# BLACK MOUNTAIN TOWN COUNCIL MINUTES

**October 12, 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, October 12, 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: Town Council Member Alice Berry, Council Member Larry Harris, Council Member Lawrence Lytle , Town Council Member Ryan Stone. Vice Mayor Archie Pertiller was absent.

**The following staff members were present:** Richard Hicks, Interim Town Manager; Wesley Barker, Town Clerk; Matt Begley, Recovery & Capital Programs Director; James Bingham; Deputy Fire Chief; Russell Cate, Zoning Administrator; John Coffey, Fire Chief; Chad Goins, Interim Project Manager; Jacob Guiot, Recreation and Parks Director; Chris Kuhn, Deputy Police Chief; Jamey Matthews, Public Works Director; Anne Phillip, Stormwater Technician & Floodplain Administrator; Jennifer Tipton, Planning & Development Senior Admin. Town Attorney Craig Justus was also present.

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

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

### 2.A. Proclamation Recognizing October as Domestic Violence Awareness Month.

Helpmate, located in Asheville, whose mission is to work with the community to eliminate abuse and fear by providing safety, shelter, and support for victims/survivors of intimate partner domestic violence, has requested a proclamation recognizing October as Domestic Violence Awareness and Prevention Month. Mayor Sobol read a proclamation that recognized October as Domestic Violence Awareness and Prevention Month.

### 2.B. Special Resolution Honoring Former Council Member William "Bill" Christy.

***Town Council Member Ryan Stone made a motion to approve the special resolution as presented. A vote of 4-0 in favor. Vice Mayor Archie Pertiller was absent.***

**A RESOLUTION HONORING AND REMEMBERING WILLIAM “BILL” CHRISTY**
**RESOLUTION NO. # R-26-86**

**WHEREAS**, William Henry "Bill" Christy, a beloved husband, father, grandfather, attorney, community leader, and friend, passed away on September 30, 2026, at the age of 70; and

**WHEREAS**, Bill served with distinction as a member of the Black Mountain Town Council from July 2021 through September 2023, bringing his knowledge, thoughtful perspective, and commitment to public service to the governance of the Town he proudly called home; and

**WHEREAS**, Bill and his wife, Deirdre, made Black Mountain their home in 1995, where he became a respected attorney and partner in Stone & Christy, serving the people of Western North Carolina for 26 years with a practice focused on real estate, probate, and general business matters; and

**WHEREAS**, Bill was deeply committed to serving others through his profession, devoting countless hours to Pisgah Legal Services and receiving the North Carolina Bar Association's Small Firm Pro Bono Award in 2006 and Pisgah Legal Services' Lifetime Pro Bono Achievement Award in 2021; and

**WHEREAS**, Bill's dedication to community extended beyond his legal career and Town Council service, including significant leadership with Warren Wilson College, where his involvement spanned more than five decades and included service as Board of Trustees Chair and Interim President, as well as service with numerous civic and community organizations throughout the region; and

**WHEREAS**, Bill was known for his integrity, intellect, kindness, civic spirit, and deep devotion to family, friends, and the mountains of Western North Carolina, leaving a lasting impact on the community he served;

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Council of the Town of Black Mountain hereby honor and remember **William "Bill" Christy** for his dedicated service to the Town, his commitment to justice and community, and his many contributions to Black Mountain; and extends its deepest condolences and heartfelt appreciation to Bill's wife, Deirdre, his children, grandchildren, extended family, and many friends, and recognizes with gratitude the lasting legacy of his life and service.

**ADOPTED**, this 12th day of October, 2026.

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

**3.A. Presentation on the Hilltop Rd. Repair Project.** Recovery & Capital Programs Director Matt Begley and Interim Project Manager Chad Goins presented an update on the Hilltop Rd. repair project, which recently began construction. To summarize project status, FEMA has advanced $660,884.53 for the Hilltop Road project. After extensive FEMA coordination and land/easement challenges, construction began in September 2026 with completion projected for December 31, 2026 and the final design reduced the retaining wall scope.

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**4. CITIZEN COMMENTS**

- Cheryl Milton spoke about public works and the former Operator in Charge for water and money that was paid out by the Town for work that may not have been completed. She stated she is looking out for taxpayer dollars and will continue to do so.
- Jim Boyer of Givens Highland Farms spoke to the Council stating that Givens would be willing to extend the current lease with the Public Safety department, who are currently using spaces in a vacant building there for offices, another two months at no charge. Mr. Boyer stated the donation of a building to the Town for the Fire Department's use.
- Russell Cate thanked the Fire Department for assisting his family on an emergency response call earlier this year, noting their professionalism and compassion.
- John Richardson spoke on Council accountability to staff and the manager, spoke on state representatives willing to help his businesses and spoke on ongoing legal issues. Mr. Richardson also encouraged Council to consider the recent ordinance presented by the Chamber of Commerce for the review of planning & zoning-related permitting.
- Shane Lunsford spoke about a recent town determination letter on containers at his property on Timber Park Dr. providing an update. He also spoke about the outstanding public record request and the process between departments dealing with code enforcement case #54.

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

Mayor Sobol read a statement regarding the current Town Public Safety Building and its current conditions. Council Harris offered condolences to Mayor Sobol on the recent passing of his spouse.

