

**Town of Montreat
Board of Commissioners
Town Council Meeting
June 11, 2009 – 7:00 p.m.
Kirk Allen Building**

The Montreat Board of Commissioners held their regularly scheduled Town Council Meeting on June 11, 2009 at 7:05 p.m. in the Kirk Allen Building. Present among the Board were Mayor Letta Jean Taylor, Mayor Pro Tem Eric Nichols, Commissioner Ruth Currie, Commissioner Bill Hollins, Commissioner Jack McCaskill and Commissioner O'Neil Tate. Representing Town Staff were Town Administrator Ron Nalley, Public Works Director Charlie Caldwell, Town Clerk Misty R. Gedlinske, Finance Officer Stefan Stackhouse and Building Inspector/Code Administrator David Currie. 27 members of the public 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

Mayor Taylor asked the Council to consider holding the June 25, 2009 Budget Adoption Meeting listed as Consent Agenda Item C at 8:00 a.m. rather than 4:30 p.m. Mayor Pro Tem Nichols moved to adopt the meeting agenda as amended. Commissioner Hollins seconded and the motion carried 5/0.

Public Hearing: Proposed 2009-2010 Fiscal Year Budget

Mr. Nalley gave a brief PowerPoint presentation summarizing the proposed 2009-2010 Fiscal Year Budget in the amount of \$1,874,600, with a recommended tax rate of \$0.37 per \$100 of property valuation. He noted that the significant factors influencing this budget were various capital projects, personnel costs including a cost of living salary adjustment and health insurance premium increases, current national economic factors and the State governmental budget crisis. Mr. Nalley reviewed the Town's General Fund and said that the estimated real and property tax base growth for the upcoming fiscal year was 2%, with no projected growth in sales taxes or state-shared revenues. He also pointed out that \$97,010 would be appropriated from Fund Balance to cover the costs of capital improvements in the coming year. He listed the major expenditures from the General Fund for each department, including:

- Legal and audit service contract costs
- Public communication efforts
- An annexation study of the upper Greybeard Trail area
- Tax collection fees
- Public building utility and insurance costs
- Dispatching services
- Police radio signal repeater purchase
- Planning and Zoning Department vehicle purchase
- In-house residential fire inspection services
- Continuation of in-house sanitation collection service
- Greenways Master Plan development
- Native Plant Garden construction

Mr. Nalley then summarized the projected revenues and expenditures for the Water Fund. Operating revenues were budgeted at \$338,300, which represented a \$14,120 decrease from the prior fiscal year. He noted no change in the water billing rates for the coming year and said that \$47,800 would be appropriated from Retained Earnings. Major projected expenditures for the Water Fund included water line replacement on Texas Road, water line extension to Peace Lane, debt service payments and a \$91,300 contribution to the General Fund. He also noted several changes to the proposed budget made at the Board's recent Budget Workshop, including the receipt of well construction grant and loan funding from the American Recovery and Reinvestment Act of 2009, revisions to employee health insurance benefits, reductions in the Town property and liability insurance costs and inclusion of the Woodland Road paving project.

Mayor Taylor opened the public hearing on this matter. No comments from the public were heard at this time, and the public hearing was then closed.

Public Hearing: Proposed Montreat General Ordinance
Chapter K, Article IV "Hillside Development"

Mayor Taylor opened the public hearing on this matter.

Mountain Retreat Association President Pete Peery said that while he felt the additional staff time spent reviewing the ordinance had resulted in improvements, the MRA was still concerned about the potential impact on newly platted or re-platted Institutional properties. He felt that the ordinance's provision allowing a potential 50% increase in the approved graded area based on the Code Administrator's discretion appeared to mitigate this impact, and hoped that this discretionary approval would not be unreasonably withheld. Mr. Peery said the MRA had spent less time reviewing the proposed Stormwater Management and Streets Standards ordinances than on the Hillside Development ordinance, but their understanding was that the Stormwater Management ordinance had also been favorably changed by additional staff review time and public input. He stated that the MRA would move forward anticipating a positive working relationship with Town staff, and hoped that the Council would consider revising any or all of the proposed ordinances if an inordinate number of variance request were received as a result of their application. In closing, Mr. Peery also thanked the Board of Commissioners and Planning and Zoning Commission for their time and willingness to discuss the proposed ordinances and make revisions to the draft documents as part of those discussions.

