

MINUTES
Town of Blowing Rock
Town Council Meeting
July 14, 2020

The Town of Blowing Rock Town Council met for their regular monthly meeting on Tuesday, July 14, 2020 at 6:00 p.m. The meeting took place at Town Hall located at 1036 Main Street Blowing Rock, NC. Present were Mayor Charlie Sellers, Mayor Pro-Tem Sue Sweeting and Council Members Albert Yount, David Harwood, Doug Matheson, Virginia Powell, Town Manager Shane Fox, Planning Director Kevin Rothrock and Town Clerk Hilari Hubner who recorded the minutes. Others in attendance via Zoom virtual/phone session were Town Attorney Allen Moseley, Town Engineer Doug Chapman, Public Works and Utilities Director Matt Blackburn, Fire Chief Kent Graham, Police Chief Aaron Miller, Parks and Recreation Director Jennifer Brown and Finance Officer Nicole Norman.

CALL TO ORDER

Mayor Sellers called the meeting to order at 6:00 p.m. and welcomed everyone. Mayor verified attendance via roll call.

THE PLEDGE OF ALLEGINANCE

MINUTE APPROVAL

Mayor Pro-Tem Sweeting made a motion to approve the minutes from the June 4, 2020 budget work session, the June 9 regular and closed session minutes, seconded by Council Member Matheson. Unanimously approved.

REGULAR AGENDA ADOPTION

Council Member Powell made a motion to adopt the agenda as presented, seconded by Council Member Matheson. Unanimously approved.

CONSENT AGENDA

1. Travel Policy for the ABC Store

In accordance with North Carolina General Statute 18B-700 (g2), the ABC Store must have a personnel travel policy in place. The travel policy must be approved by the board's appointing authority annually. Since the Town of Blowing Rock is the appointing authority for the ABC Board, it is necessary for the Blowing Rock Town Council to approve the policy. Also, as result of the Town of Blowing Rock travel policy may be used. The ABC Board has requested the Town of Blowing Rock of Commissioners approve this policy for their use.

2. Annual Tax Settlement Report and Order of Tax Collection

Consideration of the Tax Collector 2019 Settlement Report and approval of an order of the Town Council for the collection of 2020 taxes representing revenues for fiscal year

2020-2021. **Annual Tax Settlement Report and Order of Tax Collection – Attachment A**

3. Tax Release/Refund – The Weedon Family Corporation #2020-01

Various tax adjustments over time become apparent and present themselves in the form of requests for releases (adjustments). One tax release totaling \$1,584.86. **Tax Release/Refund – The Weedon Family Corporation – Attachment B**

Council Member Harwood made a motion to approve consent as presented, seconded Mayor Pro-Tem Sweeting. Unanimously approved.

SPEAKERS FROM THE FLOOR

Mayor Sellers and Town Manager Fox each read letter from Citizens; Blowing Rock EMS County Presentation (1), Foggy Rock CUP (5), Food Trucks (21). **Citizen Letters – Attachment - C**

BUSINESS MATTERS:

1. Foggy Rock - CUP #2010-03

Planning Director Kevin Rothrock advised Mr. Bert Myers is requesting a minor amendment to the conditional use permit issued for Foggy Rock restaurant to add an arcade in the basement. The current CUP limits the basement area to storage and equipment. The arcade would have up to eight (8) video games and two (2) pool tables. No Food service would be available, but customers could take a to-go box down there and/or use the area waiting on a table in the restaurant. Mr. Myers also wants to have a bar service in the arcade area and will have an employee attending at all times the arcade is open.

Given the changes to the physical set up of the business, the applicant will seek approval from the ABC Commission prior to operating.

Mr. Myers plans to open the arcade no earlier than 5:00 PM before the dinner shift begins, and close the arcade when the restaurant closes, typically by 10:00 PM.

