

**Town of Montreat
Board of Commissioners
Agenda Meeting
May 7, 2009 – 7:00 p.m.
Kirk Allen Building**

The Montreat Board of Commissioners held their regularly scheduled Agenda Meeting on May 7, 2009 at 7:02 p.m. in the Kirk Allen Building. Present among the Board were Mayor Pro Tem Eric Nichols, Commissioner Ruth Currie, Commissioner Bill Hollins, Commissioner Jack McCaskill and Commissioner O’Neil Tate. Mayor Letta Jean Taylor was absent. Representing Town Staff were Town Administrator Ron Nalley, Public Works Director Charlie Caldwell, Chief of Police William B. McClintock, Finance Officer Stefan Stackhouse and Building Inspector/Code Administrator David Currie. Five members of the public were also present. After calling the meeting to order, Mayor Pro Tem Nichols led the group in reciting the Pledge of Allegiance and gave the invocation.

Agenda Approval

Commissioner Tate moved to adopt the meeting agenda as presented. Commissioner McCaskill seconded and the motion carried 5/0.

Public Hearing - Proposed 2009-2014 Capital Improvements Program

Mayor Pro Tem Nichols said the Council would hold a Public Hearing to discuss the proposed 2009-2014 Capital Improvements Program at next week’s Town Council Meeting.

Communications From the Mayor

2009 Mayor’s Cup Raft Race: Mayor Pro Tem Nichols announced that the 2009 Mayor’s Cup Raft Race would be held on June 7, 2009 at 3:30 p.m. at French Broad River Park in Asheville. Commissioner McCaskill, Commissioner Tate, Ron Nalley and David Currie agreed to represent Montreat in this event.

Letter to Council – Robert Hudspeth: Mayor Pro Tem Nichols acknowledged Mr. Hudspeth’s letter and verified that each Commissioner had received a copy.

Review of the Consent Agenda

Mayor Pro Tem Nichols reviewed the items listed on the Consent Agenda, which included the following items:

- March 12, 2009 Town Council Meeting Minutes
- March 20, 2009 Special Meeting Minutes
- April 2, 2009 Agenda Meeting Minutes
- April 8, 2009 Special Meeting Minutes
- Montreat Landcare Committee Town and Community-at-Large Representative Appointments

- A call for Public Hearing on June 11, 2009 at 7:00 p.m. or as soon thereafter as possible to discuss the proposed 2009-2010 Fiscal Year Budget

Mr. Nalley advised that O'Neil Tate and Mike Sonnenberg would be listed on next week's agenda as nominees for appointment as Town representatives to the Montreat Landcare Committee, and that Sam Hope would be listed as the Community-at-Large representative nominee. The other member entities will appoint their own representatives, who were generally expected to be the same as those who served on the former Parks and Recreation Committee.

Communications From the Town Administrator

American Recovery and Reinvestment Act of 2009: Mr. Nalley said he received word that the Texas Road bridge replacement project had not qualified for requested American Recovery and Reinvestment Act of 2009 funding through the North Carolina Department of Transportation. He will apply for alternate funding through the French Broad River Metropolitan Planning Organization for this project. Staff has not yet received a response concerning any funding to be awarded for the Greybeard Trail and Harmony Lane well site projects or the Greybeard Trail water line replacement project.

Drought Management Plan Update: Mr. Nalley said a revised Drought Management Plan had been submitted to the North Carolina Division of Water Quality. He explained that Montreat's plan had been rejected even though it was based on the State's model ordinance.

Charter Communications Restructuring: Mr. Nalley presented a letter from Charter Communications announcing that the company had filed for Chapter 11 bankruptcy reorganization.

NCRWA Water Conservation Information: An informational brochure on the potential impact of water leaks from the North Carolina Rural Water Authority will be posted in the Town Services Office, Montreat Post Office and several other locations throughout the Town.

Buncombe County Solid Waste Department Update: Mr. Nalley provided copies of a letter from the Buncombe County Solid Waste Department notifying the Town of its intent to begin imposing a \$5 per item fee for mattress disposal. Staff will ask the Council's permission at next week's meeting to charge Montreat residents the same per item fee amount for mattress collection.

Montreat Conference Center Donation: Mr. Nalley announced that the Town had received a \$5,000 payment-in-lieu-of-taxes donation from the Mountain Retreat Association.

Administrative Reports

Police Chief: Chief McClintock said he would give his monthly departmental activity report at next week's meeting. He presented draft revisions to two departmental policies that the Council

would be asked to approve at their June meeting. He also said he would ask the Council to appoint Henry Watkins to the vacant Reserve Officer position at next week's meeting.

