasonably necessary to carry out the proposed action of the Plan.
3. That this resolution shall be effective upon its adoption.

APPROVED AND ADOPTED by the Black Mountain Town Council this the 13th day of July 2026.

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8.D. Call for Public Hearing for One-Year Moratorium for Street Dedications to the Town.

The Town Council asked staff to draft language to impose a one-year moratorium on street dedications to the town due to current budget constraints and potential staffing concerns that would potentially be required for maintenance of extra public streets.
Council will call for a public hearing to be held on Monday, August 10th, 2025 at 6:00 p.m. to hear any public comments on this proposed one-year moratorium. ***Vice Mayor Archie Pertiller made a motion to call for a public hearing on Monday, August 10, 2026 at 6:00 p.m. at Town Hall on amending Ch. 3, Sec. 3.6.3 of the Land Use Code to impose a one-year moratorium on dedication of streets to the Town. A vote of 5-0 in favor.***

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8.E. Resolution to Award Town Drinking Water Resiliency Improvements Project A&E to McGill Associates.

Town Council will consider a resolution to approve the award of the Drinking Water Resiliency Improvements Project design and engineering to McGill Associates, Inc. and authorize Town staff to enter into contract negotiations with McGill Associates, Inc.

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

A RESOLUTION TO AWARD THE TOWN DRINKING WATER RESILIENCY IMPROVEMENTS PROJECT DESIGN & ENGINEERING TO MCGILL & ASSOCIATES, INC.

RESOLUTION NO. # R-26-56

WHEREAS, the Town is undergoing the approval process for a State Revolving Fund (SRF) loan through the North Carolina Division of Water Infrastructure (DWI) to modernize and repair the Town's water system; and

WHEREAS, this project will be referenced as the Drinking Water Resiliency Improvements SRF Project; and

WHEREAS, the first requested amount for this program is $4,886,922.00; and

WHEREAS, the first $5M of SRF loan funding is considered a 100% forgivable loan; and
WHEREAS, Town staff have scored the statements of qualification for the project submitted by engineering firms interested in performing design and engineering services for the project; and

WHEREAS, the most qualified firm was determined to be McGill & Associates, Inc; and

WHEREAS, the Town intends to pursue this grant-funded project to modernize and repair the Town's water system.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BLACK MOUNTAIN THAT:

1. The Town Council of the Town of Black Mountain affirms that McGill & Associates, Inc. is the most qualified firm for designing and engineering the Drinking Water Resiliency Improvements project.

2. The Interim Town Manager, and/or a designee(s) thereof, is authorized to enter into contract negotiations with McGill & Associates, Inc. to design and engineer the Town's Drinking Water Resiliency Improvements Project, which will be brought before Town Council for subsequent consideration.

This Resolution shall take effect immediately upon its adoption.

ADOPTED this 13th day of July 2026.

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8.F. Resolution Authorizing Town Staff to Pursue the Design for Decommissioning the Lower Watershed Dam.

The Town Council will consider a resolution authorizing staff to pursue the option to decommission the Lower Watershed Design. S&ME, the Engineers on the project, estimate the cost of decommissioning will be lower than the obligated amount from FEMA PA for the project. FEMA will make a decision on whether decommissioning is an approved alternate project based on the designs. However, initial conversations around the concept have shown signs of being a good option. Any cost savings on the actual cost of the project below the obligated amount may be used on other small projects (FEMA PA projects under $1M) or on improvements in the area around the footprint of the project. The design costs for the project fall within the schedule and fees Council has previously approved for the project, so no budgetary changes are required.