The parking for the restaurant requires thirty-three (33) spaces and there are thirty-three (33) on site. The proposed arcade requires one (1) parking space for each video game and requires (1) parking space for each pool table for a total of ten (10) additional spaces. There are at least twelve (12) other gravel parking spaces available on the lower portion of the property that meet the width and depth and maneuverability requirements in the Land Use Code. Spaces in the grass or double-parked spaces for employees are not included in the twelve (12) spaces. All parking for the restaurant and the proposed arcade can be provided on the Foggy Rock Property.

Neighboring properties and those within one hundred fifty (150) of the restaurant property were mailed a public notice explaining the request for the arcade and they could share comments or concerns with the Town Clerk or Planning Director by email.

Council Member Powell asked if there were a bathroom located in the basement of Foggy Rock. The applicant, Mr. Myers advised there was a bathroom.

Council Member Yount advised he was still confused about the parking. Council discussed parking briefly.

Mayor Sellers asked the applicant if he would be willing to add a sound barrier to the back of his property as requested by a few of the neighbors. Mr. Myers advised he would be open to consider that option.

Mayor Pro-Tem Sweeting asked what the dimensions of the basement. Mr. Myers advised it's forty (40) feet long and twenty (20) feet wide. He also added the basement is a double block wall which is very well insulated and soundproof.

Mayor Pro-Tem Sweeting asked what the age group allowed in the arcade would be. Mr. Myers advised it would be a "Blowing Rock" crowd. He stated estimate hours would be open from 5:00 P.M. to closing which is approximately 10:00 P.M. in the summer and 8:00 P.M. in the winter. He further advised the evening crowd after a certain time would be twenty-one (21) and over and has visions of doing birthday parties in the afternoon. Mr. Myers explained he has grandkids and there isn't anywhere in Blowing Rock currently to rent out for birthday parties. He further advised Foggy Rock is a family-oriented establishment and would not be something like you would find in Boone. Mr. Myers commented in Blowing Rock "midnight" is 10:00 P.M. and everything shuts down then.

Mayor Pro-Tem Sweeting asked if the plan was to have beer, wine and liquor in the downstairs. Mr. Myers advised he has a full ABC permit for the restaurant and planned to use it for the whole premises.

Council Member Harwood asked Mr. Rothrock for clarification about the additional twelve (12) parking spaces and if the spaces would be paved or gravel. Mr. Rothrock advised the additional parking would be gravel.

Council Member Yount advised he is still confused about the clientele for the arcade, he heard grandchildren and he heard over twenty-one, he wanted to clarify which it was going to be.

Mr. Myers advised Foggy Rock is a family establishment, at some point at night he would like to keep kids out and have the space for adults to play pool. He further advised he would like to have birthday parties once in a while as he will have kids' games too.

Mayor Pro-Tem Sweeting asked for clarification on the time he was planning to have the arcade hours of operations, her understanding was 5:00 P.M. to 10:00 P.M. Mr. Myers advised he wouldn't open before Foggy Rock opens which is 11:30 A.M.

Council Member Matheson asked how many noise complaints the Town had received on Foggy Rock? Police Chief Miller advised none that he is aware of.

Council Member Matheson further asked other than Council asking, was it part of the ordinance to notify the neighbors of the request. Mr. Rothrock advised it was not.

Council Member Yount advised that was not his understanding. Mr. Rothrock explained this request does not require a Public Hearing; he only notified the neighbors because out of courtesy to Council's request. Council Member Yount asked "why are we changing horses in the middle of the stream then?" Mayor Sellers advised Mayor Pro-Tem Sweeting asked for Mr. Rothrock to do this as a courtesy to the homeowners in the neighboring property.

Mayor Pro-Tem Sweeting stated one of her concerns is she feels this is an impact on the neighbors. Council Member Yount advised he agreed.

Mayor Pro-Tem Sweeting further stated she felt there was a lot of "muddy water", originally it was going to be an arcade open 5:00 P.M. to 10:00 P.M., now a bar, kid's games and wanting to open earlier in the day. She advised she felt there were still questions to be answered and was not prepared to vote on the request. Mayor Pro-Tem Sweeting restated she felt this would be a huge impact on the neighbors.

Council Member Matheson made a motion to accept with the stipulation that a sound barrier be added to the back of the property to buffer any noise for the surrounding neighbors.