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**6. COMMUNICATION FROM TOWN ATTORNEY & TOWN MANAGER**

Attorney Craig Justus provided an update on the UDO process, noting he had been meeting with the Planning Board and staff to complete the final draft. He stated he hoped there to be a call for a public hearing to be on the November agenda, with intended hearing and adoption to be in December 2026.

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**7. CONSENT AGENDA**

**7.A. Adoption of Meeting Minutes- September 10 & 14, 2026.**

Council considered adoption of meeting minutes from the September 10, 2026 Agenda Work Session/Special Meeting, and the September 14, 2026 Regular Monthly Meeting. ***Council Member Larry Harris made a motion to approve the meeting minutes as presented. A vote of 4-0 in favor. Vice Mayor Archie Pertiller was absent.***

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**7.B. Monthly Tax Collector Report**. ***Council Member Larry Harris made a motion to***

***approve the tax collector report as presented. A vote of 4-0 in favor. Vice Mayor Archie Pertiller was absent.***

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**7.C. Call for Public Hearing for Text Amendments to Chapter 4 Zoning Regulations, Section 4.4 Provisions Governing All Lots, Section 4.4.2 Lot Access and Section 4.7.11 TND Traditional Neighborhood District (master planned), Section 4.7.11.5 Design Standards to clarify public and private streets to be held on Monday, November 9, 2026, at 6:00 p.m. in the Council Room of Town Hall, 160 Midland Avenue, Black Mountain, N.C. or as soon thereafter as possible.**

There is confusion in the language of these two sections regarding public and private street access and design. The proposed amendments seek to clarify the confusion, and this is a call for public hearing which will correct this text.

***Council Member Larry Harris made a motion to call for a public hearing as presented. A vote of 4-0 in favor. Vice Mayor Archie Pertiller was absent.***

The Black Mountain Town Council will meet on Monday, November 9, 2026,at 6:00 p.m. in the Council Room of Town Hall, 160 Midland Avenue, Black Mountain, NC. The purpose of this meeting is to hold a public hearing for amendments to Chapter 4 Zoning Regulations, Section 4.4 Provisions Governing All Lots, Section 4.4.2 Lot Access and Section 4.7 Zoning Regulations by District, Section 4.7.11 TND Traditional Neighborhood District (master planned), Section 4.7.11.5 Design Standards, to clarify public and private streets.

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**7.D. Authorization of Master Service Agreement with Anchor QEA, PLLC.**

A Master Service Agreement (MSA) has been negotiated with Anchor QEA, clarifying the relationship with the Town. Anchor QEA was selected through a qualifications-based process as the firm to perform design and engineering work associated with Flat Creek Greenway repairs.

***Council Member Larry Harris made a motion to adopt the resolution approving the MSA with Anchor QEA, PLLC as presented and recommended. A vote of 4-0 in favor. Vice Mayor Archie Pertiller was absent.***

**A RESOLUTION TO APPROVE THE MASTER SERVICE AGREEMENT WITH ANCHOR QEA, PLLC FOR ENGINEERING AND DESIGN SERVICES**

**RESOLUTION NO. R-26-90**

**WHEREAS,** the Town experienced substantial damage to public infrastructure from Tropical Storm Helene; and

**WHEREAS,** the Town initiated a qualifications-based selection for engineering firms to procure engineering services for Town recovery projects; and

**WHEREAS,** Anchor QEA, PLLC was selected as the most qualified firm for the Flat Creek Greenway project; and

**WHEREAS,** Town staff and Anchor have discussed terms and conditions for establishing a relationship between the two entities and will be performing work in accordance with an MSA and the scope of task orders should the MSA be approved; and

**WHEREAS,** this MSA will supersede any other agreements previously entered into between Anchor QEA, PLLC and the Town of Black Mountain, with the scope of work approved on September 14, 2026 for design services related to Flat Creek Greenway remaining in effect and operating under this version of the MSA;

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

1. The Town Council authorizes the Interim Town Manager, and/or a designee(s) thereof, to execute the attached Master Service Agreement with Anchor QEA, PLLC.
2. The Town Council authorizes the Interim Town Manager, and/or a designee(s) thereof, to execute and file any documents or other items required to implement these changes.

**Adopted this 12th day of October, 2026.**

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**7.E. Resolution to Approve Force Account Labor Exemption - Town Roads Group 1.**

Town staff have proposed that the scope of work outlined for the Town Roads Group 1 project, recently awarded through the FEMA Public Assistance program, may be completed using in-house labor and materials. Per NCGS § 143-135, the governing board must approve an exception to the bidding process for the jurisdiction to use its own officers or employees for construction or repair work in this manner.