Public Works Director: Mr. Caldwell noted that the upcoming Memorial Day holiday would cause sanitation collection for that week to be delayed until Tuesday, May 26. He also said that the bid opening for the Appalachian Way paving project would be held the following Monday, and that well drawdown testing on Greybeard Trail had indicated a 90 gallon-per-minute combined flow yield for the three sites.

Finance Officer: Mr. Stackhouse presented and reviewed the final March and preliminary April 2009 Financial Statements, along with quarterly investment earnings information for the period ending March 31, 2009. He also reported on his plans to invest in short-term Certificates of Deposit with First Citizens Bank and Asheville Savings Bank. Mayor Pro Tem Nichols asked Mr. Stackhouse to request any available interest rate incentives for new accounts that may be available.

Building Inspector/Code Administrator: Mr. Currie said he would give his monthly activity report at next week's meeting. He reported that Towers XX had submitted a conditional use permit application for placement of a "stealth wireless communications facility" to be located in the rear of the South Carolina Home property. The conditional use permit request will be presented to the Planning and Zoning Commission in either May or June, and would then be submitted to the Board of Adjustment for a final decision. Mr. Currie said Towers XX was also organizing a public information session to be held immediately prior to the Planning and Zoning Commission's May meeting.

Commissioner Reports

Mayor Pro Tem Nichols reported that the Black Mountain Center for the Arts would hold its annual "Art in Bloom" fundraising event on June 18-21 and invited everyone to attend.

Commissioner Currie presented a report on her research of work done several years ago by the Planning and Zoning Commission concerning possible permit fees for oversize vehicles entering Montreat. These fees were intended to recognize the amount of damage these types of vehicles caused to public road surfaces and to offset the costs of any necessary repairs. Commissioner Currie reviewed how the proposed ordinance language defined different categories of oversized vehicles and how each group would be regulated. She said her research indicated that the last revision of the draft was sent to the Town Attorney in October 2001 but did not include any record of the matter coming back before the Town Council for further consideration. She asked the Board to review her research for further discussion at next week's meeting. In response to her questions concerning the status of the proposed Streets Standards Ordinance, Mr. Nalley explained that this item had been delayed in order to allow additional staff time to complete certain necessary revisions to the document.

Commissioner Hollins reported that the Audit Committee would review a proposed audit contract from Johnson, Price and Sprinkle, P.A. and make a recommendation at the Council's June meeting.

Commissioner McCaskill said he had attended a recent Land-of-Sky Regional Council meeting on the Mayor's behalf.

Commissioner Tate reported that the minutes of the Montreat LandCare Committee's recent meeting had been e-mailed to the Council, and that the first phase of the Native Plant Garden had been completed.

Public Comment

There were no comments from the public at this time.

Old Business

Proposed Montreat General Ordinance Chapter K, Article IV "Hillside Development": Mr. Nalley said staff had made significant revisions to the draft ordinance in response to recent conversations with architectural and design professionals, representatives from the Mountain Retreat Association, and other members of the public. He explained that instead of requesting any action from the Board at this time, staff recommended that the Planning and Zoning Commission review the latest revisions and provide additional input. Mr. Currie then reviewed the latest changes to the draft ordinance as follows:

- Land-disturbing activities associated with installation of water quality Best Management Practices (BMPs) may be revegetated so as to not affect the amount of Approved Graded Area (AGA) allowed.
- Buncombe County's "Slope Tool" has been updated to enable calculation of existing grade within a portion of the parcel selected.
- The tabular AGA may be increased up to 50%, upon request to the Code Administrator, if:
 - Justified - due to inherent difficulties associated with the subject lot making adequate grading at that location impractical;
 - The affected area is revegetated; and
 - The additional area may not be built upon to include impervious cover or structures
- On smaller (<0.25 acre) steeply-sloping (>40%) lots, a reduction of up to 50% in the required front yard setback may be permitted to accommodate situations where the off-street parking requirements cannot be met.
- Baseline values for Maximum Impervious Ratio have been increased for lots above existing slopes of 50% due to recently received engineering information

Mr. Currie said the changes to the tabular AGA changes would eliminate the need for any exemption of the Institutional & Institutional/Residential Districts from application of the ordinance based on staff evaluation to date. Mr. Nalley gave an example of a 0.25-acre lot with a slope greater than 40% and listed the setback distances, developable area and approved graded area for this property. He also described how revegetation measures would increase the amount of graded area and impervious surface allowed and would provide enough room for a driveway or parking area if the homeowner so chose.