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

A RESOLUTION AUTHORIZING TOWN STAFF TO PURSUE THE DESIGN FOR DECOMISSIONING THE LOWER WATERSHED DAM

RESOLUTION NO. # R-26-58

WHEREAS, Tropical Storm Helene caused extensive damage to the Lower Watershed Dam; and

WHEREAS, FEMA Public Assistance has obligated $217,153.12 for the project; and

WHEREAS, the Lower Watershed Dam does not have an apparent value for the Town's water or stormwater infrastructure; and

WHEREAS, decommissioning the Lower Watershed Dam would decrease future financial liabilities for the Town to maintain the dam infrastructure and allow for a natural flow of the stream; and

WHEREAS, the Town and the engineers for the project have determined the Lower Watershed Dam is below the regulatory threshold volume for the US Army Corp of Engineers; and

WHEREAS, the engineers for the project have estimated the cost for decommissioning the dam would be lower than the obligated amount; and

WHEREAS, cost savings on FEMA PA small projects (under $IM) can be allocated to other FEMA PA small projects or improvements around the footprint of the project.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BLACK MOUNTAIN:

1. That the Town of Black Mountain is authorized to direct engineers to initiate the design of the decommissioning of the Lower Watershed Dam.

2. That the Town Manager (or designee) is authorized to execute and file the task order and any other assurances and agreements required to authorize the design of the Lower Watershed Dam decommissioning, on behalf of the Town of Black Mountain.

This Resolution shall take effect immediately upon its adoption.

Approved this the 13th day of July 2026.

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9. PUBLIC HEARING – NONE

Council took a five-minute recess at 7:47 p.m.

10. CITIZEN COMMENTS

- Frank Cappelli spoke about the 1114 Montreat Rd. extension of temporary use emergency housing and his concerns with the tenants and his family's privacy.

- Will Troxler, owner of Camp Meri-Mac, provided comments about the 1114 Montreat Rd. property.
- Richard Weeks, NC Baptist on a Mission provided comments about the extension of the temporary use emergency housing.

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11. UNFINISHED BUSINESS – NONE

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12. NEW BUSINESS

12.A. Request from Baptist on Mission for One-Year Extension of Temporary Use Emergency Housing at 1114 Montreat Road.

Planning Director Michelle Kennedy and Zoning Administrator Russell Cate spoke on this item. The temporary use of emergency housing ordinance, item C in Section 5.18.2 (General Provisions) of Section 5.18 (Emergency Housing) of the Land Use Code, was adopted on January 13, 2025 by Council, and was created after Hurricane Helene to help groups, organizations, and individuals who wish to provide housing or need housing. Within the text, the provision was added to allow for a one-year extension that could be granted by the Zoning Administrator. However, no criteria was added to aid that decision. In light of that, staff would like the Council to discuss the one-year extension.
Staff will look at possible language for a future text amendment to correct this oversight. Discussion ensued between Council and staff, and Council would not be approving this extension, as the text states that decision lies with the Zoning Administrator, staff just wanted to receive any guidance from the Council.

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12.B. Consideration of Resolution Approving the Financing Terms for the Purchase of a Fire Truck.

Interim Town Manager Richard Hicks stated the Town Council approved the purchase of a 1500 GPM Mini Pumper Fire Truck from Custom Fire Apparatus, Inc. in 2025. Staff anticipates the truck being delivered in September, 2026. Before his departure, Scott Buffkin, Interim Assistant Town Manager, reached out to several financial institutions to obtain quotes on the financing of the vehicle. The submitted rates were as follows:

- First Bank 5.31% (Subject to Change at Closing).
- Civic Federal Credit Union 5.32%.
- Pinnacle Financial Partners 4.65%.

The loan amount requested was $450,000 for 59 months. Funds are included in the FY 26/27 to cover the costs of the loan payments. Council Member Stone spoke on the need for a vehicle fleet inventory which would be beneficial for current and future Council members.

Council Member Larry Harris made a motion to approve the resolution approving the financing terms for the purchasing of the fire truck as presented and recommended. A vote of 5-0 in favor.

