

**Town of Montreat  
Board of Commissioners  
Town Council Meeting  
January 8, 2009 – 7:00 p.m.  
Kirk Allen Building**

The Montreat Board of Commissioners held their regularly scheduled Town Council Meeting on January 8, 2009 at 7:00 p.m. in the Kirk Allen Building. Present among the Board were Mayor Letta Jean Taylor, Commissioner Bill Hollins, Commissioner Jack McCaskill and Commissioner O'Neil Tate. Mayor Pro Tem Eric Nichols and Commissioner Ruth Currie were absent. Representing Town Staff were Town Administrator Ron Nalley, Public Works Director Charlie Caldwell, Town Clerk Misty R. Gedlinske, Chief of Police William B. McClintock, Finance Officer Stefan Stackhouse and Building Inspector/Code Administrator David Currie. Approximately 20 members of the public were also present. After calling the meeting to order, Mayor Taylor led the group in reciting the Pledge of Allegiance and gave the invocation.

**Agenda Approval**

Commissioner Hollins moved to adopt the meeting agenda as presented. Commissioner McCaskill seconded and the motion carried 3/0.

**Presentation to Council: Scott Hughes – Johnson, Price & Sprinkle P.A.**

Scott Hughes presented the 2007-2008 Annual Audit Report and said that the report reflected an unqualified opinion, meaning that the financial statements were fairly presented in all material respects. He reviewed the Town's unrestricted cash balance amounts, General Fund and Water Fund balances and compared each figure to that reported at the end of the prior fiscal year. He praised the Town's budgeting and cost control efforts, and reported a property tax collection rate of just over 99.9%. Mr. Hughes noted two material weaknesses included in the audit report, one related to how certain financial reporting and monitoring practices could be improved. He explained that another comment regarding the need to segregate certain financial duties among various staff members was normally mentioned in nearly every small town's audit report due to the limited number of staff members available to perform those functions. Mr. Hughes concluded his report by encouraging the Commissioners to contact him with any questions they may have. Commissioner Hollins said the Audit Committee would meet to review the audit and prepare their own report to the Board for presentation at the February Town Council Meeting.

**Presentation to Council: 2009 – 2014 Capital Improvement Program Presentation**

Mr. Nalley gave a brief presentation on the 2009-2014 Capital Improvement Program (CIP), which he explained was a financial planning tool used to forecast the Town's future equipment, building and infrastructure needs for items greater in \$5,000 in value with a useful life expectancy greater than five years. The presentation included information on the types of items included in the CIP, as well as a description of the process for Board members or residents to request that an item be included in the plan. He advised that a draft document would be completed by late January and presented to the Council at their February meeting, and stated that the Board could adopt the final plan following a public hearing at the March Town Council Meeting.

**Communications From the Mayor**

Resolution Honoring George Beverly Shea: Commissioner Hollins moved to adopt Resolution #09-01-0002 Honoring George Beverly Shea on the Occasion of His 100<sup>th</sup> Birthday. Commissioner Tate seconded and the motion carried 3/0. A copy of this Resolution is attached to these minutes and incorporated herein by reference.

**Review of the Consent Agenda**

Mr. Nalley stated that with the adoption of the Consent Agenda, the Board had approved the minutes of the November 13, 2008 Town Council Meeting, December 4, 2008 Agenda Meeting, December 10, 2008 Special Meeting, December 11, 2008 Town Council Meeting and December 18, 2008 Special Meeting.

**Communications from the Town Administrator**

Evaluation of Town Administrator: Mr. Nalley asked the Board to begin considering possible dates in January or early February to conduct his annual performance evaluation. Mayor Taylor asked Mr. Nalley to forward the necessary evaluation forms to the Commissioners and staff, and said the Council would set a date for the evaluation at their February Agenda Meeting.

Scheduling of 2009 Board Retreat: Mr. Nalley also asked the Council to begin considering dates for the annual Board Retreat, which he said was normally held on a Saturday in March. He said that staff would propose potential dates for confirmation and proceed with meeting arrangements accordingly.

**Administrative Reports**

Police Chief: Chief McClintock gave his activity report for the month of December. He also presented two recommendations for the purchase of a new police patrol vehicle. He said his first choice was a Ford Crown Victoria because of its well-established history of dependability. His second option was a Chevrolet Impala, which he said included all necessary “police package” equipment for about \$4,000 less than the Crown Victoria. During discussion, Commissioner Tate suggested delaying a purchase decision until all the Board members were present. Commissioners Hollins and McCaskill felt it was time to move forward with a decision on this matter, and both favored the Impala over the Crown Victoria for financial reasons. The Board agreed by consensus for Chief McClintock to obtain bids on the Chevrolet Impala for consideration at next month’s meeting, and Mayor Taylor also asked staff to prepare a vehicle purchase policy for discussion at the March Board Retreat.

