



# Town of Blowing Rock

Date: Tuesday, March 9, 2021, 6:00 p.m.

Location: Remote Meeting

## Agenda

<i>Item</i>		<i>Present &amp; Participants</i>
I.	<b>CALL TO ORDER – ROLL CALL FOR ATTENDANCE</b>	Mayor Charles Sellers
II.	<b>PLEDGE OF ALIGENANCE</b>	Mayor Charles Sellers
III.	<b>APPROVAL OF MINUTES – By Roll Call</b> <b>1. February 9, 2021 – Regular Meeting Minutes</b> <b>2. February 22, 2021 – Special Meeting Minutes</b>  <b>REGULAR AGENDA ADOPTION – Vote by Roll Call</b>  <b>CONSENT AGENDA</b> <b>1. Budget Amendment - #2021-03</b> <b>2. New River Sign</b> <b>3. ETJ Representative – Planning Board/BOA</b> <b>4. Delinquent Tax Notice Approval</b>	Mayor & Council  Mayor & Council  Mayor & Council
IV.	<b>PUBLIC COMMENTS – emailed or mailed to the Town Clerk prior to 1:00pm on March 9<sup>th</sup>.</b>	
V.	<b>PRESENTATIONS</b> <b>1. Tree City USA – Approval</b> <b>2. June 30, 2020 Audit Presentation</b>  <b>3. Middle Fork Greenway Update</b>	Melissa Pickett, BRAAC Martin Starnes and Associates, CPAs, P.A. Wendy Patoprsty, MFG Director
VI.	<b>PUBLIC HEARING</b> <b>1. NCGS 160D Ordinance Amendments – Adoption - #2021-04</b>	Kevin Rothrock, Planning Director
VII.	<b>BUSINESS MATTERS:</b> <b>1. PARTF Grant Discussion - Options and Timeline</b>	David Harwood, Council Member Jennifer Brown, Park and Rec Director and Shane Fox, Town Manager

	<ul style="list-style-type: none"> <li>2. <b>Green Hill Road Traffic Study</b></li> <li>3. <b>Blowing Rock Ambulance Update</b></li> </ul>	<p>Shane Fox, Town Manager</p> <p>Shane Fox, Town Manager</p>
<b>VIII.</b>	<p><b>OFFICIALS REPORTS &amp; COMMENTS:</b></p> <ul style="list-style-type: none"> <li>1. Mayor</li> <li>2. Council Members</li> <li>3. Town Attorney</li> <li>4. Town Manager</li> </ul>	
<b>IX.</b>	<p><b>CLOSED SESSION – NCGS 143-318.11. (a)(3) –</b>  Attorney/Client update on current litigation.</p>	<p>Mayor, Council, Town Attorney,  and Staff</p>
<b>X</b>	<p><b>ADJOURNMENT/RECESS...</b><i>Mayor Charles Sellers entertains a motion and second to adjourn or recess the meeting.</i></p>	

**Draft**  
**MINUTES**  
**Town of Blowing Rock**  
**Town Council Meeting**  
**February 9, 2021**

The Town of Blowing Rock Town Council met for their regular monthly meeting on Tuesday, February 9, 2021 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, Town Attorney Allen Moseley, Town Engineer Doug Chapman, Public Works and Utilities Director Matt Blackburn, Planning and Inspections Director Kevin Rothrock, Police Chief Aaron Miller, Parks and Recreation Director Jennifer Brown and Town Clerk Hilari Hubner who recorded the minutes. Others in attendance via Zoom virtual/phone session were Fire Chief Kent Graham, 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 ALLEGIANCE**

**MINUTE APPROVAL**

Mayor Pro-Tem Sweeting made a motion to approve the regular session minutes from the January 12, 2021, seconded by Council Member Matheson. Unanimously approved.

Council Member Harwood made a motion to approve the minutes from the January 25-27, 2021 Winter Retreat meeting, seconded by Council Mayor Sweeting. Unanimously approved.

**REGULAR AGENDA ADOPTION**

Council Member Powell advised she would like to add under Consent Agenda Council's direction to have Manager Fox to move forward with the Green Hill traffic study that was last discussed in August of 2020, Mayor Pro-Tem Sweeting seconded the motion. After brief discussion the motion was approved. For the motion: Council Member's Powell, Matheson, Harwood and Mayor Pro-Tem Sweeting. Against the motion: Council Member Yount. Motion passed.

**CONSENT AGENDA**

**1. Budget Amendment - #2021-02**

To account for various items. **Budget Amendment #2021-02**

**2. Green Hill Road Traffic Study**

Approval for Manager Fox to proceed with Rainy Kemp for a traffic study to be done on Green Hill Road. Manager Fox will get an engagement letter to bring back for Council

review along with a budget amendment for \$8,000 to allocate the cost at the March Council meeting.

Council Member Powell made a motion to approve as presented, seconded by Mayor Pro-Tem Sweeting. For the motion: Council Member's Powell, Matheson and Harwood and Mayor Pro-Tem Sweeting. Against the motion: Council Member Yount. Motion approved.

### **SPEAKERS FROM THE FLOOR**

Mayor Sellers Read a letter from Bridget and David Walls regarding speeding on Hwy 221.

Ms. Mary "Dinny" Harper Addison, 186 Gideon Ridge Road, spoke regarding the overall CUP process. Ms. Addison explained she felt the current CUP process was unfair to the residents and didn't give them enough time to know what is going on before it was about to happen. Ms. Addison stated she would like Council to consider revision of the CUP process.

### **PUBLIC HEARING**

#### **1. CUP 2010-03**

Planning Director Kevin Rothrock advised Mr. John Winkler is requesting a conditional use permit for an 8-lot single family subdivision and a new public street. The 4.715-acre subject property fronts Green Hill Rd and Hwy 321 and was formerly part of the old No. 6 hole at the Blowing Rock Golf Course. The property is zoned R-15, Single-family. The subject property is not in a water supply watershed.

The subject property is mainly a field and was the old No. 6 hole at Blowing Rock Country Club. The larger extent of the subject property is 6 lots that is still owned by Blowing Rock Country Club. The applicant plans to recombine the current 6 lots into 5 lots with the largest lot of 4.7 acres being the proposed subdivision and proposed street. The remaining 4 lots will front Green Hill Road with three (3) of those lots relatively unchanged from their current configuration. Each lot meets the minimum size requirement is 15,000 sq feet and minimum lot width of 100 feet.

Lot No. 8 fronts on Hwy 321, however, access will be through a driveway to the new street.

The proposed road access will connect to Green Hill Road just north of the intersection of Tarry Acres Circle. The road connection is situated at the apex if a curve that provides the most sight distance for both directions on Green Hill Road.

The new road as shown has a total length just over 400 feet to the center of the cul-de-sac. The road will be built to Town standards with a maximum grade of 15%, 18 feet of pavement, and 24-inch curb and gutter. The total width of the street from face to curb to

face to curb is 21 feet. The applicant intends to offer the road for public dedication upon completion and the Town will be responsible for street maintenance and snow removal.

Storm water detention is required due to the increased impervious areas being generated by the proposed road. The storm water drainage system will be designed to accept runoff from the proposed roadway and convey it through a detention system before releasing to the NCDOT drainage easement and the creek below the property. As shown on the preliminary plan, it appears that the storm water design will meet the Land Use Code standards.

The proposed subdivision requires street trees be planted or retained an average of every 30 feet on each side of the street.

A 6-inch water line with two (2) hydrants along the new street is proposed. An additional hydrant is to be located at the south corner of Green Hill Road. Staff and the Town Engineer will approve water and sewer systems to meet the Town Code.

Staff recommends a 20-foot rear/side setback and undisturbed buffer along the perimeter of lots 5, 6 and 8 where the subdivision backs up to existing homes. The current setback is 12 feet. Additionally, a 20-foot undisturbed buffer should be added along the west side lot boundary of lot #9. Lot #9 is not technically part of the proposed entrance off Green Hill Road.

At the January 21, 2021 meeting, the Planning Board made a recommendation to approve the proposed subdivision with the following conditions:

1. That the side/rear boundary of lots 5, 6, 8 and 9 have a 20-foot undisturbed buffer instead of the standard 12-foot setback.
2. No access be allowed to Hwy 321.
3. Screening and landscaping be required along the slope on lots 4 and 7.

Council briefly discussed further with Mr. Rothrock the buffer requirements, water/sewer system and road.

Council Member Matheson made a motion to open the Public Hearing, seconded by Mayor Pro-Tem Sweeting. Unanimously approved.

The applicant Mr. Winkler advised he was excited about the project and wanted to follow all the rules and regulations of the Town for this project and he would be glad to answer any questions Council had.

Council Member Powell asked in referring to the R-15 density requirements why Mr. Winkler didn't add a few more lots to his proposal. Mr. Winkler advised he felt it would be

too much to add any more and what he was proposing met all the requirements for R-15 standards which is what he was shooting for.