***Council Member Larry Harris made a motion to approve the resolution as presented. A vote of 4-0 in favor. Vice Mayor Archie Pertiller was absent.***

**A RESOLUTION TO APPROVE THE AUTHORIZATION OF A FORCE ACCOUNT EXCEPTION FOR THE TOWN ROADS GROUP 1 PROJECT REPAIRS**
**RESOLUTION NO. R-26-91**

**WHEREAS,** many Town roads were damaged during Tropical Storm Helene; and

**WHEREAS,** documented road damages were divided into two FEMA projects based on the extent of damages; and

**WHEREAS,** FEMA has now obligated adequate funding to complete the scoping for the Town Roads Group 1 project; and

**WHEREAS,** Town staff have assessed that the Town will be able to complete the scope of work for these roads using in-house labor and expertise; and

**WHEREAS,** North Carolina General Statute requires Towns to authorize a force account exception to use their own officers or employees to perform construction or repair work in this manner to exclude the work from the standard bidding requirements for construction and repair work per NCGS § 143-135;

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

1. The Town Council approves the use of a force account exception for the Town Roads Group 1 project and authorizes the Interim Town Manager, and/or a designee(s) thereof, to execute any documents necessary to convey this exception to the standard requirements for public contracting.
2. The Town Council authorizes the Interim Town Manager, and/or a designee(s) thereof, to execute and file any documents or other items required to implement these changes

**Adopted this 12th day of October, 2026.**

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**7.F. Land of Sky Regional Council Management Contract.**

The Town Council will consider a master services agreement and three task orders from Land of Sky Regional Council to perform grant administration services for the town's SRF, Blueprint, and StRAP projects.

***Council Member Larry Harris made a motion to approve the resolution as presented. A vote of 4-0 in favor. Vice Mayor Archie Pertiller was absent.***

**A RESOLUTION AUTHORIZING THE MASTER SERVICES AGREEMENT AND 3 TASK ORDERS WITH LAND OF SKY REGIONAL COUNCIL FOR GRANT ADMINISTRATION SERVICES**
**RESOLUTION NO. R-26-88**

**WHEREAS,** the Town has been awarded grant funding for the State Revolving Fund (SRF), DEQ Blueprint project, and StRAP project; and

**WHEREAS,** the Town requires grant management services in order to effectively execute these projects and administrate these funds; and

**WHEREAS,** Land of Sky Regional Council has submitted to the Town a task order outlining their proposed scope and cost for grant administration services for these projects;

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

1. The Town Council authorizes the Interim Town Manager, and/or a designee(s) thereof, to execute the task order with Land of Sky to perform grant administration tasks outlined in the attached scope of work.
2. The Town Council authorizes the Interim Town Manager, and/or a designee(s) thereof, to execute and file any related documents required to implement this agreement for professional services and proceed with the outlined scope of work, as presented.

**Adopted this 12th day of October, 2026.**

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**7.G. Resolution to Authorize the Task Order for Downtown Stormwater Design & Engineering Services**.

Town staff have received the Task Order from the John R. McAdams Company for performing engineering services on the Downtown Stormwater Project (Phase I) funded through the NC Department of Commerce SmallBiz program. The included attachment is a copy of the proposed task order.

***Council Member Larry Harris made a motion to approve the following resolution as presented. A vote of 4-0 in favor. Vice Mayor Archie Pertiller was absent.***

**A RESOLUTION AUTHORIZING THE TASK ORDER JOHN R MCADAMS CO FOR DESIGN & ENGINEERING SERVICES FOR THE DOWNTOWN STORMWATER PROJECT**
**RESOLUTION NO. R-26-89**

**WHEREAS,** the Town applied to the Small Business Infrastructure Grant Program (SmBIZ) through NC Department of Commerce; and

**WHEREAS,** the Town was awarded funding from the Small Business Infrastructure Grant Program in the amount of $1,000,000 for Downtown Stormwater Improvements; and

**WHEREAS,** John R. McAdams Company, Inc. was selected as the most qualified firm based on their response to the Town's request for statements of qualification for the project; and

**WHEREAS,** John R. McAdams Company, Inc. has submitted to the Town a task order outlining their proposed scope and cost for design and engineering services for the project; and

**WHEREAS,** cash flow funds and reimbursements from the NC DEQ Blueprint program will be recognized in the capital project ordinance for the project entitled "Downtown Stormwater Project";

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

1. The Town Council authorizes the Interim Town Manager, and/or a designee(s) thereof, to execute the task order with John R. McAdams Company, Inc. to perform engineering and design tasks outlined in the attached scope of work.
2. The Town Council authorizes the Interim Town Manager, and/or a designee(s) thereof, to execute and file any related documents required to implement this agreement for professional services and proceed with the outlined scope of work, as presented.

**Adopted this 12th day of October, 2026.**

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**7.H. Consideration of FY26-27 Budget Ordinance Amendment to Appropriate Remaining Community Foundation of Western North Carolina Emergency Disaster Relief Fund Grant Funds.**

The Recreation & Parks Department requests adoption of a budget ordinance amendment to appropriate remaining funds from the Community Foundation of Western North Carolina Emergency Disaster Relief Fund grant for use in FY 2026–2027. The grant was awarded and received in FY 2025–2026 for the project entitled "Recreation and Parks: Restoring and Strengthening the Dr. John Wilson Community Garden Post-Helene", with an original total of $50,000.00. Council approved this grant award fund ordinance at the June 9, 2025 meeting, Ordinance No: O-25-14. *(Award letter attached)*

Of that $50,000 awarded, $32,870.25 was used in FY 2025 - 2026, leaving an unexpended balance of $17,129.75 on June 30, 2026. The remaining grant funds were not carried forward into the FY 2026-2027 budget and must be appropriated for continued use of the funds for the approved project.

