

**Town of Montreat
Board of Commissioners
Special Meeting
December 10, 2008 – 6:00 p.m.
Kirk Allen Building**

The Montreat Board of Commissioners held a Special Meeting on December 10, 2008 at 6:00 p.m. in the Kirk Allen Building. Present among the Board were Mayor Letta Jean Taylor, Commissioner Ruth Currie, Commissioner Bill Hollins and Commissioner O'Neil Tate. Commissioner Jack McCaskill arrived at 6:08 p.m. Mayor Pro Tem Eric Nichols arrived at 6:10 p.m. Representing Town Staff were Town Administrator Ron Nalley, Town Clerk Misty R. Gedlinske and Building Inspector/Code Administrator David Currie. Fifteen 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

Mayor Taylor explained that each presenter would be given one hour in which to complete their presentations and answer any questions from the public. She said there would also be a brief recess between presentations. Commissioner Hollins moved to adopt the meeting agenda as presented. Commissioner Currie seconded and the motion carried 3/0.

Presentation to Council: Jesse Jacobson – S&ME Engineering

Mayor Taylor introduced Jesse Jacobson, a geotechnical engineer from S&M Engineering and western branch president of the American Society of Engineers. He began his presentation with photographs of the Peeks Creek Community of Macon County, a roadway collapse on the Blue Ridge Parkway north of Mt. Mitchell State Park and another on the Pigeon River Gorge area of Interstate 40 as examples of landslide damage sustained throughout the region during Hurricanes Frances and Ivan in 2004. He explained that landslides were divided into three categories, the first of which were fill slope failures which could also cause collateral damage to surrounding properties and structures. He said that this type of landslide was most common along road embankments. The second type was cut slope failures, which involved a larger amount of soil and debris and were usually caused by creating an overly steep slope surface or the excessive disturbance of already unstable soil. Debris flow landslides were the third and least common type, although these were also the most dangerous and tended to cause both the highest degree of damage and greatest loss of life when they did occur. He presented a photograph of the Hammonds Bottom community in Yancey County as an example of the effects of this type of landslide. He also cautioned that landslides could also involve retaining walls if these were not properly engineered and constructed.

Mr. Jacobson then listed the common factors involved with landslides, including steep slopes, increasing amounts of development, pre-existing slope instability and substandard planning and construction practices. He explained that colluvium was a common technical term used in many steep slope ordinances addressing soil instability, and defined this term as a deposit of rock and soil accumulated through the action of gravity. He advised that any one of more of these elements could trigger a landslide when combined with a major rainfall event of more than five inches of precipitation in a 24-hour period. Mr. Jacobson said that substandard planning and

**Montreat Board of Commissioners
Special Meeting
December 10, 2008**

construction practices were the most common yet controllable causes behind a significant amount of landslides and their related damages. He described substandard planning as either no planning at all, or remote planning by those from other regions not familiar with local topography. Other causes included a lack of building codes or inadequate enforcement of existing regulations. He also listed improper natural slope preparation, poor drainage or overly steep excavation as substandard construction practices that could elevate the risk of landslides.

Mr. Jacobson said that in response to the landslide activity experienced during the 2004 hurricanes, hillside development ordinances had been drafted on the city, county and state levels. He briefly described how each entity defined steep slopes and regulated cut and fill slopes in these areas in terms of either slope degree, elevation or slide hazard designation. He stated that in his opinion, the City of Asheville's elevation thresholds were geared mainly toward addressing viewshed concerns rather than in response to any technical or safety issues. He also advised that the State ordinance, which was currently under legislative review, was intended to be used as a baseline guide in the development of more specialized local regulations.

Mr. Jacobson also advised that the North Carolina Geological Survey was currently working on landslide mapping of the 19 western-most counties. He explained that, once completed, these maps would include information on where landslides were known to have occurred, where they may begin in the future and what path debris from those potential landslides would be most likely to travel. He said these maps were an excellent planning tool to be used by qualified professionals during site assessments, and were intended to indicate areas where further slope stability analysis and assessment was needed prior to undertaking ground disturbing activities. He cautioned that they were not intended to be used as a substitute for a site-specific study, were not a definitive landslide potential assessment, and were not analogous to a 100-year flood plain study.