Wade Burns said he had been reviewing the proposed Hillside Development ordinance for several months and had prepared a number of exhibits and examples in the course of his discussions with Town staff on this matter. He felt that the proposed regulations were complex and that it was difficult to evaluate how they would apply to a particular lot until a property owner had already contacted an architect and developed preliminary construction plans. He stated that his architectural clients had expressed a desire to build homes with eating, sleeping and parking facilities on one level for ease of access, which he felt would be a challenge on smaller, steeply-sloping lots. Mr. Burns also claimed that obtaining a variance to allow a

particular project was difficult to achieve due to the limitations placed on the Board of Adjustment's scope and discretion, and said he felt the proposed ordinance did not fit Montreat.

Mary Nell Todd said she was concerned about the need to preserve the safety and character of Montreat. She felt it was important to avoid the kinds of slope failure incidents that had occurred recently in other parts on Western North Carolina. She also said that while she did not understand all of the language of the proposed ordinance, she trusted the Town staff's ability to interpret and apply these regulations appropriately.

John Johnson commended the Council for considering a hillside development ordinance for Montreat and felt that as development pressures increased, it was important to take steps to preserve the Town's unique character. He believed that the proposed regulations were reasonable and urged the Council to vote in favor of their approval.

Ann Gant spoke of her recent efforts to build a home on a small, steeply-sloping lot and asked the Council to consider the difficulties she believed the proposed ordinances posed for property owners who wished to build single-level homes on these types of lots. She also thanked Mr. Currie for his assistance in helping her obtain the necessary information for her building permit application.

Ann Rogers commended those who had worked to develop both the proposed Hillside Development and Stormwater Management Ordinances. She agreed with previous comments that these ordinances were very technical in nature and difficult for lay people to understand. She had several concerns about the proposed Hillside Development ordinance, including the need to ensure its fair and consistent application, the ability for owners of small, steep lots to be able to build on their properties, the need for Institutional properties to be able to expand and renovate their facilities as well as safety concerns related to slope stability. She also felt there was a public perception that Montreat was exclusionary and unwelcoming for new property owners who wished to build homes here and hoped that these types of comment were not based in truth.

Hearing no further comments, Mayor Taylor then closed the public hearing on this matter.

Communications From the Mayor

2009 Mayor's Cup Raft Race: Mayor Taylor announced Montreat's 1st place finish in the recent 2009 Mayor's Cup Raft Race. She listed Montreat's team members and displayed photographs taken during the event as well as the team trophy.

2009- Montreat Gait Walk/Run Event: Mayor Taylor also announced that Matt Ashley would coordinate the upcoming Montreat Gait Walk/Run Event scheduled for July 4th at 7:00 a.m. at the Montreat Gate.

Review of the Consent Agenda

Mr. Nalley summarized the items approved with the adoption of the Consent Agenda, which included the following:

- May 7, 2009 Agenda Meeting Minutes
- May 14, 2009 Town Council Meeting Minutes
- 2008-2009 Fiscal Year Budget Amendment #2 to provide additional funding for legal services
- 2008-2009 Fiscal Year Budget Amendment #3 to cover expenses associated with the Native Plant Garden
- 2008-2009 Fiscal Year Budget Amendment #4 to reflect Open Space Conservation Fund expenses
- A Special Meeting set for June 25, 2009 at 8:00 a.m. in the Town Services Office to adopt the 2009-2010 Fiscal Year Budget Ordinance and make any necessary amendments to the 2008-2009 Fiscal Year Budget

Communications From the Town Administrator

American Recovery and Reinvestment Act of 2009: Mr. Nalley reported that the Town had received about \$313,000 in funding through the American Recovery and Reinvestment Act of 2009 for well installation projects on Harmony Land and Greybeard Trail. He also said he had received some favorable comments concerning the possibility of funding for an automated meter reading system and would pass any further information on to the Board as soon as he received it.

Charter Communications Update: Charter Communications submitted a letter to the Town advising of their intent to file for Chapter 11 bankruptcy protection and stating there would be no negative impact on franchising fees. Mr. Nalley advised that Charter had sent several consent forms to local municipalities for signature, and said that the City of Asheville had decided to withhold these documents and consider pursuing legal action against Charter. The Town is investigating whether there would be any possible benefits in joining this legal action. Mayor Pro Tem Nichols felt that the Town should not involve itself in legal proceedings against Charter unless there was a clear and significant financial benefit in doing so. Mr. Nalley agreed to keep the Board advised of any new information concerning this matter as it became available.