Public Works Director: Mr. Caldwell listed the tonnage amounts of garbage and recyclables collected during the month of December. He noted that Progress Energy would be performing routine tree trimming in several areas throughout the Town. He also reported that the Town had returned about 2.8 million gallons of water to the Town of Black Mountain, and that all of the water

received during the summer months should be returned by the end of February. Mr. Caldwell said that repair crews were able to remove an obstacle from the well shaft and increase Well A's output to 45 gallons per minute at a repair cost of \$5,000. He noted that Well A's original production rate was 140 gallons per minute in 1978, which had dropped to 60 gallons per minute since last year and only 8 gallons per minute prior to the recent repairs.

Finance Officer: Mr. Stackhouse presented and reviewed the final November and preliminary December 2008 Financial Statements. He reported that sales tax and investments earnings would fall short of budgeted amounts and that due to public conservation efforts, the Town's water billing revenues were lower than those received during the same time period last year. Mr. Stackhouse also noted that expenditures were at or below budgeted levels for most departments. There were no comments or questions from the Board at this time.

Building Inspector/Code Administrator: Mr. Currie presented and reviewed the zoning activity and building inspections report for the month of December.

### **Commissioner Reports**

Mayor Pro Tem Nichols was absent.

Commissioner Currie was absent.

Commissioner Hollins had no report at this time.

Commissioner McCaskill reported that the Buncombe County Greenways Commission would begin meeting regularly on the third Wednesday of each month.

Commissioner Tate reported that the minutes of the Parks and Recreation/Montreat LandCare Committee's recent meeting had been completed and e-mailed to the Commission members.

### **Public Comment**

John Jordan said he was disappointed in the Police Department's purchase choice for a new patrol vehicle. He felt that a Ford Escape hybrid would be more consistent with the Montreat community's focus on environmental conservation.

Ann Rogers spoke on behalf of Erskine and Nan Clarke and gave background information on the purchase history of the Clarkes' lot. She stated that her sister was the former owner of the lot and had been assured by a local builder and a Realtor that the lot was buildable and that it would be possible to install a private sewer line connection to the property. She felt it was unfair for Mr. Clarke to be required to install a public sewer line connection after construction on his new home had already begun. Mrs. Rogers said that a suggestion made by one of the Commissioners at a previous meeting for Mr. Clarke to ask his neighbors to share the cost of the sewer line was not practical in that those neighbors had already installed their own private sewer lines and

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would have no interest in Mr. Clarke's project. She said she supported stricter building codes but felt that in this instance the Clarkes were being victimized by the Town's efforts to create consistent standards for utility extensions.

Campbell Tucker said he had been told by representatives from Towers XX that there may be other possible sites for the cellular communications tower that may provide adequate signal strength with less visual impact to the Town. He claimed that Towers XX had been under the impression that cellular towers could only be constructed at the Town's water tank sites on either Appalachian Way or Harmony Lane, when in fact a tower could be located in other areas through a Conditional Use Permit process. Mr. Tucker felt that the Appalachian Way water tank area was an inappropriate site for the tower because of its close proximity to residential property, Conservation Easement lands and the community trail system. He believed that a cell tower in this area would have negative impact on surrounding residential property values and may discourage others from dedicating their lands into conservancy. He also said that locating a tower at the Appalachian Way site would be a difficult process requiring a crane and a 45-90 day construction period and suggested that construction at a different location may be easier, faster and less expensive. Mr. Tucker asked the Council to delay further deliberation of the lease agreement until all possible sites had been evaluated, and to collaborate with Montreat College and the Mountain Retreat Association to determine whether an alternative site on one of their properties may be feasible.

Mountain Retreat Association President Pete Peery said that locating a cellular tower within Montreat would be in the interest of the College as a means of improving student safety, and would also be advantageous to the safety and convenience of the Conference Center's guests and staff. He believed that the tower was needed but should also be installed in a way that provided adequate service while continuing to protect the area's viewshed and ecology. He said that the Conference Center would be willing to consider locating a cellular tower on one of their properties if doing so would provide a less obtrusive option.