TOWN OF BLACK MOUNTAIN, NORTH CAORLINA
RESOLUTION APPROVING FINANCING TERMS FOR VEHICLE PURCHASE

RESOLUTION NO. # R-26-55

WHEREAS: The TOWN OF BLACK MOUNTAIN ("Borrower") has previously determined to undertake a project for the financing of a **1500 GPM (gallons per minute) Mini-Pumper Fire Truck**, and the Finance Officer has now presented a proposal for the financing of such Project.

BE IT THEREFORE RESOLVED, as follows:

1. The Borrower hereby determines to finance the Project through **Pinnacle Financial Partners ("Lender")** in accordance with the proposal dated June 9, 2026. **The amount financed shall not exceed $450,000, the annual interest rate (in the absence of default or change in tax status) shall not exceed 4.65% and the financing term shall not exceed fifty-nine (59) months from closing.**

2. All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the Borrower are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution.

3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by Borrower officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Officer shall approve, with the Finance Officer's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form. **The Interim Town Manager is hereby authorized to execute any and all loan documents.**

4. The Borrower shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. Borrower hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3).

5. The Borrower intends that the adoption of this resolution will be a declaration of the Borrower's official intent to reimburse expenditures for the Project that are to be financed from the proceeds of the Lender financing described above. The Borrower intends that funds that have been advanced, or that may be advanced, from the Borrower's general fund or any other Borrower fund related to the Project, for project costs may be reimbursed from the financing proceeds.

6. All prior actions of Borrower officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

APPROVED this the 13th day of July 2026.

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12.C. Technical Response Regrading Alleged Use of Email Draft Folders to Avoid Public Records Request.

Interim Town Manager Hicks reported that, following a citizen allegation regarding the possible use of email draft folders to avoid public records requests, the Town's IT provider recommended a limited Microsoft 365 configuration and audit review at a quoted cost of $2,300.50. Advanced Data & Network Solutions concluded that routine covert communication through draft folders appears technically unlikely but noted that a limited review could identify suspicious indicators and help determine whether a broader independent forensic review is warranted.

Discussion between Council and staff ensued. When called for a vote, no motion was made to move forward with this technical review.

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12.D. Consideration of Award of Bid for Highway 70 Waterline Project.

In November of 2022, the Council appropriated $500,000 for the Highway 70 Waterline Project. The funds were originally appropriated from the Town's ARPA funds. I believe the Town ultimately obligated all of the remaining ARPA funds by reimbursing the Town for salaries. Based on current and projected expenditures, staff recommends the following budget:

- Civil Design Concepts (Current Expenditures) $ 93,191.00
- Land of Sky Regional Council (Current Expenditures) $ 11,450.00
- Cooper Construction Co., Inc. $ 796,345.00
- Contract Administration $ 9,000.00
- Construction Observation/Inspection $ 17,500.00
- Closeouts $ 5,000.00

- Contingency $ 50,000.00
- Local Project Management $ 7,500.00

Total Cost: $989,986.00

This leaves a balance of $489,986 that will need to be appropriated. Within the next few weeks, FEMA will be reimbursing the water fund just over $900,000 for expenses the town incurred after Helene. My recommendation would be to use a portion of those funds to cover the balance of $489,986. Staff will prepare a formal budget amendment for your approval at the August meeting. With the award of the bids, the contractor can begin getting their payment and performance bonds in place, execute the contract and other necessary documents. All of this will probably take 30-60 days to complete and will give staff time to prepare the budget amendments.

Council Member Larry Harris made a motion to award the bids for the Highway 70 waterline project to Cooper Construction Company, Inc. in the amount of $796,345. A vote of 5-0 in favor.

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12.E. Concur with NCDOT Award of Bid for Ninth Street Bridge Project.