Administrative Reports

Police Chief: In Chief McClintock's absence, Mr. Nalley presented the Police Department's activity report for the month of May. He noted several recently-discovered residential burglaries throughout the Town and encouraged residents to contact the Police Department as soon possible to report any suspicious activity, vehicles or individuals. Mr. Nalley also reported that the new police vehicle had arrived and said Chief McClintock had met recently with MRA staff to coordinate their traffic control measures for the 4th of July parade and other events that day. Mayor Taylor reminded everyone of the increased traffic volume expected that day due to

incoming and outgoing summer conferences and encouraged those who were able to consider walking as an alternative means of transportation.

Public Works Director: Mr. Caldwell reported on the following items:

- Garbage and recyclables will be collected at the regularly scheduled time on July 3.
- The summer bulk item collection date is scheduled for Tuesday, July 7
- Buncombe County Emergency Management crews are currently performing stream cleaning and debris removal from Flat Creek near the Montreat Gate to one mile north of Calvin Trail.
- The Appalachian Way paving project has been delayed until late July or early August, but this delay will not change the contract price for this project.
- Bid advertisements for the Texas Road bridge replacement project will be published on June 14. A pre-bid conference will be held on June 20, with final bids due by June 30 for recommendation to the Council at their July meeting. Mr. Caldwell explained that due to the bridge's closure, Texas Road had been opened to two-way traffic from Lookout Road to Community Center Circle to improve safety near the child care center.
- A public drop-in meeting has been scheduled for July 2 from 5:00 p.m. until 6:30 p.m. to review preliminary design plans for the Woodland Road paving project. Postcard notifications will be sent to neighboring property owners as soon as final arrangements for a meeting location are made.
- Assistant Public Works Director Steve Freeman underwent knee repair surgery on Monday and is now resting at home. He is expected to be out of the office for four to six weeks.
- Due to recent rainfall and reduced consumption, voluntary water conservation requirements can now be rescinded.
- All but one of the surplus items advertised for sale on the GovDeals website have been sold, with a net profit for the Town of \$4,301.

Finance Officer: Mr. Stackhouse presented and reviewed the final April and preliminary May 2009 Financial Statements.

Building Inspector/Code Administrator: Mr. Currie presented and reviewed the zoning activity and building inspections report for the month of May. He also reported that at their last meeting, the Planning and Zoning Commission continued their review of conservation subdivision design options and possible revisions to residential parking regulations. Consideration of Towers XX's conditional use permit application for a cellular communication tower was postponed until July as a result of additional design negotiations with South Carolina Home representatives. Commissioner Currie asked what impact the proposed Hillside Development and Stormwater Management ordinances would have on the current Subdivision Ordinance. Mr. Currie referred to the Hillside Development ordinance in particular and explained that some revisions may be needed to certain sections to ensure consistency and compatibility between the ordinances.

Commissioner Reports

Mayor Pro Tem Nichols reported that the Black Mountain Center for the Arts was seeking volunteers, financial contributions and Board member candidates. He also invited everyone to attend the Center's annual "Art in Bloom" fundraising event on June 18-21.

Commissioner Currie had no report at this time.

Commissioner Hollins reiterated his comments from last week's meeting that the Audit Committee had reviewed Johnson, Price & Sprinkle, P.A.'s proposed contract for auditing services and recommended its approval. He particularly thanked Committee member and Certified Public Accountant Philip Arnold for his assistance in this matter.

Commissioner McCaskill had no report at this time.

Commissioner Tate said the minutes of the recent Montreat Landcare meeting would be forwarded to the Council once completed. He also invited everyone to hike the newly opened trail between Harmony Lane and Suwannee Drive.

Public Comment

Al Suddeth felt that the Town did not allow citizens enough time to review and assess the potential impact of the proposed ordinances prior to their scheduled adoption. He also did not believe Montreat was legally required to comply with National Pollutant Discharge Elimination System (NPDES) Phase II regulations and did not understand why the proposed Stormwater Management ordinance was being considered. Mr. Suddeth did not think this ordinance was an appropriate means of controlling stormwater runoff and said his understanding was that State stormwater control regulations were not intended to be applied to individual property owners. He felt it was a disservice to the Town's residents to enact such a stringent ordinance with no basis in existing law and very little public review time prior to its adoption.