Council Member Matheson asked Mr. Winkler if he planned on personally developing the homes. Mr. Winkler advised he wasn't for sure yet, but his plan was to build a couple of million-dollar spec homes. He advised there would be strict building standards, and everything would have to comply with Blowing Rock's building standards and regulations. He further explained his vision was a beautiful development that would fit in Blowing Rock.

Council Member Matheson asked Mr. Jason Gaston with Valor Engineering in Boone to explain the retention.

Council Member Powell asked Town Engineer Doug Chapman if the extra storm water management that was discussed at Retreat was being met by this project. Mr. Chapman advised the storm water plan they have provided meets the current Town code. He further explained the code doesn't require they provide a storm water plan for the houses themselves, only the road.

Mayor Pro-Tem Sweeting asked Mr. Gaston of Valor if Blue Ridge Electric would be willing to move the service line. He advised they had not asked so he wasn't sure.

Council Member Harwood asked Mr. Winkler if he would agree to have lot #9's road be in the subdivision. Mr. Winkler advised he would, he felt that would be the smart thing to do.

Council Member Yount asked regarding the extra barrier requested by the Planning Board if Mr. Winkler would be willing to plant something other than a hemlock there. Mr. Winkler advised he would and had in mind of a good tree that would provide a good hedge and screen.

Ms. Betty Howe, 239 Gideon Ridge Road spoke against the project. Ms. Howe advised she didn't feel the project would enhance the life of Blowing Rock. She explained it would be more traffic, less green space and cause more environmental issues.

Ms. Caroline Howe, 239 Gideon Ridge Road spoke against the project. Ms. Howe urged Council to consider eliminating the CUP process as it is an unfair process to the citizens. She explained her concerns with the process and the project were lack of transparency, traffic, safety, and environmental concerns.

Ms. Pat Coley, 237 Green Hill Road spoke against the project. She explained it concerned her that the "lovely appearance" would be changed forever and the cul-de-sac would be a damaging impact to the Yadkin springs beside of Green Park Inn and will be a long-term effect to the Yadkin River. Ms. Coley further explained she was very concerned with adding more traffic to an already busy road.

Mr. Roger McGuire, 142 Green Hill Road advised his concern is his property line is very close to Lot 8 and could be very close to a large home that would be build. Mr. McGuire advised he understood the process and wasn't against that but felt "we needed to be very careful how we go forward".

Mr. Oval Jaynes, 140 Green Hill Road advised his concern was crowding the area as his home had been in his family for over 50 years. Mr. Jaynes explained he understood progress, but the biggest thing he hated about the project is what may happen to the deer he feeds every morning as he was sure putting in a development would send them on to a different location.

Ms. Mary McLeod, 108 George Blagg Lane advised she has had a family home in Blowing Rock for a long time and lived and worked in Blowing Rock years ago. She explained the way Blowing Rock was and what she is concerned about with the project. She advised her top concerns were traffic on Green Hill Road, light pollution and the environmental damage to the headwaters of the Yadkin River and wanted to make sure that is preserved.

Sandy Burkes-Campbell, 257 Gideon Ridge spoke against the project. She advised the character of the town will be changed forever, property values will go down and already high traffic issues will increase. She urged Council to protect the last green space as you come into Town and protect the headwaters of Yadkin River.

Susan Little, 214 Green Hill Road advised she was strongly opposed to the development as the proposed development will have houses almost right on top of her property on all sides. She explained she was very concerned with the proposed roadway as the traffic is already awful on Green Hill Road. Was concerned with the loss of the meadow green space. Asked if the decision could possibility be tabled until a later date.

Annie Burkes-Campbell, 257 Gideon Ridge advised she was strongly against the project and was very disappointed that the CUP process allowed the project to be this far along before the neighbors were aware of the project. She felt an environmental study should be done before the project is allowed as it could have a dangerous impact on the headwaters. She advised she was concerned with the heavy and dangerous traffic on Green Hill Road and a traffic study should be completed prior to the project approval. She further advised she had a concern with the value of her family's property being affected.

Mr. Edgar Miller and Brian Fannon with the Yadkin Riverkeepers explained how the Yadkin River factored into this project and the concern with any development being done near the headwaters. Although they don't see any major concerns with this project, they explained there are options that can be done to make sure the water quality is preserved.

Council Member Powell asked where the Yadkin spring is. Mr. Jaynes advised it's located near where the old road was near Green Park Inn and it was paved over.

Council took a 15-minute recess.

Council Member Harwood asked Mr. Rothrock if there were anything about this project that did not meet code. Mr. Rothrock advised there wasn't.

Mayor Pro-Tem Sweeting asked Mr. Winkler if he had thought about where the construction traffic would come from. Mr. Winkler advised he has and anything large would have to come from Green Hill and anything smaller will come from Hwy 321.

Council Member Powell asked Mr. Winkler if he ever thought about doing only 5 lots instead. Mr. Winkler advised he couldn't do that few because he had to make a profit from the project and there is no way he could with construction costs.

Mr. Winkler advised he was approached by the County Club in November as to if he were interested in purchasing the property. He stated he had never thought about it before then, and they negotiated a price and that is how all this got started.

Council Member Harwood asked if there was a representative from the County Club on the call. Mayor Sellers advised there was not.

Council Member Yount advised he wanted to speak to the residents that complained about the noise. He advised he is a certified appraiser and he didn't hear anyone speak to the fact they had an appraisal done so there was no proof their property values will drop. Council Member Yount further stated he lives on Tarry Acres Circle approximately a city block from this property. The noise that he hears come from Hwy 321 is loud, but in the last two weeks he had received 2 certified offers to buy his house for double what he paid for it five years ago.

Council Member Matheson asked if something like the buildings at the Green Park Inn could be built at this property. Mr. Rothrock advised it couldn't with the current zoning.

With no further questions or comments Council Harwood made a motion to close the public hearing, seconded by Council Member Yount. Unanimously approved.

Council Member Harwood advised he was speaking for himself and probably some of the other Council Members. He stated we all love Blowing Rock and we all love green space and we love our property rights as property owners. He further stated he felt there were a lot of comments that fall into the same category of that this green space that is being discussed is private property and as much as we would like to preserve it, that property owner has rights. Council Member Harwood advised as an elected official looking at a project that meets every qualification of the Town he needs to look out for that property owners' rights.

Council Member Harwood advised regarding CUP's and the timing of the project. He stated we are a twelve month a year town and we do not roll up the streets during the winter and go home. We process CUP applications as they come in and this one came in and was processed just like any other. He explained the process the Town has for



CUP's is one that we have had for a long time. Conditional Zoning was also introduced into the mix not long ago and that has a place too. Council Member Harwood stated he felt soon Council could examine the pros and cons to both and their place in the process, but this was not the place to do that.

Council Member Harwood made a motion to approve the project as presented with

1. the revision of lot 9 having their driveway onto the subdivision road, and
2. that the 20-foot in condition No. 25 buffer in be something other than Hemlocks or White Pines but would like to see those be Arborvitae.

The motion was seconded by Council Member Matheson. Council Member Matheson reiterated what Council Member Harwood stated with we are a year-round town and we take things as they come to us. He further advised when he purchased his property he had wooded lands in front of him and nobody told him they would build a huge building in front of his property, that is a property owners right to do what they wish with their property.

Further Discussion:

Mayor Pro-Tem Sweeting asked if lot 9 could be addressed since it wasn't part of the CUP. Mr. Rothrock advised he thought it was fine to include it. Council Member Harwood advised he included it because Mr. Winkler was agreeable to the request. Mayor Pro-Tem Sweeting stated she wasn't sure if it wasn't in the CUP that it could be part of the CUP conditions. Council Member Harwood advised Mr. Winkler wanted to challenge it after he was welcome to do so.

Mayor Pro-Tem Sweeting advised she had concerns about this development and the effects of property values especially Ms. Little who is facing it on all four sides. Ms. Sweeting further advised Ms. Little may not have gotten an appraisal, but she may not have known that she had to. She advised she was concerned with the effects this project would have on the headwaters of the Yadkin River and didn't feel it had been researched enough for the effects of a development of this size.

Mayor Pro-Tem Sweeting advised she was concerned about the safety issues at the entrance and felt DOT needed to look at the sight distance and if that is the best place for it.

With no further discussion Council Member Harwood repeated the motion.

Council Member Harwood made a motion to approve the project as presented with

3. the revision of lot 9 having their driveway onto the subdivision road, and
4. that the 20-foot in condition No. 25 buffer in be something other than Hemlocks or White Pines but would like to see those be Arborvitae.

The motion was seconded by Council Member Matheson. For the motion: Council Members Powell, Yount, Matheson and Harwood. Against the motion: Mayor Pro-Tem Sweeting. Motion passed.