For discussion purposes Council Member Harwood advised he would like to make an amendment to the motion. He would like to ask that the additional parking spaces be paved and marked to keep in line with the Town code as written.

With a lack of a second Council Member Matheson's motion died.

Council Member Matheson made a motion to accept with the addition of a sound barrier and the additional twelve (12) parking spaces be paved and marked, seconded by Council Member Powell.

Further discussion: Council briefly discussed their ability to dictate the way he operates the arcade including hours of operation. Mr. Myers advised the hours for the restaurant are; summer hours 11:30 A.M – 10:00 P.M. and winter hours are 11:30 A.M to 8:00 P.M. Mayor Sellers asked if Mayor Pro-Tem Sweeting was ok with those hours. She advised she wasn't, she felt the arcade hours needed to be 5:00 P.M. to 10:00 P.M.

After further discussion, Council Member Powell advised she felt the market would decide how it's used.

Council Member Matheson advised he would like to adjust his motion to accept with the addition of a sound barrier, the additional twelve (12) parking spaces be paved and the hours of operation be the same as the restaurant hours 11:30 A.M. to 10:00 P.M., seconded by Council Member Powell. For the motion: Council Members Matheson, Powell and Harwood. Against the motion: Mayor Pro-Tem Sweeting and Council Member Yount. Motion passed. **Foggy Rock CUP#2010-03 – Attachment D**

2. Food Trucks – Discussion

Planning Director Kevin Rothrock advised over the past several years when special events were occurring downtown, staff has allowed food trucks at Tanger Shoppes in coordination with Special Events since the on-site food service at Tanger has been limited.

In the past few weeks as business are allowed to open back up as COVID-19 restrictions have eased, staff have considered it reasonable for food trucks to be located at Tanger since they still do not have a full-time restaurant on-site.

In the city of Lenoir food trucks are allowed on private property, if zoned properly and meet health department regulations. Food trucks are regulated through a Special Events permit.

Council Member Yount asked Mr. Rothrock if it were in his authority to allow food trucks at Tanger in the past and what he based that on. Mr. Rothrock advised they were allowed because he knew Tanger had a situation where it was needed. Council Member Yount stated Council works hard on making rules in the Town and he is a huge advocate of sticking to them, and not outside Council's knowledge. Mr. Rothrock advised he didn't feel it was outside of Council's knowledge. Council Member Yount advised it was out of his knowledge until it was just explained after the fact. He further stated he accepted Mr. Rothrock's answer, he just wanted to know why. Mr. Rothrock advised it was done because of a special circumstance.

After brief discussion, Council Member Powell stated she felt the food truck discussion unfortunately went south. She explained when the question was first raised, it was to think how the Town could help our merchants in Blowing Rock to do business differently, how to open things up as everything was shut down at the time. She further explained this idea was never intended to be a stab or hurt the merchants, only as a how can things be done differently and provide opportunities differently approach.

Mayor Pro-Tem Sweeting advised she agreed with Council Member Powell, but what she heard in the public comments is fear from the merchants and food establishments that adding food trucks would only make their situation worse. She further advised the intent was to help but felt there was a lot of fear.

Council Member Yount stated when itinerant merchants were once allowed it was an absolute mess and Council put a stop to it. He asked if there was no respect for prior

Council's decision in this room? He further stated even the Supreme Court recognizes prior Court decisions.

Mayor Pro-Tem Sweeting advised this was brought up for discussion and as far as she was concerned there wasn't a need to discuss further.

Council Member Yount advised he would make a motion to deny it all.

Council Member Matheson advised he agreed with Mayor Pro-Tem Sweeting and Council Member Yount there isn't a need to take this discussion any further.

Council Member Yount asked why it was being discussed then?

Mayor Pro-Tem Sweeting advised it was brought up in the hopes of helping people to reinvent themselves, see what information was out there about food trucks and what needed to be changed if the Council were to allow food trucks. She further advised Mr. Rothrock did a great job of getting the information and what she has heard from the public is fear/anxiety that it would hamper their business. Mayor Pro-Tem Sweeting restated as far as she was concerned there wasn't a need to discuss further.