In closing, Mr. Jacobson used diagrams to show how construction projects on steep slopes differed from typical development. He noted that the enactment of hillside development regulations tended to result in a geotechnical engineer getting involved with a steep slope development project early in the planning process, often before the engineering and architectural design phases. He also explained that a geotechnical assessment typically involved soil borings, soil strength tests and slope stability analyses, and said that most firms who performed these services also provided project oversight during the construction phase of the development.

During discussion, Charlie Mitchell noted that the Towns proposed hillside development ordinance required a geotechnical survey for over 25% slope and a global stability analysis for over 40% slope and asked whether there was a true distinction between these services. Mr. Jacobson said that a geotechnical engineering evaluation may be more appropriate. He also suggested that the Town consider working with a consultant to develop a land planning map for use in identifying steep hillsides and determining criteria for regulating their development.

Robert Gaw commented that using a 25% slope threshold similar to the City of Asheville's hillside development ordinance would include the majority of lots in Montreat.

**Montreat Board of Commissioners
Special Meeting
December 10, 2008**

Mike Butrum asked whether Mr. Jacobson's company had done a cost analysis before and after the City of Asheville's slope regulations were enacted. He said that based on his own research and calculations, the average cost of a geotechnical analysis was about \$5,000 per unit. Mr. Jacobson agreed that a geotechnical analysis could potentially add to the cost of a project. He also noted that in Asheville, enforcement of their ordinance was sporadic for now and that property owners were not always required to follow up or mediate any problems found.

Wade Burns commented that Montreat's ridge top areas and many additional acres of land were already protected either by ordinance or conservation easement. He stated that most existing homes were located on lower elevations and had been in place for several decades. He expressed his concerns that because the majority of the remaining undeveloped lots were ¼ to 1/3 acre in size, there was a potential risk of not being able to develop those lots if hillside development regulations were enacted that restricted the amount of cleared or graded area on these small lots. Mr. Jacobson again suggested working with a consultant to evaluate the Town's undeveloped area and incorporate those findings into a land planning map that could be used in conjunction with a steep slope ordinance. He agreed that some of the equipment used to perform a geotechnical analysis was difficult to fit onto a small, steep lot, but also advised that a good deal of information can often be obtained without performing a soil boring test.

Sissy Topple noted that many of the undeveloped lots were located between existing homes. Mr. Jacobson agreed that developing these types of lots was often more difficult and expensive than other locations.

Thomas McClain said that in his experience working with both Buncombe County and the City of Asheville's hillside development ordinance, he found that it was possible to comply with each entity's regulations on building size and impervious surface amounts and still build a poorly designed structure. He felt that neither of these ordinance addressed ways of ensuring proper construction, design or engineering practices.

Mike Butrum felt that one of the potential unintended consequences of the State's landslide mapping process was that this information may become a disclosure issue for the Real Estate Commission that could possibly have a negative impact on the selling process.

Hearing no further comments, Mayor Taylor thanked Mr. Jacobson for his presentation and announced a recess until 7:30 p.m.

Presentation to Council: Sean Sullivan– Asheville Homebuilders Association

Mayor Taylor then introduced Sean Sullivan, President of Livingstone Construction, Inc. and current President of the Asheville Homebuilders Association. Mr. Sullivan said that the Asheville Homebuilders Association had joined with the Asheville Board of Realtors to form the Mountain Council for Accountable Development (MCAD), which he explained functioned to provide a means of public education and collaboration with local governments in response to recently enacted hillside development and Stormwater control ordinances. He advised that in the

**Montreat Board of Commissioners
Special Meeting
December 10, 2008**

past year, MCAD had focused on establishing a certification course, sponsored by Buncombe County and the City of Asheville, with the primary goal of educating builders, developers, homeowners and any other interested parties on proper planning and construction practices. He also said that MCAD had met with each member of the Buncombe County Board of Commissioners over the past year to discuss specific examples of how the County's Stormwater and steep slope ordinances negatively affected a certain development project, and claimed that each Commissioner agreed to consider revising these ordinances as a result of those meetings.