## **BUSINESS MATTERS**

### **1. BRAHM Special Event Application**

Parks and Recreation Director Jennifer Brown advised the Blowing Rock Art and History Museum is requesting to hold their 10<sup>th</sup> anniversary celebrations on top of the parking deck adjacent to BRAHM July 29<sup>th</sup> and July 30<sup>th</sup>, 2021. This event would be held on Thursday and Friday evenings from 6:30 p.m. to 10:00 p.m. to help reduce the number of people in attendance due to COVID and maintaining proper social distancing.

They have requested parking at St. Mary's Episcopal Church and Rumble Memorial Church during their event each night. They will have the parking deck cleaned off and opened for public parking by noon on Saturday July 31<sup>st</sup>.

Mayor Pro-Tem Sweeting asked if the event had been cleared by App Healthcare. Ms. Lee Carol Giduz with BRAHM advised it was too early to determine that, it would depend on what the state mandates are at that time. She explained BRAHM is operating completely under the state mandates and would be restricted to whatever they are at that time for this event. Ms. Giduz advised she hadn't asked the App Health about this specific event, but every event she has inquired about she has been told it will depend on what the state mandate is at that time, but she is more than willing to work with them on this.

Mayor Pro-Tem asked what time they were planning on putting the tent up on Wednesday as her concern was having parking eliminated for too long. Ms. Giduz advised they could have the tent put up later in the day to allow for parking most of the day.

Mayor Pro-Tem Sweeting asked if Rumble Church was willing to allow parking in their lot for Public parking during that time to offset the loss of the parking deck during this event. She further asked Ms. Giduz if she would reach out to the church and make sure they were ok with having their parking lot used for public parking during that time. Ms. Giduz advised she would be glad to.

Council Member Matheson advised the last time this event was held it went very well. He further stated the only reason he could see the church may not be able to offer that lot is if there were a wedding for funeral.

Council Member Powell asked if the only changes from the last time the event was to add another day. Ms. Giduz advised they were requesting both nights is because of the unknown as to what state mandates will be at the time and they want to be prepared to hold the event on two separate nights in case they have to have smaller crowds in attendance.

Council thanked Ms. Giduz.

Mayor Pro-Tem Sweeting made a motion to approve with Ms. Giduz understanding Council's concerns, seconded by Council Member Yount. Unanimously approved.

## **2. Town Winter Retreat Recap**

Manager Fox gave an update from the Winter Retreat where sixteen topics were discussed and ranked in order from one to sixteen, with one being the top priority.

## **3. Special Meeting Date Discussion – Ambulance**

Council briefly discussed and asked Manager Fox to reach out to Craig Sullivan with Watauga Medics to set up meeting on Monday February 22<sup>nd</sup> at 6:00 p.m.

## **4. Town Board Appointments**

Council voted on each Board appointment by ballot. The following appointments were made:

- **Planning Board:** Pete Gherini, Joe Papa and Sam Hess
- **Board of Adjustment:** Stephen Schiller and Lee Rocamora (Full Time Members) and Brandon Walker and Catherine Perry (Alternate Members)
- **ABC Board:** Sylvia Tarlton
- **TDA Board:** Dean Bullis
- **BRAAC Board:** Curt Andrews, Chris Wetmore and Carol Knapp

Council Member Powell made a motion to approve the newly appointed board members, seconded by Council Member Matheson. Unanimously approved.

## **OTHER BUSINESS**

- Mayor Sellers – thanked staff for their continued hard work, the Council and to the citizens their hard work. He stated he thought the Winter Retreat went very well and was very well organized and a lot was accomplished. The Village Pharmacy has moved back to Blowing Rock at Tanger Outlets. Caldwell County did a re-evaluation and it went up approximately 9% in value.
- Council Member Yount – He advised he contacted four Members of BRAAC and got approval for the sign to identify the New River. He stated he had met with a few to look at placement of the sign and it will go in the mid-ship of the railings and will be going up tomorrow.
- Council Member Harwood – thanked Public Works for all their hard work on the clearing of the roads and the work on water leaks as well.
- Mayor Pro-Tem Sweeting – thanked staff for all their hard work keeping the roads clear and making sure the Hwy 321 sidewalk was cleared.
- Council Member Matheson – Thanked Public Works for all the hours they have worked during the snow and ice this winter. He thanked staff for their hard work to make the Retreat successful. He expressed his condolences on behalf of the Council to Chairman Welch for the loss of his mother in law.

- Council Member Powell – thanked Public Works for their hard work on snow removal. They have done a great job this season.
- Manager Fox – thanked Public Works for pushing snow/salting roads 26 of the last 55 days. A water leak was fixed on Main Street today. ABC Storer continues to do well. Audit was approved with a clean audit with no problems. Budget process has begun.

**EXECUTIVE SESSION**

None

**ADJOURNMENT**

With no further business Mayor Pro-Tem Sweeting made a motion to adjourn at 9:40 p.m., seconded by Council Member Matheson. Unanimously approved.

**MAYOR** \_\_\_\_\_  
**Charlie Sellers**

**ATTEST** \_\_\_\_\_  
**Hilari Hubner, Town Clerk**

**Attachments**

**Citizen Letters – Attachments A**  
**Budget Amendment #2021-2 – Attachment B**  
**Green Hill Subdivision CUP – Attachment C**

**Draft**  
**MINUTES**  
**Town of Blowing Rock**  
**Town Council Meeting**  
**February 22, 2021**

The Town of Blowing Rock Town Council met for a special meeting on Monday, February 22, 2021 at 6:00 p.m. The purpose of the meeting was to discuss ambulance service discussion. 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 and Town Clerk Hilari Hubner who recorded the minutes. Others in attendance via Zoom virtual/phone session were Fire Chief Kent Graham and Craig Sullivan with Watauga Medics.

Council met via Zoom with Craig Sullivan from Watauga Medics and Fire Chief Kent Graham to discuss the ambulance service for Blowing Rock. Council discussed several options and asked Mr. Sullivan to get with Chief Graham to determine the needed for Blowing Rock cost estimates with working with Watauga Medics to bring back to Council. In addition Council asked what the process would look like and if it would be allowable to do so and what the process would look like if allowed to contract with someone other than Watauga Medics (ie: Blowing Rock Fire and Rescue). Council asked for staff to check with Watauga County to see if there is a contract with the County and the Town of Blowing Rock Fire and Rescue to provide backup ambulance service to Watauga County.

**ADJOURNMENT**

There being no further business to discuss, Council Member Matheson made a motion to adjourn at 7:30 p.m., seconded by Council Member Powell.

**MAYOR** \_\_\_\_\_  
**Charlie Sellers**

**ATTEST** \_\_\_\_\_  
**Hilari Hubner, Town Clerk**



To: Shane Fox, Mayor Sellers, and Members of Town Council  
From: Nicole Norman, Finance Officer  
Subject: Budget Amendment Ordinance to Account for Various Items  
(Ordinance #2021-03)  
Date: March 9, 2021

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Enclosed please find a Budget Amendment Ordinance for the fiscal year 2020-2021 for your consideration.

**Section 1 (General Fund)** is to re-appropriate funds already allocated in the police department to cover new hire costs categorized in the medical line item. The Police Chief has identified existing funds to reallocate to this line item. This section also reallocates funds in the street department towards sidewalk improvements on the North end of Main St. near the Shelton Place project. Within this section we have also adjust projections for Occupancy Tax proceeds and Sales Tax proceeds and allocated them towards the associated expenses of allocation to the TDA and covering line items that are trending higher than budgeted (Legal Fees, Engineering Fees and Landfill costs) with remaining additional amounts anticipated being allocated to Fund Balance.

**Section 2 (General Capital Fund)** this section allocates donated funds received to memorial park benches expenses. This allocation is for two memorial benches purchased. This section also completes the transfer of remaining Sunset Drive Streetscape funds towards the engineering portion of the cross walks being planned in locations on Main St.

Please let me know if you need further details on the proposed amendment.