Montreat College Vice President for Students Charles Lance said that the College would also be willing to consider locating a cellular tower on their property if an appropriate site could be found. He explained that the College would benefit from a tower within Montreat because cellular communication was a major component in the development of a redundant safety and emergency warning and response system. He said this system would serve not only the College's students and faculty but also Conference Center staff and guests, Montreat Presbyterian Church officials and Town residents. He offered to work with the Town and Conference Center to find a compromise on the placement and appearance of the tower but felt that public safety should be a primary concern.

Louise Williams said she did not think anyone disagreed that a cellular tower was needed, but urged the Council to consider possible locations other than the Appalachian Way site.

Robert Shaw spoke about a lot adjacent to his home which he had purchased several years ago and donated to the Mountain Retreat Association as part of their Conservation Easement. He

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said he had heard that a certain amount of tree trimming on this lot may be needed if a cellular tower was installed at the Appalachian Way water tank site. Mr. Shaw also expressed his concerns about screening around the base of the tower site as well as the duration of any road closures during the construction phase of the project. He agreed that there was a strong need for a cellular tower but felt that other locations should be considered.

Lenore Tucker said that the land surrounding the Appalachian Way water tank area was either privately owned or part of the Conservation Easement and was in her opinion inappropriate as a location for a cellular tower. She also said that several owners of property on Appalachian Way lived outside of Montreat and felt that the Board of Commissioners should have written personal letters to these individuals notifying them of the dates and times of any meeting where this issue was being considered.

Betsy Shaw Brown made a comment to Mr. Peery that the Mountain Retreat Association may want to consider ecotourism as a source of income and suggested that the chapel near the top of Appalachian Way could be used for this purpose. She also said that her research into cellular tower lease agreements showed that other locations were able to receive a higher amount of rental income than the Town was currently being offered. She noted that items such as tower camouflage options and road improvements had been successfully incorporated into other lease agreements and suggested that the Board consider these possibilities during their negotiations with Towers XX.

In response to the 2009-2014 Capital Improvements Program presentation, John Jordan felt that Montreat's water rates were incredibly low compared to other areas. He stated that in his experience, escalated rates for higher usage amounts offered more effective control over water consumption than implementing conservation measures. He also said he did not support the construction of a new Town Hall facility.

**Old Business**

Resolution of Support for Submittal of a Proposal to Develop a Comprehensive Pedestrian Master Plan for the Town of Montreat: Mr. Nalley explained that the North Carolina Department of Transportation (NCDOT) Bicycle and Pedestrian Planning Grant Initiative was a matching grant program that encouraged municipalities to develop comprehensive bicycle plans and pedestrian plans. He said that the Parks and Recreation/Montreat LandCare Committee estimated the cost to produce such a plan for Montreat at around \$21,250.00 including a 20% local match of \$4,250. Mr. Nalley advised that after a grant proposal in this amount was submitted, NCDOT contacted Town staff and asked that the request be increased to \$25,000.00 with a \$5,000 local match. He asked the Board to consider adopting an amended Resolution of Support reflecting the revised funding amounts. Commissioner Tate moved to adopt Resolution #09-01-0001 Supporting the Submittal of a Proposal to Develop a Comprehensive Pedestrian Master Plan for the Town of Montreat. Commissioner Hollins seconded and the motion carried 3/0. A copy of this Resolution is attached to these minutes and incorporated herein by reference.

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Proposed Telecommunications Tower Facility Lease Agreement - Towers XX, LLC: Mr. Nalley advised that the Board had asked at their November Town Council meeting whether Towers XX had considered alternative sites that might accommodate a smaller, less obtrusive tower. He said he met Towers XX representative Andy Ward, who indicated that there were other locations closer to the central area of Montreat that would likely be feasible but were located on private property. Mr. Nalley said that following a Public Hearing on this matter in December, the Council had requested an additional balloon test at the 180' height of the proposed tower. He presented copies of photographs taken from various locations throughout the Town during the December 18, 2008 balloon test, and noted that the diameter of the balloon used during the test was twice the size of what the actual top portion of the proposed tower would be. He also explained that the selected photographs showed the balloon at a height as close to the proposed 180' as possible and were not magnified or altered in any way. Mr. Nalley asked the Board for a decision to either move forward with the lease agreement with Towers XX or to direct staff to meet with the Mountain Retreat Association, Montreat College and other private property owners to discuss possible alternate tower locations.