***Council Member Larry Harris made a motion to adopt the following ordinance. A vote of 4-0 in favor. Vice Mayor Archie Pertiller was absent.***

**TOWN OF BLACK MOUNTAIN**
**AN ORDINANCE AMENDING THE FY 2026–2027 BUDGET ORDINANCE TO APPROPRIATE REMAINING COMMUNITY FOUNDATION OF WESTERN NORTH CAROLINA EMERGENCY DISASTER RELIEF FUND GRANT FUNDS**

**ORDINANCE NO. # O-26-27**

**WHEREAS**, the Town of Black Mountain was awarded a $50,000.00 grant from the Community Foundation of Western North Carolina Emergency Disaster Relief Fund for the project entitled “Recreation and Parks: Restoring and Strengthening the Dr. John Wilson

Community Garden Post-Helene"; and

**WHEREAS**, the Town Council approved the grant award and associated budget ordinance, Ordinance No. O-25-14, at its June 9, 2025 meeting; and

**WHEREAS**, during FY 2025–2026, $32,870.25 of the grant funds were expended for the approved project, leaving an unexpended balance of $17,129.75 as of June 30, 2026; and **WHEREAS**, the remaining grant funds were not carried forward into the FY 2026–2027 budget and must be appropriated to allow the Recreation and Parks Department to continue use of the funds for the approved project; and

**WHEREAS**, it is necessary to amend the FY 2026–2027 Budget Ordinance to recognize and appropriate the remaining grant funds.

**NOW, THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Black Mountain, North Carolina, that the FY 2026–2027 Budget Ordinance is hereby amended as follows:

| Account Number | Account Description | Increase | Decrease |
|---|---|---|---|
| 260-8807-48900 | Fund Balance Appropriation | $17,129.75 | |
| 260-8807-57210 | Capital Outlay Land Improvements | $17,129.75 | |

**BE IT FURTHER ORDAINED**, that copies of this budget ordinance amendment will be furnished to the Town Clerk, Budget Officer and Finance Director, and that the Budget Officers and/or Finance Director are hereby authorized to make the necessary budgetary entries and amendments to implement this ordinance.

**ADOPTED**, this the 12th day of October, 2026.

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**7.I. Consideration of FY26-27 Budget Ordinance Amendment to Appropriate the Remaining Swannanoa Valley Medical Center and Ernie Dewick Endowment Fund Grants.**

The Recreation & Parks Department requests adoption of a budget ordinance amendment to appropriate remaining funds from the Swannanoa Valley Medical Center and Ernie Dewick Endowment Fund grant for use in FY 2026–2027. The grant was awarded and received in FY 2025–2026, with an original total of $20,000.00. Of that amount, $10,500.00 was used, leaving an unexpended balance of $9,500.00 at June 30, 2026, and these remaining funds were not carried forward into the FY 2026-2027 budget.

***Council Member Larry Harris made a motion to adopt the budget ordinance amendment as presented. A vote of 4-0 in favor.***

**TOWN OF BLACK MOUNTAIN**
**AN ORDINANCE AMENDING THE FISCAL YEAR 2026–2027 BUDGET**

**ORDINANCE TO APPROPRIATE THE REMAINING SWANNANOA VALLEY MEDICAL CENTER AND ERNIE DEWICK ENDOWMENT FUND GRANT FUNDS**
**ORDINANCE NO. # O-26-28**

**WHEREAS**, the Town of Black Mountain Recreation & Parks Department was awarded a grant from the Swannanoa Valley Medical Center and Ernie Dewick Endowment Fund in the amount of $20,000.00 during Fiscal Year 2025–2026; and

**WHEREAS**, $10,500.00 of the grant award was expended during Fiscal Year 2025–2026, leaving an unexpended balance of $9,500.00 as of June 30, 2026; and

**WHEREAS**, the remaining grant funds were not carried forward into the FY 2026–2027 budget and must be appropriated to allow the Recreation and Parks Department to continue use of the funds for the approved project; and

**WHEREAS**, it is necessary to amend the FY 2026–2027 Budget Ordinance to recognize and appropriate the remaining grant funds.

**NOW, THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Black Mountain, North Carolina, that the Fiscal Year 2026–2027 Budget Ordinance is hereby amended as follows:

| Account Number | Account Description | Increase | Decrease |
|---|---|---|---|
| 100-0000-48900 | Fund Balance Appropriation | $9,500.00 | |
| 100-4700-55029 | Non-Governmental Grant Operating Expenses | $9,500.00 | |

**BE IT FURTHER ORDAINED**, that copies of this budget ordinance amendment will be furnished to the Town Clerk, Budget Officer and Finance Director, and that the Budget Officers and/or Finance Director are hereby authorized to make the necessary budgetary entries and amendments to implement this ordinance.

**ADOPTED**, this the 12th day of October, 2026.

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## 8. PUBLIC HEARING

### 8.A. Public Hearing for Text Amendments to Chapter 6 Animals, Section 6-6 Public Nuisance, and Section 6-19 Civil Penalty to add language regarding bears.

Planning Senior Admin Jennifer Tipton and Planner & Zoning Administrator Russell Cate presented the proposed amendments to Sections 6-6 (Public Nuisance) and 6-19 (Civil Penalty) to align the Town's ordinances with BearWise® community standards and support efforts to reduce wildlife conflicts and protect public health, safety, property, and wildlife. The amendments clarify nuisance definitions, including the addition of a definition for "danger," and specify that feeding birds is not prohibited unless the activity

attracts wildlife and continues after an order to stop. The amendments also clarify notice procedures and add violations related to attracting wildlife to the existing civil penalty levels, including a Level I violation for continued bird feeding after an order to cease and a Level III violation for attracting animals that threaten public health, safety, and welfare. Staff and the Bear Wise advisory committee recommends the amendments to support the Town's goal of achieving BearWise® community status. Discussion ensued among Council members and staff.