**2020-2021  
Budget Amendment Ordinance 2021-03**

Be it ordained by the Town Council of the Town of Blowing Rock, North Carolina, that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2021:

**Section 1. To amend the General Fund, the appropriations are to be changed as follows:**

<u>Acct. No.</u>		<u>Current Appropriation</u>	<u>Decrease</u>	<u>Increase</u>	<u>Proposed Appropriation</u>
10-10-4310-057	Medical Exp. (PD)	\$ 1,500	\$ -	\$ 718	\$ 2,218
10-10-4310-036	Uniforms (PD)	\$ 14,000	\$ 218	\$ -	\$ 13,782
10-10-4310-059	Miscellaneous (PD)	\$ 500	\$ 500	\$ -	\$ -
10-00-4200-003	Legal Svs.	\$ 25,000	\$ -	\$ 10,000	\$ 35,000
10-00-4200-203	Contracted 3rd Party Legal	\$ -	\$ -	\$ 4,087	\$ 4,087
10-00-4200-326	Occupancy Tax Exp.- To TDA	\$ 630,855	\$ -	\$ 432,335	\$ 1,063,190
10-00-4200-345	Sales Tax Fee to Watauga	\$ 625,395	\$ -	\$ 304,770	\$ 930,165
10-00-4200-080	Town Engineering Expense	\$ 20,000	\$ -	\$ 10,000	\$ 30,000
10-20-4500-032	Materials/Supplies- Streets/Sidewalks	\$ 52,000	\$ 11,260	\$ -	\$ 40,740
10-20-4500-030	Materials/Supplies- Salt	\$ 50,000	\$ -	\$ 11,260	\$ 61,260
10-20-4500-333	Sidewalks	\$ 10,000	\$ -	\$ 10,000	\$ 20,000
10-20-4500-352	Culvert Replacements	\$ 12,500	\$ 5,000	\$ -	\$ 7,500
10-20-4500-353	Ditchline Repairs	\$ 7,500	\$ 5,000	\$ -	\$ 2,500
10-30-4700-118	County Landfill Fees	\$ 69,000	\$ -	\$ 50,000	\$ 119,000
10-00-4200-100	Contribution/Transfer to Fund Balance	\$ -	\$ -	\$ 271,272	\$ -
			<u>\$ 21,978</u>	<u>\$ 1,104,442</u>	

This will result in a net increase of \$1,082,464. in the appropriations of the General Fund. As a result, the following revenue will be increased.

<u>Acct. No.</u>		<u>Current Appropriation</u>	<u>Decrease</u>	<u>Increase</u>	<u>Proposed Appropriation</u>
10-00-3400-326	Occupancy Tax Revenue	\$ 917,970	\$ -	\$ 474,795	\$ 1,392,765
10-00-3300-345	Sales Tax	\$ 1,400,993	\$ -	\$ 607,669	\$ 2,008,662
			<u>\$ -</u>	<u>\$ 1,082,464</u>	

**Section 2. To amend the General Capital Fund, the appropriations are to be changed as follows:**

<u>Acct. No.</u>		<u>Current Appropriation</u>	<u>Decrease</u>	<u>Increase</u>	<u>Proposed Appropriation</u>
20-80-5000-458	Memorial Park Bench Maint./Purchase	\$ 4,000	\$ -	\$ 4,495	\$ 8,495
20-20-5000-200	Main St. Crosswalks- Pre-work	\$ -	\$ -	\$ 11,550	\$ 11,550
20-20-5002.417	GO Sunset Dr. Streetscape- Issue 3-Construction	\$ 1,536,137	\$ 11,550	\$ -	\$ 1,524,587
			<u>\$ 11,550</u>	<u>\$ 16,045</u>	

This will result in a net increase of \$4,495 in the appropriations of the General Capital Fund. As a result, the following revenue will be increased.

<u>Acct. No.</u>		<u>Current Appropriation</u>	<u>Decrease</u>	<u>Increase</u>	<u>Proposed Appropriation</u>
20-80-3400-005	Memorial Park Tree/Bench Donalitions	\$ 15,140	\$ -	\$ 4,495	\$ 19,635
			<u>\$ -</u>	<u>\$ 4,495</u>	

**Section 3. Copies of this budget amendment shall be furnished to the Clerk to the Town Council and to the Finance Officer for their implementation.**

Adopted this 9th day of March, 2021.

Attested by:

\_\_\_\_\_  
Charles Sellers, Mayor

\_\_\_\_\_  
Hilari Hubner, Town Clerk

## **Consent Agenda - Staff Report**

**To: Mayor Charlie Sellers and the Blowing Rock Town Council**

**From: Shane Fox, Town Manager**

**Subject: New River Sign – Sunset Drive**

**Date: March 9, 2021**

### **Information:**

On February 2, 2021, the Blowing Rock Appearance Advisory Committee (BRAAC) approved and recommended to the Town Council a sign marking the New River to be placed at the Sunset Drive crossing. BRAAC is seeking Town Council approval for the sign to be placed.



## **Consent Agenda - Staff Report**

**To: Mayor Charlie Sellers and the Blowing Rock Town Council**

**From: Shane Fox, Town Manager**

**Subject: The Town of Blowing Rock Planning Board and Board of Adjustment  
ETF Representative**

**Date: March 9, 2021**

### **Information:**

The Town of Blowing Rock's Planning Board and Board of Adjustment are required to have an ETJ representative member to represent the ETJ area for each board. The formal process is for the Watauga County Commissioners to make a formal recommendation to the Town of Blowing Rock Town Council for whom they recommend to represent the ETJ. On February 16, 2021, the Board of Commissioners formally recommended Harrison Herbst to both the Planning Board and Board of Adjustment. The Town of Blowing Rock Town Council now must approve the recommendation of the County or present another individual that lives in the ETJ for the County to consider.

Mr. Herbst resides at 198 Spring Drive, Blowing Rock, NC 28605.

**Town of Blowing Rock**  
**Request for Council Action**

---

FROM: Hilari H. Hubner, Tax Collector  
SUBJECT: 2020 Tax Advertisement Request  
TO: Mayor and Council  
DATE: March 9, 2021  
REQUESTED BY: Tax Collector

---

Public Hearing       Yes    No    Not required    NA  
Properly Advertised    Yes    No    Not required    NA

**BACKGROUND:**

Pursuant to North Carolina General Statute 105-363(a), I herein submit the following report under oath.

The total 2020 real property tax levy billed is \$4,518,214.37 as of February 28, 2021, \$4,439,849 or 99% of the total net levy has been collected. Releases total \$35,614.44. Unpaid taxes for the current fiscal year; that are lines on real property are in the amount of \$131,973.50.

Unless otherwise directed, I will advertise for 2020 past due taxes on April 22, 2021.

Following Council approval to advertise the tax liens outstanding per North Carolina General Statutes 105-369(B1) each property owner will be notified by first class mail on or before March 12, 2021 to allow at least 30 days for payment prior to publishing the real property owner names and amounts outstanding at that time.

**ATTACHMENTS:**

**STAFF RECOMMENDATION:**

Approve the request to advertise delinquent taxes on April 22, 2021.

# Town of Blowing Rock

## Request for Council Action

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FROM: Jennifer Brown, Director of Parks & Recreation  
SUBJECT: Tree City USA  
TO: Town Council  
DATE: March 9, 2021  
REQUESTED BY:

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### BACKGROUND:

During the December 15, 2020 Town Council meeting, Town Council approved to allow the Blowing Rock Appearance Advisory Commission to apply to become a Tree City USA. Becoming a Tree City USA community means that our community is willing to manage and expand our public trees.

BRAAC applied by the end of December and was notified in February that the Town was approved to become a Tree City USA Community. We have received a plaque, a flag, and two signs to hang advertising that the Town of Blowing Rock is a Tree City USA community. We will need direction as to where the two signs need to be placed.

## **Presentation Agenda - Staff Report**

**To: Mayor Charlie Sellers and the Blowing Rock Town Council**

**From: Shane Fox, Town Manager**

**Subject: Audit Presentation**

**Date: March 9, 2021**

### **Information:**

Each year the Town of Blowing Rock has an independent third-party audit firm perform a complete audit of the Town's finances and internal controls. Martin Starnes and Associates, CPA, P.A. conducted the June 30, 2020 audit. A representative of Martin Starnes and Associates will be conducting a presentation of the summary of the audit results, and will be present to answer any questions.

You will each have a hard copy of the audit in your box for review.

### **Attachment:**

June 30, 2020 PowerPoint slides – Martin Starnes and Associates, CPA, P.A.

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 & ASSOCIATES, CPAs, P.A.