Council Member Berry recused herself from the Ninth Street Bridge Project discussion due to a conflict. Interim Town Manager Hicks reviewed updated project costs totaling **$1,957,367**, with the Town's 20% match estimated at **$391,527**. After accounting for a prior **$136,000** appropriation, the Town would need an additional **$255,527**, with possible funding sources including the General Fund Capital Reserve and Powell Bill funds. Hicks noted that some previously paid costs may be reimbursable if the project proceeds, but reimbursement and additional engineering obligations were uncertain if the project is canceled. Additional federal funds have been secured, and canceling the project could affect future funding requests. If Council proceeds, staff can bring a budget amendment in August, while NCDOT must award bids by **July 15, 2026**.

Council Member Larry Harris made a motion that Council concurs with the award of bids on the Ninth Street Bridge Project to Kemp Sigmon Construction in the amount of $1,184,032 and to come back with budget amendment based on three options in August 2026. A vote of 5-0 in favor.

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12.F. Update on Reactivating Town Wells.

Staff reached out to Rachael Kramer with KACE Environmental, Inc., regarding the steps necessary to reactivate the 2 wells that were turned off several years ago. She has been handling the Town's water samples for years. She did recall that Well #1 at the Golf Course had a fairly consistent detection of herbicides and a hit and miss detection of pesticides.

Based on this information, the initial first year cost for both wells would be $91,694.Staff reported that reactivating the two inactive wells would require State approval, new testing protocols, and replacement equipment. Initial testing would cost **$20,510**, with first-year testing and equipment costs bringing the estimated total first-year cost to **$91,694**. Staff also noted prior herbicide and pesticide detections at Well #1, potential ongoing monitoring or treatment requirements, and public perception concerns related to any detected contaminants.

Council Member Larry Harris made a motion to approve initial testing of the two inactive wells and let the Town Manager work through the formal bids/quotes. A vote of 4-1 in favor. Council Member Alice Berry opposed.

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12.G. Advisory Boards & Commissions Appointments.

1) **ABC Board Appointment & ABC Board Chair Appointment.**

The Black Mountain ABC Board is composed of three members who are appointed by the Town Council. Each member serves three-year terms. Larry Harris served on the ABC Board, but his term has now expired (July 2026). Larry does not wish to seek a second term on the ABC Board, which leaves a vacant seat. One application was received for the ABC Board from Melisa Pressley, and that application is attached. Council should review and choose to appoint Melisa or continue advertising for more applicants. The appointed member's term will expire in July 2029. Council will also need to appoint an ABC Board member as chair as Larry Harris was the previous chair. Appointment and organization of local ABC Boards are governed under NC General Statutes §18B-700. ***Council Member Larry Harris made a motion to appoint Melisa Pressley to the ABC Board for a three-year term to expire July 2029. A vote of 5-0 in favor. Council Member Larry Harris made a motion to appoint Sharon Tabor as the ABC Board Chair. A vote of 5-0 in favor.***

2) **Planning Board Appointment.**

The Black Mountain Planning Board consists of seven (7) members each serving three-year staggered terms. Over the last couple years, some of the Planning Board members' terms have been extended by one-year at a time by the Council while the Unified Development Ordinance (UDO) process was underway, with the intent of these members remaining on the Board to see the UDO through to adoption. At the May 2026 Planning Board meeting, Town Attorney Craig Justus suggested that the Planning Board members who are due to rotate off of the Planning Board in July 2026 consider staying one (1) more year, pending Council approval. The following members stated they would be willing to stay on another year: Pam Norton, Lauronda Teeple and Chris Collins. Council Members Berry & Stone were present at the Planning Board members and were in favor of members serving one more year and suggested the full Council discuss at the June 8, 2026 meeting. At the June 8, 2026 Council meeting, Council voted in favor of extending these named members' terms for an additional one (1) year, expiring July 2027. Rick Earley resigned from the Planning Board in May 2026, which leaves an open seat on the Planning Board. This vacant seat's term would have expired in July 2026, so whoever is appointed will serve a full three-year term, expiring July 2029. Two applications were received who chose the Planning Board as their primary preference. These applicants are Alan Simmons and Angela Levine.