During discussion, Commissioner Currie recalled that in past discussion with the Board, staff had advised that ordinances which relied heavily on their discretion could sometimes be difficult to administer in a fair and consistent way. Mr. Currie acknowledged that the draft hillside development regulations did include a certain amount of staff discretion but felt it was important to allow flexibility in an untested ordinance. He also offered to develop some evaluation guidelines to help ensure consistency in situations which required discretionary decisions. Commissioner Currie strongly supported this idea. Commissioner McCaskill felt that both the Planning and Zoning Commission and the Board of Commissioners had spent a great deal of time discussing and reviewing the proposed ordinance and supported the adoption of a final draft at the June Town Council meeting. He said he was also unsure whether an increased amount of impervious surface should be allowed for all lots with greater than a 50% slope and suggested it may be more appropriate to evaluate this on a case-by-case basis. Mayor Pro Tem Nichols asked whether the Planning and Zoning Commission would be able to complete their review and have a recommendation ready for Council by June. Mr. Nalley said the Commission could call a special meeting if necessary to complete any significant revisions in order to meet the June deadline. He also noted certain sections of the ordinance which may particularly benefit from additional review, including density regulations, parking requirements and ways to address expansion on institutional properties which may already exceed the allowable impervious surface ratio.

Proposed Revisions to Montreat General Ordinance Chapter K, Article III “Stormwater Management”: Mr. Currie noted the following recent revisions to the draft ordinance:

- A 50% permit fee reduction will be granted if the greatest level of post-construction runoff treatment is utilized
- Smaller, non-engineered stormwater systems do not require an engineer or design professional to perform the required annual inspection and maintenance report
- Additional language allowing an area with installed BMP's to be revegetated. The installation of these systems will not affect the Approved Graded Area (AGA) as defined in the proposed Hillside Development Ordinance
- Clarification of language referencing permeable pavement systems

Mr. Currie explained that stormwater management plans would only need to be prepared by a professional engineer for larger development projects with at least 10,000 square feet of disturbed area or for those which were part of a larger common plan of development or sale. Mr. Nalley referred to Francis Burriss' letter to the Council asking that action this matter be delayed

to allow the MRA more time to review both the Hillside Development and Stormwater Management Ordinance drafts. He stated that the motion for consideration on the meeting agenda to adopt this ordinance was a staff oversight and was not meant to be included. After discussion, the Board agreed by consensus to amend the meeting agenda for next week's Town Council meeting to remove the motion to adopt the Stormwater Management ordinance and to delay any possible action on this matter until June.

Proposed 2009-2014 Capital Improvements Program: Mr. Nalley explained that the Capital Improvements Plan was a financial planning tool used to forecast the Town's equipment, building and infrastructure needs over a five-year period, and that an item was included in the Town's CIP if it had a life expectancy of greater than one year and a value of greater than \$5,000. He stated that the draft CIP was presented to the Council in March and that a special meeting was held in April to discuss the plan in more detail. Mr. Nalley asked the Council to pay particular attention to the priorities assigned to each project, as this information will be used to determine which projects would be included in the draft 2009-2010 Fiscal Year Budget.

New Business

Request to Use Public Right-of-Way: Brinkley Melvin, Robin Melvin and Wade Burns, 246 Texas Road Spur: Mr. Nalley stated that Wade Burns, acting on behalf of Brinkley and Robin Melvin, had submitted a request to staff for permission to construct a mortared stone retaining wall within Town right-of-way on Texas Road Spur adjacent to the lot owned by the Melvins. Mr. Burns' request stated that the wall would be built for the purpose of retaining and beautifying a currently eroding two- to three-foot-high earth bank at the street and to protect the existing specimen mountain magnolia and boxwoods at the street's edge. Mr. Nalley explained that requests to allow construction in Town rights-of-way were traditionally required by the Zoning Ordinance to be non-permanent or removable in nature and to clearly provide a public benefit. He noted that the proposed wall would be of a more permanent nature than most other structures previously allowed in the public rights-of-way and that the Board would need to decide whether the request adhered with the intent of the Zoning Ordinance's language. Mr. Nalley also stated that while staff did not believe the wall would interfere with any future capital projects in this area, it was not the type of structure the Town would have chosen to construct. Commissioner McCaskill did not support the idea of constructing a permanent structure in the public right-of-way, and questioned Mr. Burns' claim that the property owners wished to preserve native vegetation, stating that many trees had been removed from the rear area of the same lot. He felt that if the wall were desired for aesthetic reasons it should be built on the homeowner's property, and that other methods of soil stabilization could be used that did not require permanent construction within the right-of-way. Commissioner Tate felt that unopened Town right-of-way should be viewed as open space and did not support construction in these locations. Commissioner Currie referred to the language of Zoning Ordinance Section 630 and asked whether Town staff felt the request was consistent with the ordinance's intent. Mr. Nalley said an argument could be made that erosion control or preservation of natural vegetation may provide a public benefit. Mr. Burns was then recognized and said that the trees removed from the rear of the Melvins' lot were damaged in a wind storm the previous year. He stated that the

magnolia tree in question had been deemed a specimen tree by a local landscape professional who recommended that it be saved if at all possible. He explained that relocating the wall onto the homeowner's property would require more soil disturbance and could damage the root structure of the tree, which was too large to be moved. Mr. Burns also stated that the wall would be constructed of natural stone and would be placed along the widest portion of the roadway. He further claimed that in past deliberations, the Planning and Zoning Commission had determined that natural stone walls were a traditional part of the community and that it was appropriate to allow their construction within right-of-way areas.