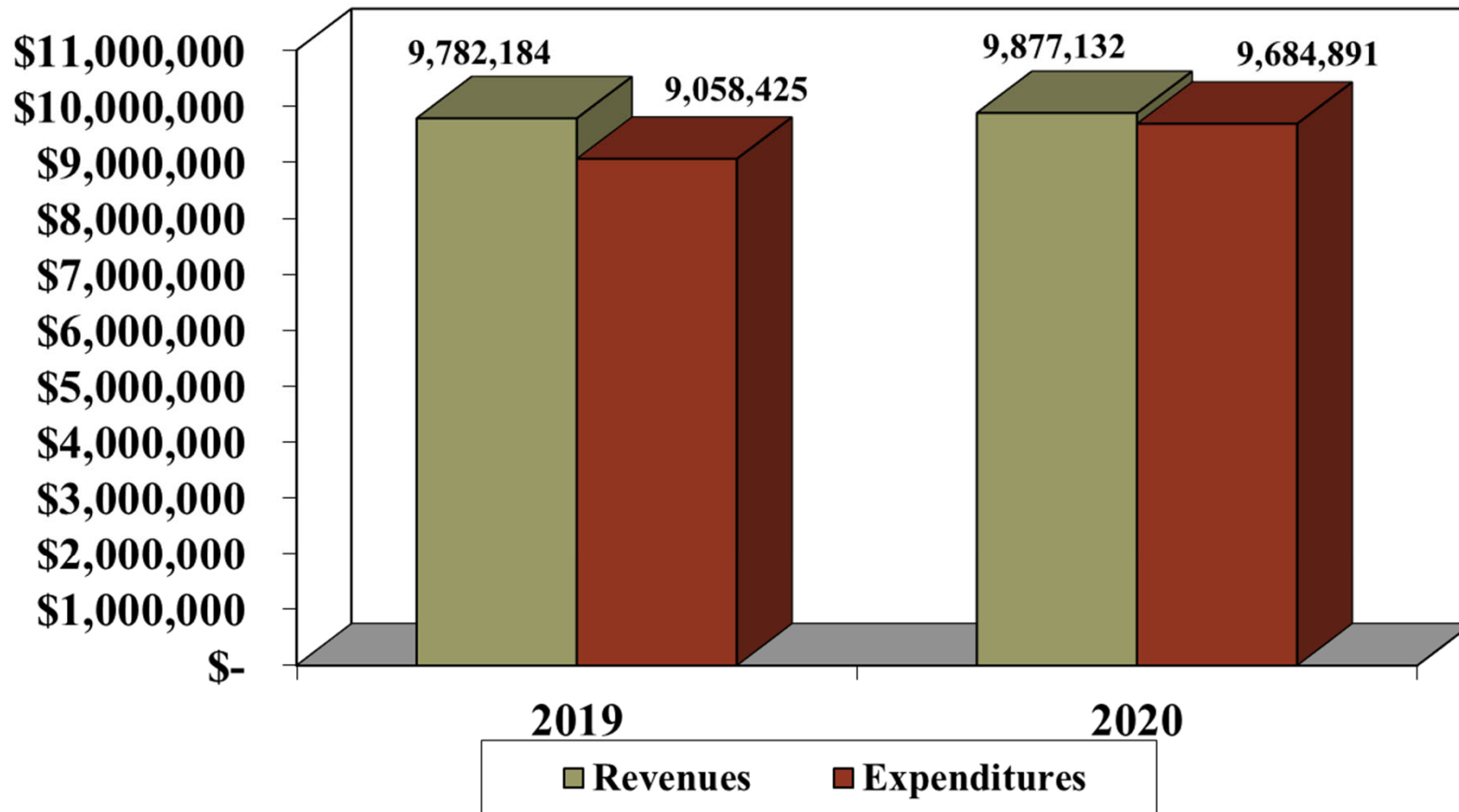
# Town of Blowing Rock

2020 Audited Financial Statements

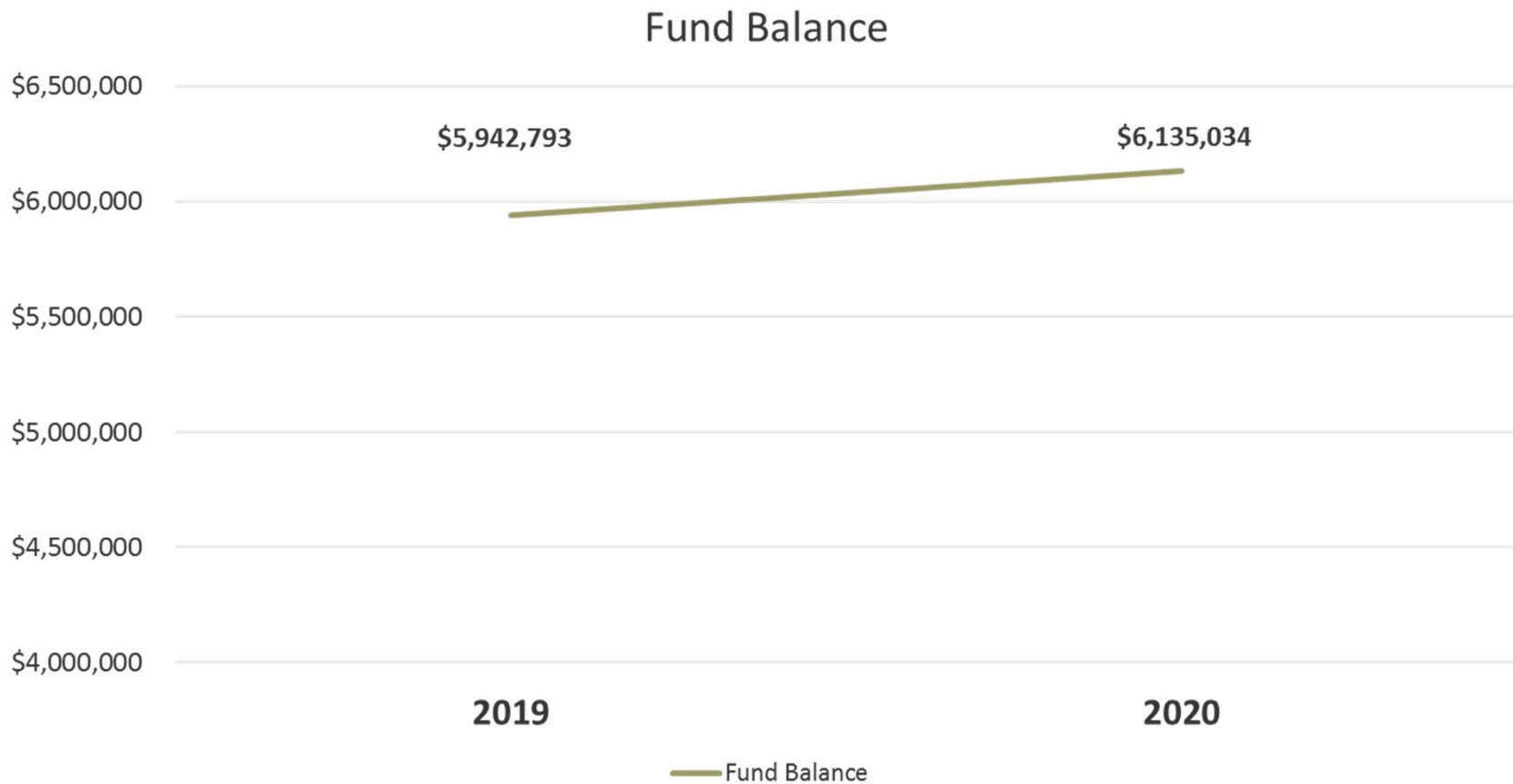
# Audit Highlights

- Unmodified opinion
- Cooperative staff
- General Fund increased \$192,241.

# General Fund Summary



# Total Fund Balance General Fund







# Fund Balance Position General Fund

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□ Total Fund Balance	\$6,135,034
□ Non Spendable	- 51,300
□ Stabilization by state statute	<u>- 1,274,555</u>
□ Available Fund Balance	\$4,809,179
□ Available Fund Balance PY	\$5,069,351
□ Decrease in Available FB	- \$260,170



# Ratio – General Fund

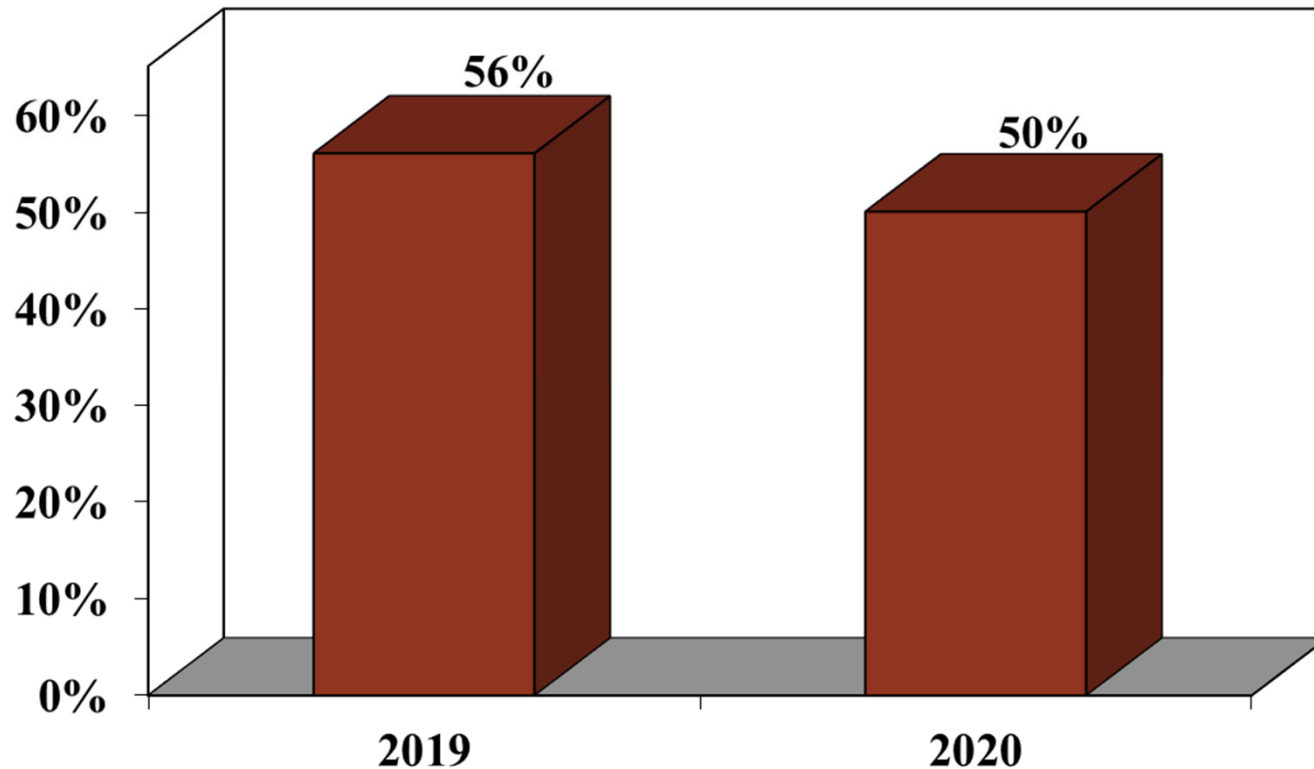
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	<u>2019</u>	<u>2020</u>
Available Fund Balance	\$ 5,069,351	\$ 4,809,179
Total Expenditures+		
Transfers-out to all funds	<u>\$ 8,810,825</u>	<u>\$ 9,483,891</u>
Available Fund Balance/ Total Expenditures And Transfers-out	57.54	50.71