Council Member Yount stated he commended Mayor Pro-Tem Sweeting on her second thoughts.

No motion was needed, the consensus was no further discussion was needed.

OTHER BUSINESS

- Mayor Sellers – Commends everyone and felt everyone is doing their best to comply with the regulations. He felt it's admirable what the Town Council and staff have done over the past four months. He advised Maurice Ewing had submitted a letter to be read regarding the Blowing Rock Charity Horse Show, which will run as scheduled.
- Council Member Yount – asked if Art in the Park was going to start on schedule. Manager Fox advised it was on Saturday July 18th.
- Council Member Harwood – thanked Staff – he is continually amazed how staff goes above and beyond and continues to rally. He thanked staff members; Jennifer Brown, Jason Potter, Matt McGuire, Kevin Rothrock and John Warren for several situation he had personally observed over the past few weeks.
- Mayor Pro-Tem Sweeting – thanked Manager Fox for dealing with two situations this week, doing a superb job and making all parties happy.
- Council Member Matheson – extended his thoughts and prayers to Dustin Watson and family on the loss of his parents, he also extended his thoughts and prayers to Tammy Bentley for her health issues she is currently facing. He gave an update on the NC League Board of Directors meeting both he and Manager Fox had attended virtually. Updates included; working with broad band and no child left behind to extend internet services to school aged children, the League is pushing

to relieve the restrictions on collection of utility accounts as it's causing a hardship of a lot of small towns and NC National Guard is working to fight cyber crimes that are currently going on.

- Council Member Powell – Advised she is amazed at the way our Town is thinking about ways to help others out during this time and continue to care for one another.
- Manager Fox: Advised his thoughts and prayers are with Dustin Watson and his family during this time, commended staff for their hard work over their last four (4) months. Thanked the ABC Board for an additional \$60,000 revenue outside their budget they distributed to the Town on June 10th. Connected with the High Country Council of Government for the '20-21 GIS contract to update – thanks to them and for the services they provide. State of the Town is scheduled for August 13th at 5:30 P.M. and will be held virtually this year. The Playground is nearing completion but has to remain closed until the next phase is released by the Governor – fences will remain up to keep anyone from being tempted to play on it. Bass Lake sidewalk is still moving forward – starting to bring materials into Town with the hope of starting by July 20th. Paving is underway and has been for two (2) months – will continue through Town. The School system is moving forward with Plan B with a hybrid approach with no more than 50% capacity. Kent Graham and Thomas Steele have started working to enhance the Town's Public Wi-Fi. School Superintendent Dr. Elliot asked Manager Fox to start brainstorming ideas for what options the Town could offer to help with childcare. Thanked the employees, businesses, police department and everyone for keeping calm – given some of the state some towns/cities are in, our Town is doing really good.
- Finance Officer Nicole Norman – gave an update on the sales tax and hotel/motel tax update – April numbers down approximately 3% when taking into account the Caldwell and Watauga portion of Sales Tax – very pleased to find May numbers down only 9% - had braced for potentially a 25% impact. Fiscal year to date up 9 ½ % which is good news, waiting to see how June numbers look.

EXECUTIVE SESSION

At 8:30 p.m. Council Member Harwood made a motion to go into executive session *NCGS 143-3 18.11. (a)(3) – Attorney/Client update on current litigation*, seconded by Council Member Powell. Unanimously approved. No action was taken.

ADJOURNMENT

At 9:00 p.m. Council returned to open session, with no further business Mayor Pro-Tem Sweeting made a motion to adjourn, seconded by Council Member Harwood. Unanimously approved.

MAYOR _____
Charlie Sellers

ATTEST _____
Hilari Hubner, Town Clerk

Attachments -
Annual Tax Settlement Report and Order of Tax Collection – Attachment A

Tax Release/Refund – The Weedon Family Corporation – Attachment B
Citizen Letters – Attachment - C
Foggy Rock CUP#2010-03 – Attachment D