***Town Council Member Alice Berry made a motion to open the public hearing. A vote of 4-0 in favor. Vice Mayor Archie Pertiller was absent. The time was 6:55 p.m.***

- Charlotte McRaine, BearWise advisory committee member spoke about the proposed amendments asking the Council to please adopt these amendments as it's "something or nothing" stating the Council asked the committee to work to create amendments, to get started on standards to help with bear-related nuisances, which they did. She also spoke about the NC Wildlife Commission's recent rule on prohibiting bear feeding in Buncombe County, due to the large bear encounters that have occurred.
- Kiersten Hall, BearWise advisory committee member spoke about the emergency-level "with teeth" rule that the Wildlife Commission recently issued about feeding bears within Buncombe County. She stated these proposed amendments will at least get some guidelines onto the Town of Black Mountain's books on prohibiting bear feeding and spoke on the dire need for a statewide law on prohibiting bear feeding.
- John Richardson made comments on this item asking why the Council seemed more concerned about this topic and not working on solutions for the fire department.

With no further comments, ***Council Member Larry Harris made a motion to close the public hearing. A vote of 4-0 in favor. Vice Mayor Archie Pertiller was absent. The time was 7:05 p.m.***

Other discussion ensued concerning the town utilizing Buncombe County's Animal Control and that their penalties would apply to violations when reported. Council Member Ryan Stone stated he would like to see the fee schedule from the county and what the penalties are. The consensus among the Council was to go ahead and approve the proposed amendments and revisit as necessary.

***Council Member Larry Harris made a motion to approve the proposed text amendments to Ch. 6, Sec. 6-6 and Sec. 6-19 as presented and recommended. A vote of 4-0 in favor. Vice Mayor Archie Pertiller was absent.***

**AN ORDINANCE TO AMEND CHAPTER 6, ANIMALS, SECTION 6-6, PUBLIC NUISANCE, AND SECTION 6-19, CIVIL PENALTY**

**ORDINANCE NO. #O-26-25**

**WHEREAS,** the Black Mountain Code of Ordinances was adopted by the Town Council on the 13th day of December 1993, and the Black Mountain Land Use Code was adopted by the Town Council on the 11th day of January 2010; and

**NOW, THEREFORE, BE IT RESOLVED THAT** Chapter 6, Animals, Section 6-6, Public Nuisance, and Section 6-19, Civil Penalty, be amended to the following:

Chapter 6 – Animals

Sec.6-6. Public nuisance.

The keeping of any animal in such manner or in such numbers as to constitute a public nuisance is hereby prohibited. For the purposes of this section, a public nuisance ~~shall~~ **will** include, but not be limited to, the following:

(1) Unsightly litter, foul or offensive odors of any animal which remains upon or emanate from the property of the owner of such animal.

(2) The keeping of any animal which frequently is at large.

**(3)** ~~The keeping, possession or harboring of any animal which is dangerous to persons or property.~~ **The keeping, possession, harboring, feeding, or attracting of animals, wild, feral or domesticated, which threaten the public health, safety and welfare of the community in a manner including, but not limited to, attracting the presence of bears or wild animals that creates a danger to human, wildlife, or domestic animals, or causes damage to other properties; provided, that nothing herein will be construed to prohibit keeping or maintaining a bird feeder, or from feeding birds, unless said activity constitutes an attractant and unless its cessation is ordered by the animal control officer or a law enforcement officer, pursuant to this chapter.**

a. For the purpose of this section, danger ~~shall~~ **will** mean the potential for human injury or death, the potential for increased risk of disease transmission between animal species and humans, or the increased potential for death or injury to the bears, livestock or companion animals.

(4) The keeping of a cage or pen constructed and used for the purpose of restraining animals within ten feet of the outer limits of the lot upon which the cage or pen is situated; provided, however, that this setback requirement ~~shall~~ **will** not be applicable where the placing of the cage or pens within the ten-foot area does not result in locating the cage or pen within 50 feet of the nearest household occupied by persons other than the owner or keeper of the cage or pen. This subsection ~~shall~~ **will** not apply to the fencing of all or a major portion of a lot.

(5) Allowing or permitting an animal to damage the property of anyone other than its owner, including, but not limited to, turning over garbage containers, damaging gardens, flowers, or vegetables, or defecating upon the property of another.

(6) Maintaining animals in an unsanitary environment which results in offensive odors, or a failure to maintain a condition of good order and cleanliness which reduces the probability of transmission of disease.

(7) Maintaining animals in such a manner and location that animal waste can accumulate and run off onto another's property or stream.

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(8) Maintaining the owner's property in a manner that is offensive, annoying or dangerous to the public health, safety, or welfare of the community because of the number, type, variety, density or location of the animals on the property.

(9) Maintaining an animal that is diseased and dangerous to the public health through transmission of a zoonotic disease.

(10) Failing to confine a female dog or cat while in heat in a secure enclosure in such a manner that will prevent the animal from coming into contact with a male if its species or attract other animals; provided, however, that this section ~~shall~~ **will** not be construed to prohibit the intentional breeding of animals within a securely enclosed area on the premises of the owner of the animal which is being bred.