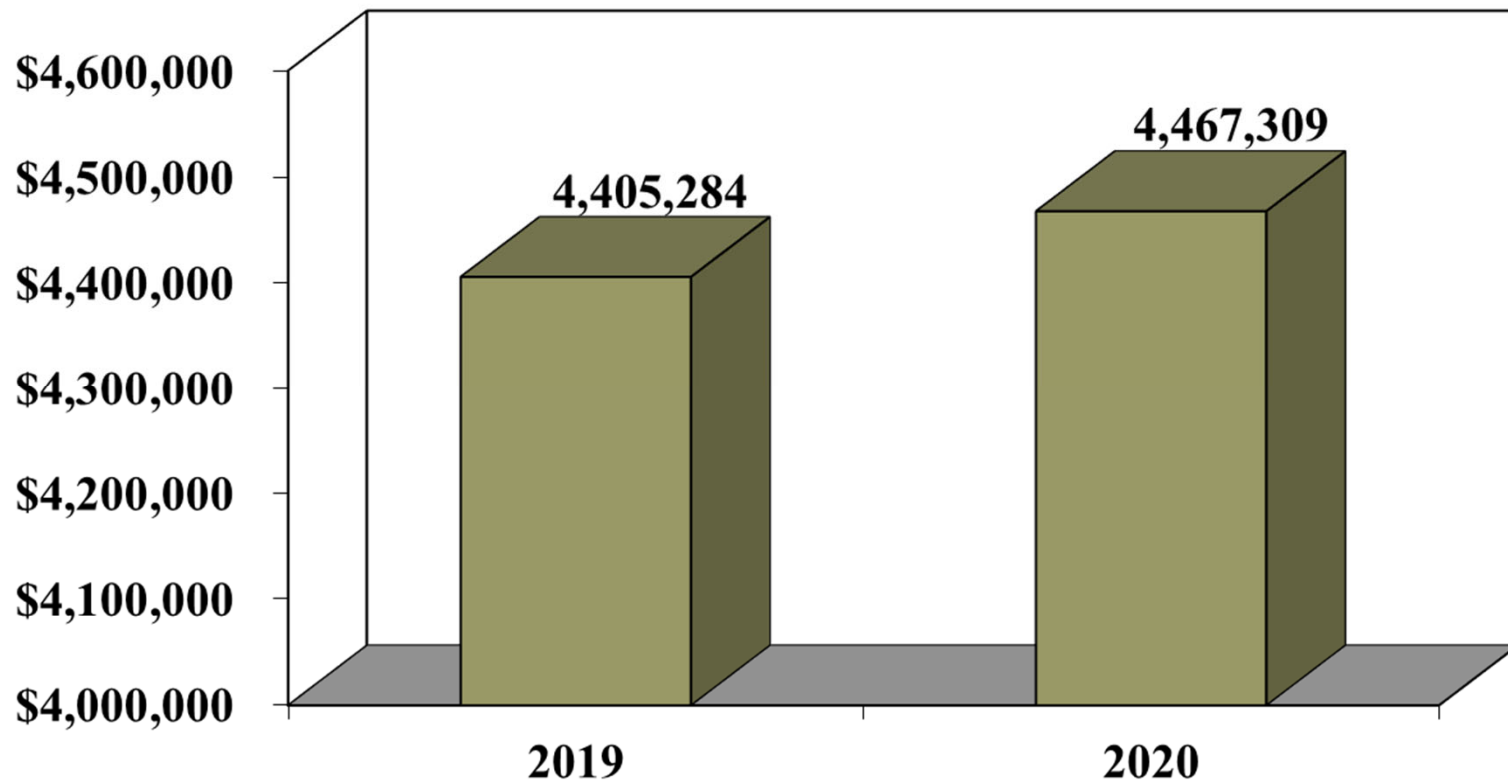
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# Available Fund Balance as a Percent of Expenditures & Transfers Out— General Fund

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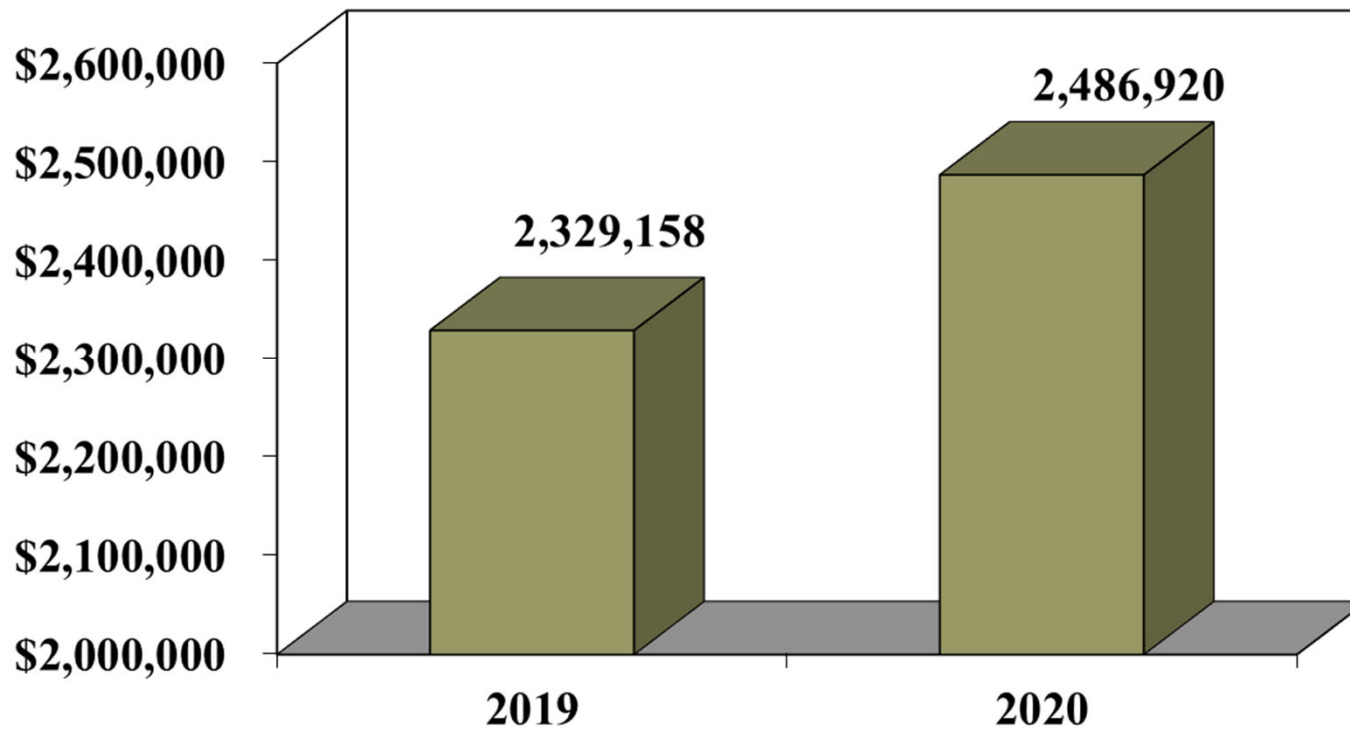