During discussion, Commissioner Hollins felt that the Board should examine alternative sites, though he noted that the Appalachian Way location may still prove to be the most suitable. Commissioner McCaskill believed that the Appalachian Way site would provide better signal coverage than locations at lower elevations and would improve emergency communications on the trail system and in other remote areas. Andy Ward agreed that placing the tower at a lower elevation would serve only the main portion of Town and would not provide adequate coverage to the Greybeard Trail area. Mr. Nalley responded to concerns about possible tree trimming needed to provide crane access to the proposed site by explaining that the Town had a 30' right-of-way that could be used for this purpose that was outside of the Conservation Easement area. Mr. Ward also clarified that Appalachian Way would only be closed for a brief period to move the crane into position and would remain open during the remainder of the construction process. Commissioner Tate felt that no matter how many sites were examined or negotiated, the surrounding property owners would have concerns similar to those expressed at this meeting regardless of where the tower was located. He did not believe further consideration of alternative sites was necessary and supported placement of the proposed tower at the Appalachian Way water tank site. He said he could understand why residents living near the proposed site were opposed to the tower but also believed that the disturbance caused by its construction was temporary and that those living near the tower would become accustomed to its presence over time. Commissioner Tate said that he was a strong supporter of environmental preservation but did not believe that this type of cellular tower would be overly intrusive. Commissioner McCaskill then moved to continue proposed telecommunications tower lease facility agreement negotiations with Towers XX. Commissioner Tate seconded. The motion carried 2/1, with Commissioner Hollins voting in opposition.

Proposed Revisions to the Ordinance Regulating Wireless Communication Technology for the Town of Montreat: Mr. Nalley said that at the Board's request, staff had had prepared an amendment to this Ordinance that would allow administrative approval of monopoles up to 180' feet in height on Town-owned property and would grant the Board of Commissioners final

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approval through the leasing process for tower structures in those areas. Commissioner Tate moved to adopt Ordinance #09-01-0001 Amending the Ordinance Regulating Wireless Communication Technology for the Town of Montreat. Commissioner McCaskill seconded. The motion carried 2/1, with Commissioner Hollins voting in opposition. A copy of this Ordinance is attached to these minutes and incorporated herein by reference.

Proposed Revisions to the Ordinance Regulating the Construction and Financing of Public Improvements: Commissioner Hollins moved to call for a Public Hearing on February 12, 2009 at 7:00 p.m. or as soon thereafter as possible to consider proposed revisions to the Montreat Ordinance Regulating the Construction and Financing of Public Improvements. Commissioner Tate seconded and the motion carried 3/0.

Montreat General Ordinance Chapter K – “Environment,” Article IV: Hillside Development: Commissioner Tate moved to request that the Planning and Zoning Commission evaluate the suggestions and information presented at the two workshops, along with the proposed staff revisions to the Hillside Development Ordinance, and prepare a final recommendation for consideration by the Board of Commissioners. Commissioner Hollins seconded. After brief discussion, the motion carried 3/0.

**New Business**

Request to Use Public Right-of-Way: Erskine Clarke, Providence Terrace: Mr. Nalley advised that the Town had received a request from Erskine Clarke to locate a temporary, private water line along a public right way that would later be replaced with a six-inch water main in accordance with the new provisions of the proposed utility extension ordinance. He stated that the Board had previously voted not to allow the installation of any private utility extensions not meeting Town standards within the public rights-of-way. Mr. Nalley said he had discussed the merits of this request with Town Attorney Susan Taylor Rash and agreed that the most timely resolution would be to allow the temporary use of the right-of-way with the understanding that in the near future a six inch water main will be installed by the Town, the cost of which would be assessed against the benefiting property owners. Mr. Nalley explained that thirty to sixty days would be needed for the State to issue permits for a new water line extension, and several months would be needed to meet the procedural requirements of N.C.G.S. 160A, Article 10 for special assessments. Mr. Nalley also said Mr. Clarke understood that if the Board were willing to consider granting his request the installation of the private line would be done at his expense and that he would still be assessed for the construction of the water main.

After brief discussion, Commissioner McCaskill moved to authorize the Town Administrator and Town Attorney to develop an agreement to allow the temporary placement of a private water line in the public right-of-way along Providence Terrace and to authorize the Mayor to execute the necessary legal documents. Commissioner Hollins seconded and the motion carried 3/0.