Mr. Sullivan said he favored the use of proper planning and construction techniques over additional regulations, which he believed would serve to increase both the cost of construction and the amount of time needed to finish those projects. He stated that the State's landslide maps were currently incomplete and unverified, and that ordinances regulating steep slope development were typically written from an impractical "one size fits all" approach. He also felt that requiring a geotechnical analysis on all land purchases or other transactions would serve to create unnecessary cost increases and project delays in that there were too few engineering firms available to meet the volume of requests this type of ordinance would create.

Presentation to Council: Thomas McClain – Asheville Homebuilders Association

Thomas McClain, incoming President of the Asheville Homebuilders Association and owner of HomeSweetHome, said that his company was one of the first to complete a development project after Buncombe County's hillside development and stormwater control ordinances were adopted. He cited various difficulties his company had in completing the project while attempting to meet the requirements of what he described as an untested and inflexible ordinance. He stated that compliance with the County's regulations resulted in the construction costs for each lot within the development being increased by about \$10,000, and that more land disturbance and a greater amount of stormwater runoff control measures were needed than would have been necessary under his original development plan. Mr. McClain said he would like to see more accountability for building standards, along with proper education for both builders and developers to familiarize them with issues common to our terrain and topography.

Presentation to Council: Mike Butrum – Mountain Council for Accountable Development

Mike Butrum introduced himself as the Mountain Council for Accountable Development's Governmental Affairs Director. He presented copies of the syllabus and other classroom information from MCAD's Steep Slope Information Session held last August, a "Steep Slope Cheat Sheet" summarizing the City of Asheville's Hillside Development Ordinance, as well as several critical articles published in recent business journal editions, the NC Realtors Governmental Affairs Update and area newspapers concerning steep slope regulations for the Council's review. He stated that the new Stormwater and hillside development regulations that Buncombe County and the City of Asheville had enacted were difficult to understand and interpret. He believed that a certain degree of regulation was necessary, but stressed that any ordinances or policies should be clear enough to apply and interpret consistently, and that any additional costs associated with these ordinances should be justified by obvious benefits. Mr.

**Montreat Board of Commissioners
Special Meeting
December 10, 2008**

Butrum felt that the State's proposed ordinance was not well-supported in the Legislature and would not likely be approved as written. He believed a better option would be for local municipalities to develop their own ordinances with funding and other assistance from the State if needed. He suggested that ordinances be approached from the perspective of choosing what should be protected, rather than what should be regulated or restricted, and felt that Montreat's ordinance was reasonable in this regard.

During discussion, Bob Gaw asked how soon the landslide hazard maps for Buncombe County would be completed and whether they would be beneficial as a supplement to Montreat's proposed ordinance. Mr. Butrum said he believed the maps were being reviewed for accuracy prior to their release to the public. He agreed that these maps could serve as a resource for the Town if used properly. Charlie Mitchell felt that the Town needed to ensure that any adopted ordinance adequately addressed aesthetic issues without causing unintended damage to the viewscape. He also suggested that certain safety issues could instead be addressed in the Town's Stormwater ordinance. Mr. Butrum encouraged the Town to receive professional input on these matters and include their information into the final ordinance. Sean Sullivan said that MCAD's instructors also served as a professional board of advisors to help local municipalities review both recently adopted and upcoming legislation. Mr. Mitchell was also concerned that Montreat's ordinance should not prevent a property owner from being able to build the type and size of home commonly found in the already developed areas of the Town. He also asked whether it would be appropriate to require the use of an MCAD-certified builder. Mr. Butrum said he did not believe MCAD's certification program was sufficiently well-established to be included as a requirement in an ordinance at this point.

Commissioner Hollins left at 8:15 p.m. No motion was made to excuse him.

Wade Burns asked what the next steps were in the ordinance's development process. Mayor Taylor said the Council would discuss the matter further at their January meeting.

Adjournment

There being no further business to discuss, Commissioner Tate moved to adjourn the Special Meeting. Commissioner Currie seconded. The motion carried 5/0 and the meeting was adjourned at 8:20 p.m.

Letta Jean Taylor, Mayor

Misty R. Gedlinske, Town Clerk