Old Business

Proposed Montreat General Ordinance Chapter K, Article IV "Hillside Development": Mr. Currie explained that the proposed Hillside Development ordinance had undergone significant changes as a result of input received from regional planning, design, architectural, geological and engineering professionals as well as representatives from the Mountain Retreat Association and other members of the public. He noted that the Board of Commissioners and Planning and Zoning Commission had been considering hillside development regulations for over a year, and that this evening's meeting had included the second public hearing held by the Town for discussion of this matter. Mr. Currie then reviewed the most recent revisions to the proposed ordinance as follows:

- The tabular Approved Graded Area (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 or upon written recommendation of a NC registered geotechnical engineer; the affected area is revegetated; and the additional area may not be built upon to include impervious cover or structures.
- Applicants with existing lots 0.30 acre or less in size may request consideration for a reduction of up to 50% in the required front yard building setback to create easier off-street access and reduce the overall impact to the lot.
- Existing non-conformities on improved lots was defined with respect to requirements of this ordinance, and a 20% impervious allowance for the Institutional and Institutional/Residential Districts was provided.
- Language was included which provides detailed requirements for expansion of non-conformities similar to those described in the zoning ordinance.
- Table III – Development Density was revised for clarification of the forty percent (40%) or greater existing slope requirement for compliance.

Mayor Pro Tem Nichols then moved to adopt Ordinance #09-06-0001 Establishing Montreat General Ordinance Chapter K, Article IV “Hillside Development.” Commissioner Tate seconded. Discussion was heard concerning the possibility of delaying the effective date of the ordinance until the start of the new fiscal year. Commissioner McCaskill felt that the extra time would give those property owners with pending construction projects an opportunity to complete their building permit applications in accordance with the existing ordinance language. He then moved to amend the proposed ordinance to include an effective date of July 1, 2009. Commissioner Currie seconded. The motion to amend the effective date of the ordinance to July 1, 2009 carried 5/0. After further discussion, the Board voted 5/0 to adopt Ordinance #09-06-0001 Establishing Montreat General Ordinance Chapter K, Article IV “Hillside Development” as amended. A copy of this ordinance is attached to these minutes and incorporated herein by reference.

Proposed Montreat General Ordinance Chapter K, Article III “Stormwater Management”: Mr. Currie reviewed the most recent revisions to the proposed ordinance as follows:

- A 50% permit fee reduction will be granted if the greatest level of post-construction runoff treatment is utilized, and
- Smaller, non-engineered stormwater systems do not require an engineer or design professional to perform the required annual inspection and maintenance report.
- An area with installed Best Management Practices (BMPs) may be revegetated. Installation of these systems will not affect the Approved Graded Area (AGA) as defined in the proposed Hillside Development Ordinance.

- Further clarification referencing permeable pavement systems was also included to reflect current research, as well as language to clarify system repair requirements for deficiencies noted during inspections.

He also presented a suggested stormwater permit fee schedule that, subject to Board approval, may be included in the 2009-2010 Fee Schedule and adopted during the annual budget process. Mr. Nalley further explained that when Phase II of the National Pollutant Discharge Elimination System (NPDES) stormwater program was signed into law in December 1999, it required smaller communities and public entities that own and operate an MS4 (municipal separate stormwater system) to apply and obtain an NPDES permit for stormwater discharges. He stated that the Town received its permit on June 22, 2005 and, as required by law, implemented stormwater regulations for lots greater than one acre in June of 2007. During development of the Comprehensive Plan, many members of the public supported development of stormwater regulations for lots less than one acre in size. Mr. Nalley said that at Council's direction, staff had been working with the Planning and Zoning Commission over the past year to develop the proposed stormwater regulations.

Commissioner Tate then moved to adopt Ordinance #09-06-0002 Amending Montreat General Ordinance Chapter K, Article III "Stormwater Management." Commissioner McCaskill seconded and the motion carried 5/0. A copy of this ordinance is attached to these minutes and incorporated herein by reference.

Proposed Montreat General Ordinance Chapter D, Article IV "Streets Standards": Mr. Nalley presented a revised draft of the proposed Streets Standards ordinance and noted that, with assistance from McGill Associates, staff had made significant changes from the preliminary draft. Due to the technical nature of the proposed ordinance, he asked the Board to consider holding a workshop meeting to review these changes with assistance from Town staff and representatives from McGill Associates. After discussion, the Board agreed by consensus to set a special meeting to review the proposed ordinance during the "Meeting Dates" section of the agenda. Mayor Pro Tem Nichols then moved to call for a Public Hearing on July 9, 2009 at 7:00 p.m. or as soon thereafter as possible to consider establishing Montreat General Ordinance Chapter D, Article IV "Street Standards." Commissioner Tate seconded and the motion carried 5/0.