**Public Comment**

Erskine Clarke said that when he and his wife moved to Montreat they expected to be welcomed and treated fairly as they began to build their home. He stated that construction was already underway when he was told that the Board of Commissioners had decided to require him to install a sewer line to Town standards at his own expense, and that he did not realize until recently that a water line would also be required. Mr. Clarke said that the \$60,000 cost of the sewer line extension did not create a financial emergency for his family, but noted that the Board was not aware of that fact at the time their decision was made. He said that the evening's discussion had shown him the ways in which behind the various pieties of Montreat, a technological society and a bureaucratic ideology have come to dominate the Board's decision-making process. He also felt that the values of efficiency and standardization had taken precedence over fairness, and that the result was that his family had been forced to bear the burden of significant unexpected costs. He stated that these circumstances had been deeply distressing to his family in many ways and had reinforced some of the prejudices of outsiders about the character of Montreat. Mr. Clarke said he and his wife were pleased to be able to move ahead with the completion of their home, but felt that the Board would have to bear the burden of shame for their actions and how their decisions have impacted both individual citizens and the community as a whole. He believed that the Board had acted in good faith but also felt that fairness and decency had been sacrificed in their attempt to right old wrongs.

Campbell Tucker thanked Mr. Nalley and Towers XX representatives for their willingness to discuss the details of the cellular tower lease proposal with him. He also said he was extremely disappointed with the Board for not considering other sites and not collaborating with Montreat College and the Mountain Retreat Association on possible alternative locations.

Betsy Shaw Brown said she had great respect for the Board members and Town staff. She asked the Board to remember the ideals that Montreat was originally based on and felt that construction of a cellular tower was incongruous with a place of prayer and environmental conservation. She also said that while she understood that decisions were sometimes made in an effort to upset the least number of people, it may be possible to reach a decision that did not divide the community and encouraged the Board to pursue this.

Nan Clarke felt that Montreat was a retreat and a community of faith rather than an ordinary town. She hoped that Montreat could continue to be a place set apart from the general culture.

Pete Peery commented that the Mountain Retreat Association had developed the Montreat area somewhat haphazardly prior to the Town's incorporation and said he understood this created unique challenges for the Board as they worked to ensure that services were provided in a safe and efficient manner. He hoped that the Board would think seriously about Mr. Clarke's earlier comments and said that Montreat had changed considerably over time due to the rising cost of living in the community. He was concerned that of all the communities in Buncombe County, Montreat was second only to Biltmore Forest as the most expensive place in the County to live and noted that none of the MRA's management personnel lived within the Town limits. Mr.

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Peery felt that advancing the cost of infrastructure improvements on to individual homeowners only served to escalate this problem and urged the Council members to consider how their decisions concerning infrastructure affected the nature of the community as a whole. He offered to work with the Board and Town staff to find solutions to these issues.

Wade Burns commented on the portion of the proposed revisions to the Ordinance Regulating the Construction and Financing of Public Improvements requiring driveways constructed in the public right-of way to meet Town street standards and said he understood the language of this section to also apply to any modification or resurfacing of existing driveways. He also referred to a private sewer line extension on Suwannee Drive that had been collectively funded by the property owners served by that line and said that sometimes large public improvement projects scheduled for future years in the Town's Capital Improvements Plan were never moved forward for funding or action. He suggested that if the Town were to adopt an ordinance prohibiting private driveways or utility connections, other options such as assessments or right-of-way use agreements should be made available to those property owners in remote areas who wish to have these improvements completed ahead of the Town's schedule.

John Jordan expressed his support for Erskine and Nan Clarke. He asked the Council to remember that Montreat was a small community and felt that fairness should be favored over bureaucracy when making decisions.

Lenore Tucker said she was very disappointed in the Board's decision concerning cellular tower lease negotiations. She wished that the Council had considered further exploration of alternative locations, and thought their decision on this matter should have been delayed until all the Council members were present.

**Meeting Dates**

Mayor Taylor announced the following upcoming meeting dates:

Planning & Zoning Commission Meeting: January 15, 2009, 7:00 p.m.,  
Kirk Allen Building

Town Services Office Closed: January 19, 2009  
Martin Luther King, Jr. Day

Martin Luther King Jr., Garbage Collection Date: Tuesday, January 20, 2009

Agenda Items Due: January 30, 2009, 4:30 p.m.,  
Town Services Office

Agenda Packets Available: February 3, 2009  
Town Services Office

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February Agenda Meeting:

February 5, 2009, 7:00 p.m.,  
Kirk Allen Building

February Town Council Meeting:

February 12, 2009, 7:00 p.m.,  
Kirk Allen Building

February Planning & Zoning Commission  
Meeting:

February 19, 2009, 7:00 p.m.,  
Kirk Allen Building

**Adjournment**

There being no further business to discuss, Commissioner Hollins moved to adjourn the Town Council Meeting. Commissioner Tate seconded. The motion carried 3/0 and the meeting was adjourned at 9:00 p.m.

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Letta Jean Taylor, Mayor

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Misty R. Gedlinske, Town Clerk