# Ad Valorem Taxes



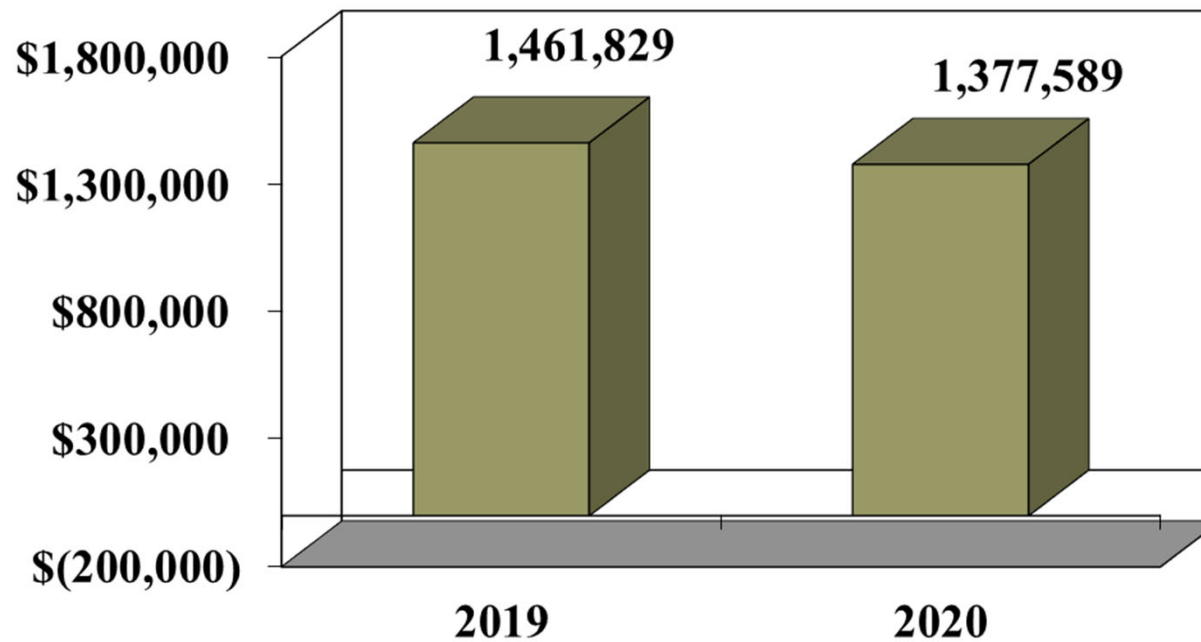
# Unrestricted Intergovernment

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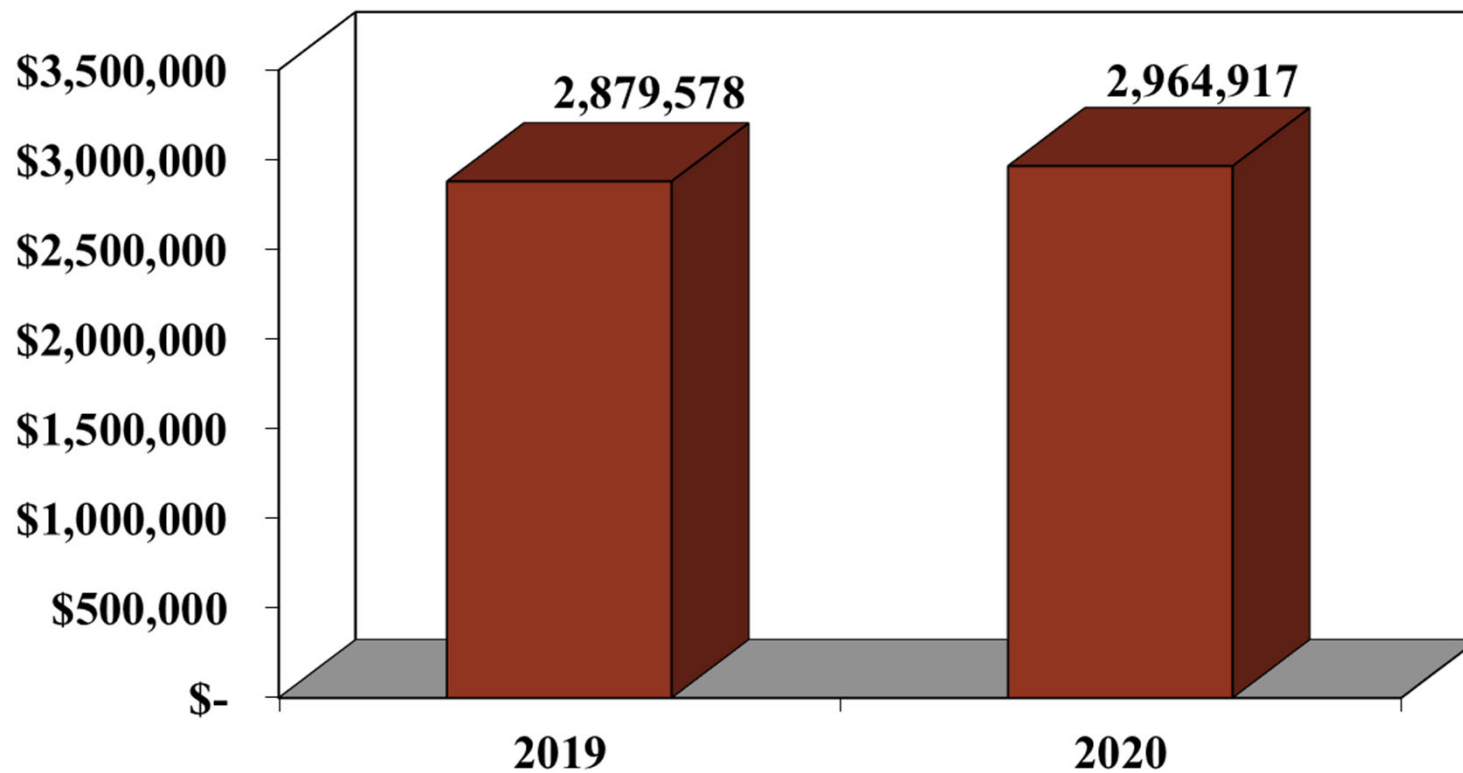
# Other Taxes and Licenses

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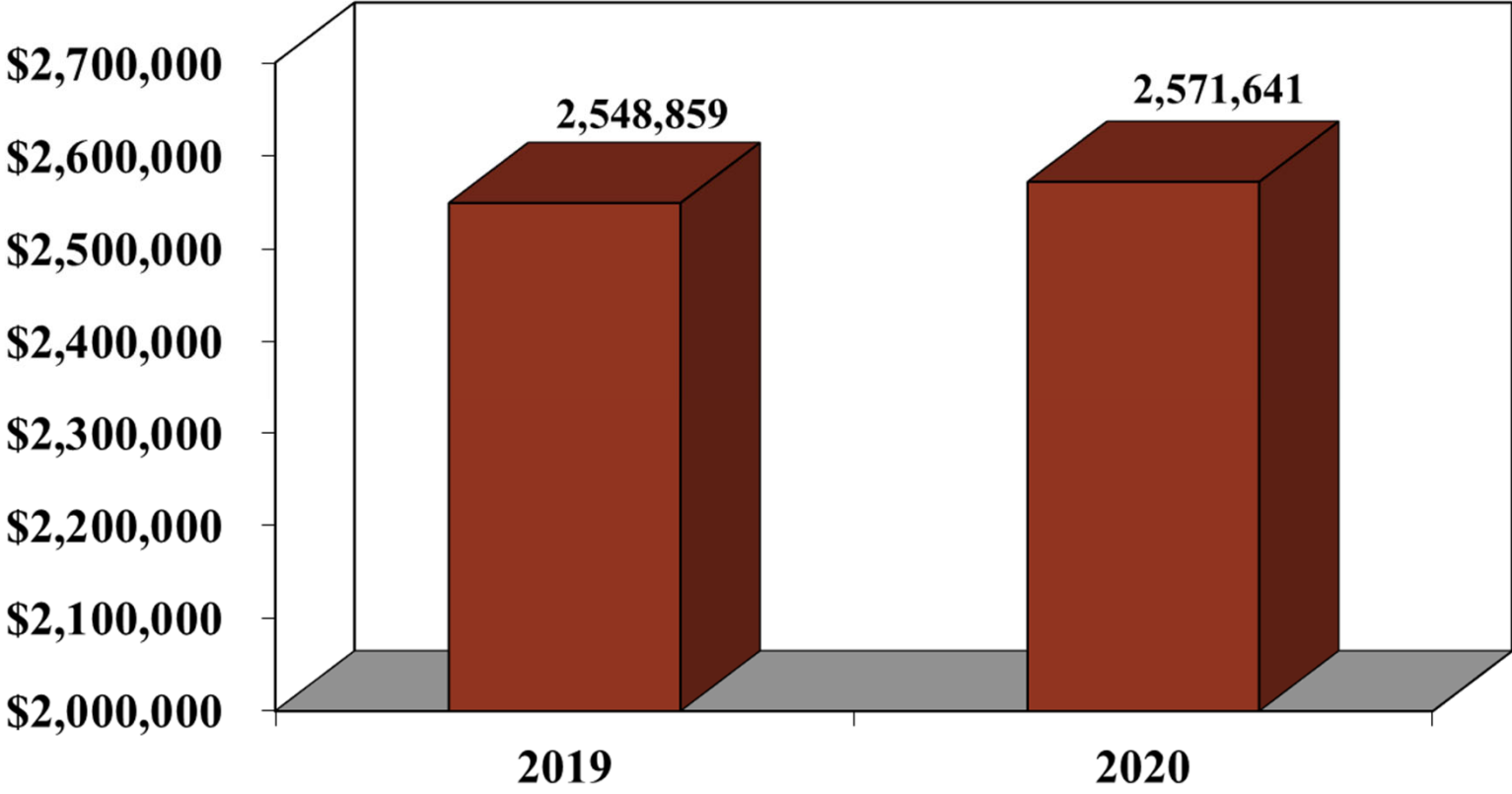