Town Council Member Alice Berry made a motion to appoint Angela Levine to the Planning Board for a three-year term to expire July 2029. A vote of 5-0 in favor.

3) **Board of Adjustment Appointments.**

The Board of Adjustment consists of 5 members each serving a 3-year term, and 3 alternate members without expiring terms. The Town Council appoints this membership. When a vacancy occurs within the regular membership, alternate members move forward from the alternate seats (in which their 3-year terms begin), and any new membership is appointed to the alternate seats. Having alternate appointments, ensures the Board of Adjustment can have quorums to conduct business if a regular member is absent. Currently, the Board of Adjustment's regular membership is full, but 2 alternate seats are available. One application was received that indicated the Board of Adjustment as a primary preference. This was from Mary Kyryk. Application attached. Additionally, an application submitted by Alan Simmons indicated the Board of Adjustment as a secondary preference (Planning Board primary preference), so if Alan Simmons is not appointed to the Planning Board, he can be considered to fill the other alternate seat on Board of Adjustment. It is recommended that Council appoint Mary Kyryk to the Alternate #2 seat. Then, ***if*** Alan Simmons is not appointed to the Planning Board, it is recommended he be appointed to the Alternate #3 seat. ***Vice Mayor Archie Pertiller made a motion to appoint Mary Kyryk and Alan Simmons to the Board of Adjustment as Alternate #2 and #3, respectively, as presented and recommended. A vote of 5-0 in favor.***

4) **Active Mobility Commission Appointments.**

The Active Mobility Commission (AMC) consists of seven (7) members each serving three-year terms. Currently, two seats on the AMC are expiring and there is one vacant seat. One of these current members has reapplied to serve a second three-year term, while the other member chose not to serve a second three-year term. Two applications were submitted by citizens who indicated the AMC as their primary preference. These were Kristie Bergna (applying for re-appointment) and Edwin Aaronson (new applicant). These applications are attached, and both are eligible to serve. Council should review and make these 2 appointments to the AMC. There will still be one vacancy on the AMC, and recruitment will continue. ***Town Council Member Ryan Stone made a motion to appoint Edwin Aaronson and re-appoint Kristie Bergna to the Active Mobility Commission for three-year terms, both expiring in July 2029, as recommended. A vote of 5-0 in favor.***

5) **Historic Preservation Commission Appointment.**

The Historic Preservation Commission consists of 5 members each serving a 3-year term. Debra Norman's term is expiring on the HPC. She has served one full three-year term, but is eligible and interested in serving a second three-year term. Additionally, two other applications were submitted, and noted HPC as their primary preference. These applicants were Paul Clark and Mary Soyenova. ***Vice Mayor Archie Pertiller made a motion to re-appoint Debra Norman to a second three-year term on the Historic Preservation Commission as recommended, expiring July 2029. A vote of 5-0 in favor.***

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13. CLOSED SESSION - NC GENERAL STATUTE 143-318.11(A)(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., AND N.C.G.S. 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.

The Town Council would now enter into closed session pursuant to N.C.G.S. §143-318.11 (a)(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; and §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. ***Council Member Larry Harris made a motion to enter into Closed Session pursuant to NCGS 143-318.11(a)(3) and (a)(6). A vote of 5-0 in favor. The time was 8:51 p.m.***

14. ADJOURNMENT

The Council returned from Closed Session into Open Session at 9:21 p.m.

Town Council Member Alice Berry made a motion to continue (renew) the contract with Wilkerson Justus as the Town Attorney, Craig Justus, for Fiscal Year 26-27. A vote of 5-0 in favor.

Town Council Member Ryan Stone made a motion to approve the amended employment contract with Richard Hicks to serve as Interim Town Manager through December 31, 2026. A vote of 5-0 in favor.

With no further business to be discussed, Mayor C. Michael Sobol adjourned the meeting at 9:24 p.m.

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C. Michael Sobol, Mayor

ATTEST:

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Wesley M. Barker, Town Clerk