New Business

Contract to Audit Accounts – Johnson, Price & Sprinkle, P.A.: Mr. Nalley presented the proposed contract for auditing services from Johnson, Price & Sprinkle, P.A. in the amount of \$19,225 and noted no increase in the contract price from the previous year. He also referred to Commissioner Hollins' previous comments that the Audit Committee had unanimously recommended approval of the proposed contract. Commissioner Hollins moved to approve the annual audit contract between Johnson, Price & Sprinkle, P.A. and the Town of Montreat in the amount of \$19,925. Mayor Pro Tem Nichols seconded and the motion carried 5/0.

Employee Health Insurance Benefit Contract: Commissioner Tate moved to authorize the Town Administrator and Finance Officer to execute a contract for “Option 1” with BlueCross BlueShield effective July 1, 2009 for employee benefit health insurance for Fiscal Year 2009-2010 and for the Town to reimburse employees for the last \$250.00 of the \$500.00 deductible. Commissioner Currie seconded and the motion carried 5/0.

Property and Liability Insurance Renewal – White Insurance Agency: Commissioner Tate moved to approve the Property and Liability Insurance Proposal from White Insurance Agency and Millennium in the amount of \$14,721.00 and to authorize the Town Administrator and Finance Officer to execute the necessary contract documents. Commissioner Hollins seconded. After brief discussion, the motion carried 5/0.

American Recovery and Reinvestment Act of 2009 Acceptance of Loan for Water Supply System Project: Commissioner Currie moved to accept the North Carolina Department of Environment and Natural Resources Public Water Supply Section American Recovery and Reinvestment Act of 2009 Loan and to authorize the Town Administrator and Finance Officer to execute the necessary contract documents. Commissioner McCaskill seconded and the motion carried 5/0.

Public Comment

There were no comments from the public at this time.

Meeting Dates

The Council agreed by consensus to hold a special meeting on June 29, 2009 at 4:00 p.m. in the Town Services Office to discuss proposed Montreat General Ordinance Chapter D, Article IV “Streets Standards.” Mayor Taylor then announced the following upcoming meeting dates:

<u>June Planning & Zoning Commission Meeting:</u>	June 18, 2009, 7:00 p.m., Kirk Allen Building
<u>2009-2010 Fiscal Year Budget Adoption:</u>	June 25, 2009, 8:00 a.m., Town Services Office
<u>Agenda Items Due:</u>	June 26, 2009, 4:30 p.m., Town Services Office
<u>Special Meeting - Proposed Montreat General Ordinance Chapter D, Article IV “Streets Standards”</u>	June 29, 2009, 4:00 p.m., Town Services Office
<u>Agenda Packets Available:</u>	June 30, 2009

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Woodland Road Paving Project Design Plan
Review:

July 2, 2009, 5:00 p.m. – 6:30 p.m.,
TBD

July Agenda Meeting:

July 2, 2009, 7:00 p.m.,
Wayout Building, Room A

Town Services Offices Closed:

July 3, 2009
Independence Day Holiday

Summer Bulk Item Collection Date:

July 7, 2009
Collection begins at 8:00 a.m.

July Montreat Landcare Committee Meeting:

July 7, 9:00 a.m.,
Outdoor Education Classroom

Closed Session

Commissioner Hollins moved that Council enter into Closed Session in accordance with North Carolina General Statute §143-318.11(5) to discuss proposed acquisition of real property. Mayor Pro Tem Nichols seconded and the motion carried 5/0. No action was taken during the Closed Session. Upon returning to open session, Commissioner Hollins moved to approve the Purchase and Sale Agreement between the Town of Montreat and Montreat College for the purchase of real property, a copy of which is attached to these minutes and incorporated herein by reference. Commissioner Currie seconded and the motion carried 5/0. Commissioner Currie then moved to adopt Fiscal Year 2008-2009 Budget Amendment #5 in the amount of \$24,353.12 for the purchase of real property. Mayor Pro Tem Nichols seconded and the motion carried 5/0.

Adjournment

There being no further business to discuss, Commissioner Tate moved to adjourn the Town Council Meeting. Commissioner Currie seconded. The motion carried 5/0 and the meeting was adjourned at 9:10 p.m.

Letta Jean Taylor, Mayor

Misty R. Gedlinske, Town Clerk