Sec. 6-19. Civil Penalty

(a) Except as otherwise provided herein, any person who violates any provision of this chapter ~~shall~~ **will** be subject to a civil penalty for each level of violation in accordance with subsection (c) of this section. Fines ~~shall~~ **will** be established by the county board of commissioners based on the nature of the violation and number of repeat offences. If the violation is continued, each day's violation ~~shall~~ **will** constate a separate offense. For the purposes of this section, repeat violations occur where the agency has issued a fine for the same offense within a 24-month period. Nothing in this section ~~shall~~ **will** prevent agency representatives from issuing warning violations.

(b) The animal owner or keeper ~~shall~~ **will** be issued a written notice of violation and penalty and ~~shall~~ **will** be required ~~to make payments to the animal shelter~~ **cease the violating condition and make payment** within ten days of receipt of notice. Notice of the civil penalty and violation ~~shall~~ **will** be delivered in person to the violator or mailed by certified mail, return-receipt requested, to the violator's last known address. If the applicable civil penalty is not paid within the period prescribed, a civil action may be commenced to recover the penalty and costs associated with the collection of the penalty.

(c) The severity of violations of the provisions of this chapter ~~shall~~ **will** be as follows:

(1) Violation of the following ~~shall~~ **will** constitute a level I violation:

a. Section 6-5(c)(1), "Animal bite."
b. Section 6-6(1), "Unsightly litter, foul or offensive odors."
**c. Section 6-6(3), "Feeding birds in a manner that constitutes an attractant and that is taking place subsequent to an order by the animal control officer or a law enforcement officer to cease said activity."**
~~c.~~ **d.** Section 6-6 (4), "Keeping a cage too close to the property line."
~~d.~~ **e.** Section 6-6(5), "Animal causing property damage."
~~e.~~ **f.** Section 6-6(6), "Maintaining animals in an unsanitary environment."
~~f.~~ **g.** Section 6-6(7), "Maintaining animal wastes."
~~g.~~ **h.** Section 6-11, "Failure to dispose of a dead animal."

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~~h.~~ **i.** Section 6-15, "Animal at large."

(2) Violation of the following ~~shall~~ **will** constitute a level II violation:

a. Section 6-6(2), "Animal frequently at large."
b. Section 6-6(10), "Failure to confine a dog in heat."
c. Section 6-7(a), "Failure to provide care of an animal."
d. Section 6-7(e), (f), "Unsafe transport of animal."
e. Section 6-7(g), "Unsafe confinement of an animal in a vehicle."
f. Section 6-7(h), "Intentionally striking an animal with a motor vehicle."
g. Section 6-7(i), "Failure to report striking an animal with a motor vehicle."
h. Section 6-7(k), "Giving away an animal as an inducement/contest prize."
i. Section 6-7(l), "Bird sanctuaries."
j. Section 6-7(m), "Distribution of unweaned cats and dogs prohibited."
k. Section 6-7(n), "Distribution of underage fowl prohibited."
l. Section 6-7(o), "Dyeing of animals prohibited."
m. Section 6-14, "Prohibition against giveaways in public places."

(3) Violation of the following ~~shall~~ **will** constitute a level III violation:

a. Section 6-4(b), "Interference with an animal control officer."
b. Section 6-4(c), "Concealment of an animal."
c. Section 6-5(a), "Vaccination of dogs and cats required; vaccination of other pets."
d. Section 6-5(b), "Vaccination tag and other certification."
e. Section 6-6(3), "Keeping of a dangerous animal."
**f. Section 6-6(3), "Attracting of animals which threaten the public health, safety and welfare."**

~~f.~~ g. Section 6-6(8), "Maintaining property in an offensive, annoying or dangerous manner."
~~g.~~ **h.** Section 6-6(9), "Maintaining diseased animals."
~~h.~~ **i.** Section 6-7(b), "Cruelty to animals."
~~i.~~ **j.** Section 6-7(c), "Promoting animal cruelty."
~~j.~~ **k.** Section 6-7(d), "Abandoning an animal."
~~k.~~ **l.** Section 6-7(j), "Animal used for unnatural behavior."
~~l.~~ **m.** Section 6-10, "Keeping a wild animal."
~~m.~~ **n.** Section 6-12, "Unaltered animal permit required."
~~n.~~ **o.** Section 6-16(d), "Failure to comply with a dangerous dog order."

**READ, APPROVED AND ADOPTED**, by a vote of __4__ to __0__ on this the 12th day of October 2026.

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**9. CITIZEN COMMENTS-** ***None.***

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## 10. UNFINISHED BUSINESS

### 10.A. Continued Public Hearing to Amend Chapter 8, Land Development and Environmental Regulations, Section 8.2, The Phase II Stormwater Ordinance and Chapter 20, Environment, Article X, Illicit Discharge.