Request to Use Public Right-of-Way: Brinkley Melvin, Robin Melvin and Wade Burns, Chapman Road: Mr. Nalley stated that the property owner would like to withdraw his request and remove this item from the meeting agenda. The Board agreed by consensus.

Buncombe County Solid Waste Management Plan: Mr. Nalley presented the Buncombe County Solid Waste Plan's executive summary and said the entire document was available for review or copying at the Town Services Office. He explained that all municipalities within the County had chosen to participate in this Plan in order to satisfy North Carolina General Statute requirements for the development of a comprehensive solid waste plan that provides for the management of solid waste and its reduction over the next ten years. He stated that the County's plan is updated every three years, and the most recent revisions include Montreat's decision to begin offering our own sanitation services effective July 1, 2006 and to expand the service to include the Conference Center and College.

Appalachian Way Paving Project Bid Award: Mr. Nalley said the bid opening for this project would be held on May 11, and staff would present their bid award recommendation at next week's meeting. He noted that work on this project may be delayed as staff continues negotiations with Montreat College to resolve certain right-of-way issues along Appalachian Way. In response to Mayor Pro Tem Nichol's inquiry, he also confirmed that the project could be completed in phases if necessary for financial reasons.

Bulk Item Disposal Proposal: 1-800-Got-Junk: Mr. Nalley said staff had recently met with a representative from 1-800-Got Junk, who offered to collect bulk sanitation items on the Town's twice-yearly collection dates. The cost of this service would be about \$1,000 per year higher than what it currently costs the Town to collect these items, but the new proposal would offer in-home collection of service for those residents who may be unable to bring their items to curbside for disposal. 1-800-Got-Junk would also be able to dispose of certain items such as tires or building materials which the Town could not currently accept. Mr. Nalley said 1-800-Got-Junk had also offered a 15% discount to Montreat residents for year-round bulk item collection if the Town agreed to advertise on behalf of the company. He asked the Council to consider if the increased level of service was worth the additional cost to the Town, and said staff would need to research any potential legal issues related to pursuing a sanitation collection contract with a third-party vendor. After discussion, the Board agreed by consensus for staff to continue their negotiations and provide additional information at next week's meeting.

Public Comment

Francis Burriss thanked Mr. Nalley and Mr. Currie for meeting recently with MRA representatives to review the proposed Hillside Development and Stormwater Management Ordinances. He asked the Council to defer action on these items for an unspecified amount of time so that the MRA could continue their discussion with Town staff on these matters. He also asked the Council or staff to send direct notification to owners of undeveloped property that may be affected by the proposed regulations.

Meeting Dates

Mayor Pro Tem Nichols announced the following upcoming meeting dates:

<u>May Town Council Meeting:</u>	May 14, 2009, 7:00 p.m., Kirk Allen Building
<u>May Planning & Zoning Commission Meeting:</u>	May 21, 2009, 7:00 p.m., Kirk Allen Building
<u>Town Services Office Closed:</u>	May 25, 2009 Memorial Day Holiday
<u>Memorial Day Sanitation Collection Date:</u>	Tuesday, May 26, 2009
<u>Agenda Items Due:</u>	May 29, 2009 Town Services Office
<u>Bi-Weekly Sanitation Collection Schedule Begins:</u>	June 1, 2009
<u>Agenda Packets Available:</u>	June 2, 2009 Town Services Office
<u>June Montreat Landcare Committee Meeting</u>	June 2, 2009, 9:00 a.m., Outdoor Education Classroom
<u>June Agenda Meeting:</u>	June 4, 2009, 7:00 p.m., Kirk Allen Building
<u>June Town Council Meeting:</u>	June 11, 2009, 7:00 p.m., Kirk Allen Building
<u>June Planning & Zoning Commission Meeting:</u>	June 18, 2009, 7:00 p.m., Kirk Allen Building

Adjournment

There being no further business to discuss, Commissioner Currie moved to adjourn the Agenda Meeting. Commissioner McCaskill seconded. The motion carried 5/0 and the meeting was adjourned at 8:44 p.m.

Letta Jean Taylor, Mayor

Misty R. Gedlinske, Town Clerk