Stormwater Technician & Floodplain Administrator Anne Phillip presented to the Council and compared the current Town's stormwater ordinance to the state model ordinance and has proposed amendments that will make the ordinance easier to understand and follow and will be incorporated into the UDO (Unified Development Ordinance). Anne stated additional definitions have been added, and the illicit discharge section will move from the Environment Chapter of the Code of Ordinances, to the Phase II Stormwater Ordinance. The Planning Board reviewed the proposed amendments at their July 27th, 2026 meeting and recommended the proposed amendments be approved. Changes were made to the illicit discharge ordinance to add its own violation and remedies section. Anne provided a list of updates to the Council. **A copy of this is included as Appendix A at the end of these minutes.** Some discussion ensued about Section 6: Illicit Discharge, stating that this text was not included in last month's proposed amendments, and the Interim Town Manager suggested removal of this until Council would have more time to review it, and it could be brought back at a later date.

***This public hearing was continued from the September 14, 2026 meeting, so the Mayor then called for any additional public comments. No other public comments were provided. Council Member Larry Harris made a motion to close the public hearing. A vote of 4-0 in favor. Vice Mayor Archie Pertiller was absent.***

***Council Member Larry Harris made a motion to approve the proposed amendments as presented, and the proposed amendments are consistent with the comprehensive plan and are reasonable and in the public interest because they promote environmentally sensitive and sustainable practices, promote natural approaches to address stormwater, and promote the public health, safety and welfare of the town. A vote of 4-0 in favor. Vice Mayor Archie Pertiller was absent.****

***Due to the size of this ordinance, it is included at the end of these minutes as Appendix B.**

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### 10.B. Resolution Supporting Efforts to Pursue Funding for Town of Black Mountain Public Safety Facilities.

This resolution is intended to acknowledge ongoing efforts undertaken by the Town to investigate the condition of the Public Safety Building and the site around the facility, as well as express support of efforts to generate solutions to provide facilities supporting public safety service provision. Some discussion ensued among Council Members.

***Council Member Larry Harris made a motion to approve the following resolution as presented. A vote of 4-0 in favor. Vice Mayor Archie Pertiller was absent.***

**A RESOLUTION SUPPORTING EFFORTS TO RESTORE TOWN OF BLACK MOUNTAIN PUBLIC SAFETY FACILITIES**
**RESOLUTION NO. # R-26-92**

**WHEREAS,** the Town of Black Mountain Public Safety Building at 106 Montreat Rd. experienced damage as a result of flooding and unstable bearing soils beneath the building foundation; and

**WHEREAS,** this damage has caused structural instability to the building resulting in the building's partial condemnation and the evacuation of the fire, police, and EMS staff from the facility; and

**WHEREAS,** Town staff have worked closely with North Carolina Emergency Management, who have graciously provided temporary facilities to accommodate fire and police departments for the short-term but these facilities are insufficient for the Town's long-term needs; and

**WHEREAS,** the Town's request for assistance to FEMA Public Assistance for the Public Safety Building was initially denied and that determination is currently under appeal; and

**WHEREAS,** the Town has received funding from the Office of State Budget Management to address these public safety needs; and
**WHEREAS,** the State of North Carolina has donated land located on North Fork Road for the express purpose of housing police and fire facilities and this land is properly zoned for this use; and

**WHEREAS,** the Town has received many reports regarding the condition of the Public Safety Building, with recent assessments showing more deterioration of the building and the site conditions; and

**WHEREAS,** these reports include the following:

- A 1985 Nilsson & Watts engineering report establishing a baseline for the building
- A 2011 ECS Carolinas soil boring report showing groundwater at 9-10 feet below the slab in the three boring locations and soil conditions which did "not appear to present an immediate threat to the structural integrity of the building; however, given time the subsurface conditions aggravated by flooding and high water table events will likely continue to cause additional distress to the structure"
- A 2012 Medlock report showing minor additional deterioration over a 27-year period compared with the 1985 Nilsson & Watts report
- A 2019 Medlock engineering report that shows no noticeable changes occurred in the structural instability between 2012 and 2019
- A post-Helene 2024 Medlock report indicating the failure of the stormwater pipe running under the Northeast corner of the building, with the pipe showing cracks and leaks
- A 2026 McGill & Associates report which included, among other findings, signs of separation on both the North and East walls, differential settlement in the slab near the North wall, and substantial horizontal cracking along the brick exterior on the North wall
- A 2026 ESP Associates soil boring report with three cores taken – the two lower-level slab cores showing standing groundwater at 0.8 feet and 1.0 feet below the top of the slab and the upper-level core showing standing groundwater at 9.0 feet below the slab. This report also

states in its conclusions that "based on the results of the exploratory hand auger borings [of which there were eight], the observed slab-on-grade and exterior veneer distress within the northeastern portion of the PSB [Public Safety Building] structure appears to be associated with variable near-surface low consistency fill soils and/or near surface water beneath portions of the building."

**WHEREAS,** the Town recognizes the need to maintain an active fire response facility in the downtown area while also recognizing a unique opportunity to utilize the North Fork location for police, EMS, and additional fire resources; and

**WHEREAS,** the Town has obtained a Preliminary Engineering Report, Site Plan, and Environmental Review which indicate that this is a feasible site for a combined public safety facility; and

**WHEREAS,** the Town, at the direction of North Carolina Emergency Management, has submitted a grant application to the Building Resilient Infrastructure and Communities (BRIC) program for the relocation of the combined public safety building to the North Fork Road location; and

**WHEREAS,** if awarded, the BRIC grant would cover the majority of construction costs for this facility.

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

1. The Town Council reiterates its support for efforts underway to explore avenues through which to adequately fund a public safety facility and its intention to accept funding through the BRIC program to build a public safety facility should the project be awarded funding.
2. The Town Council reiterates its support of Town staff exploring additional grant programs which could potentially fund the design and construction of a public safety facility.

**Adopted this 12th day of October, 2026.**

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## 11. NEW BUSINESS

### 11.A. Resolution Authorizing the Temporary Closure and Use of Honeycutt Street for Temporary Fire and Police Facilities.

With the installation of the temporary facilities for Fire and Police on Honeycutt Street, the Council will need to adopt a resolution temporarily closing Honeycutt Street for a period of time. State Statutes give the Town the authority to close streets on a temporary basis.

***Council Member Alice Berry made a motion to approve the following resolution. A vote of 4-0 in favor. Vice Mayor Archie Pertiller was absent.***

**RESOLUTION AUTHORIZING THE TEMPORARY CLOSURE AND USE OF**

**HONEYCUTT STREET FOR TEMPORARY FIRE AND POLICE FACILITIES**

**RESOLUTION NO. # R-26-87**

**WHEREAS,** the Town of Black Mountain ("Town") is responsible for providing essential municipal services, including fire protection, emergency response, law enforcement, and related public-safety services; and

**WHEREAS,** the Town requires temporary facilities to maintain and provide essential Fire and Police services during the period necessary to construct, repair, renovate, replace, or otherwise restore permanent municipal facilities; and

**WHEREAS,** the Town owns the property adjoining Honeycutt Street proposed for temporary use; and

**WHEREAS,** North Carolina General Statutes 160A-296 authorizes a municipality to exercise control over its public streets and expressly authorizes a municipality to close any street temporarily or permanently, subject to applicable law; and

**WHEREAS,** the Town Council has determined that the temporary closure and use of Honeycutt Street is necessary and appropriate to facilitate the continued operation of essential municipal Fire and Police services and to protect the health, safety, and welfare of the public; and

**WHEREAS,** the Town intends for the closure authorized by this Resolution to be temporary and does not intend by this action to permanently close, abandon, or discontinue Honeycutt Street as a public street; and

**WHEREAS,** the Town Council desires to establish the authority and conditions under which the temporary closure and use of Honeycutt Street shall occur.

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

**Section 1. Temporary Closure Authorized.** The Town Council hereby authorizes the temporary closure to vehicular and general public traffic on Honeycutt Street to accommodate the temporary municipal Fire and Police facilities.

**Section 2. Temporary Use of Right-of-Way.** The Town is authorized to use Honeycutt Street for the placement, installation, access, utility service, maintenance, and operation of temporary modular facilities and associated improvements necessary to provide municipal Police and Fire services.

**Section 3. Temporary Nature of Closure.** The closure authorized by the Resolution is intended to be temporary. Nothing in the Resolution shall constitute a permanent closing, abandonment, or discontinuance of Honeycutt Street. Upon completion of the need for the temporary facilities, the Town Manager shall take appropriate steps to reopen Honeycutt Street for public use, subject to any further action of the Town Council that may be required.

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**Section 4. Duration.** The temporary closure shall remain in effect for the period reasonably necessary to accommodate the Town's temporary Fire and Police facilities and related operations. The Town Manager is authorized to establish the effective date of the closure and to administer the closure consistent with this Resolution. If circumstances require continuation of the temporary closure beyond the period originally anticipated by the Town, the Town Manager shall report the circumstances to the Town Council and may seek additional direction or authorization from the Council as appropriate.

**Section 5. Traffic Control and Emergency Access.** The Town Manager, Police Chief, Fire Chief and other appropriate Town officials are authorized to establish and implement appropriate barricades, signs, traffic control measures, emergency-access routes, and other measures necessary to protect public safety and maintain reasonable emergency access during the closure.

**Section 6. Compliance With Applicable Requirements.** The Town Manager is authorized and directed to coordinate with appropriate Town staff and governmental agencies to obtain any permits, approvals, inspections, utility authorizations, or other approvals that may be required by applicable Federal, State, or local law for the temporary facilities and their placement within the affected right-of-way.

**Section 7. No Transfer of Ownership.** Nothing in this Resolution shall be construed as conveying, abandoning, dedicating, or transferring any ownership interest in Honeycutt Street or the Town's right-of-way.

**Section 8. Authority of Town Manager.** The Town Manager is authorized to take all administrative actions reasonably necessary to implement this Resolution, including coordinating the placement and operation of the temporary facilities, establishing traffic control measures, coordinating utilities and site improvements, and communicating the temporary closure to the affected governmental agencies and the public.

**Section 9. Effective Date.** This Resolution shall become effective upon adoption.

**ADOPTED this 12th day of October 2026.**

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**12. CLOSED SESSION - NCGS 143-318.11(A)(6) TO DISCUSS PERSONNEL-RELATED ITEMS.**

The Town Council would now enter into closed session pursuant to 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 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.

***Town Council Member Ryan Stone made a motion to enter into closed session pursuant to NCGS 143-318.11(a)(6). A vote of 4-0 in favor. Vice Mayor Archie Pertiller was absent.***

**The time was 7:35 pm. Town Council returned from closed session at 7:53 pm.**

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**13. ADJOURNMENT**

**With no further business to be discussed, Mayor C. Michael Sobol adjourned the meeting.**

_____
C. Michael Sobol, Mayor

Attest: _____
Town Clerk

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