# General Government

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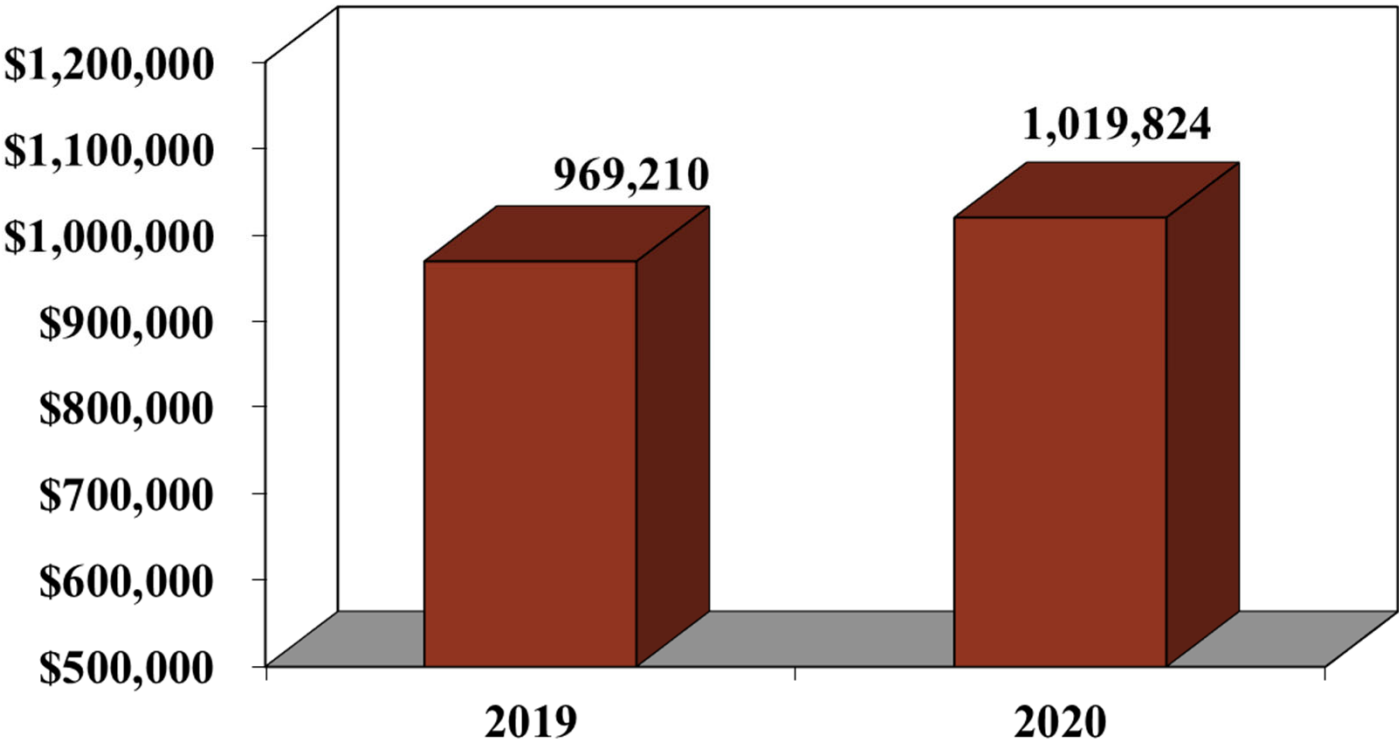


# Public Safety

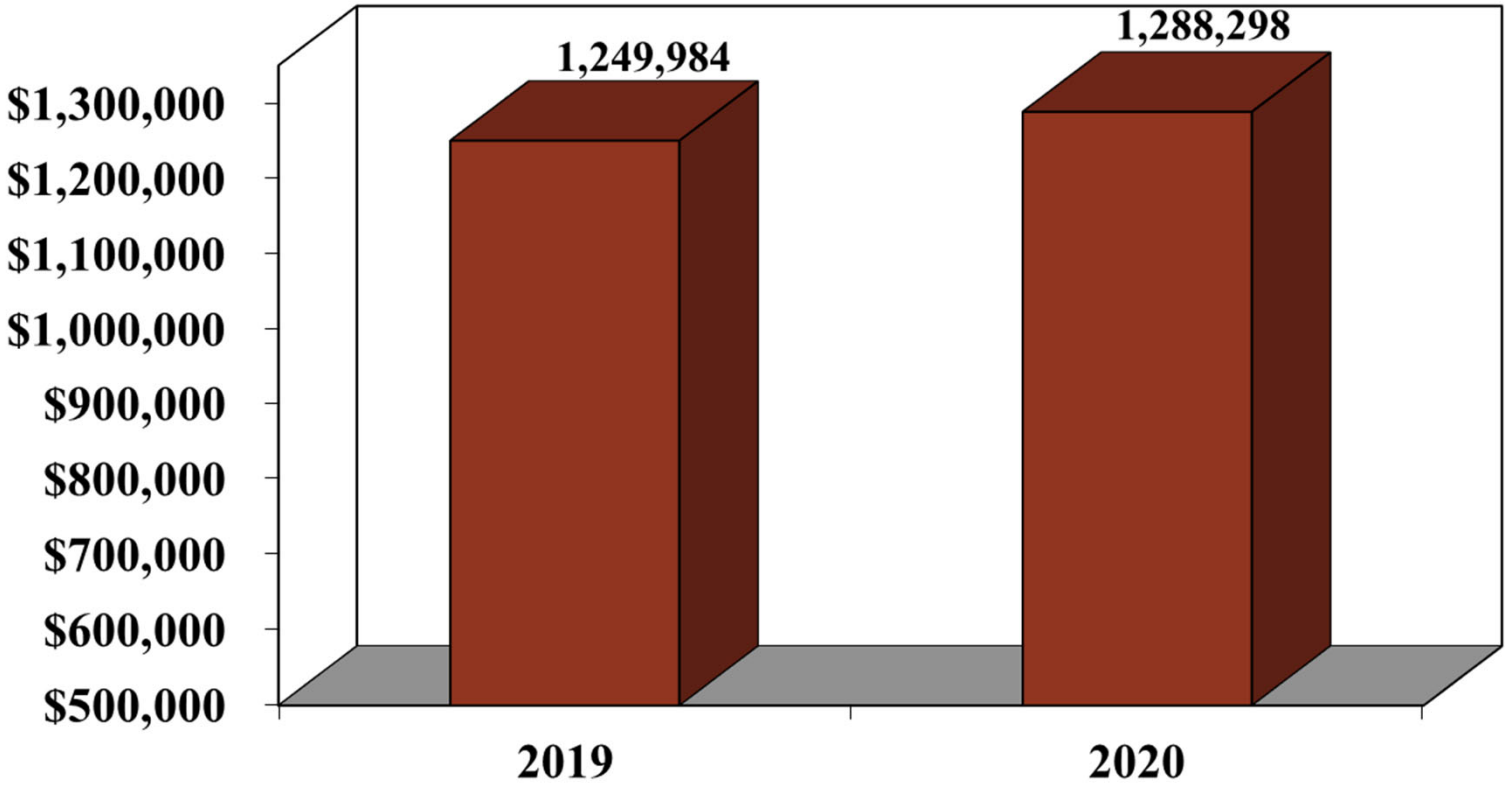




# Transportation



# Debt Service





# Water Enterprise Fund

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□ Change in Net Position	\$ (122,565)
□ Debt Service	\$ 374,623
□ Cash Flow from Operations	\$ 377,037
□ Unrestricted Net Position	\$ (471,319)



# Quick Ratio – Water and Sewer

---

	<u>2019</u>	<u>2020</u>
Current Assets	\$ 2,918,251	\$ 676,151
Current Liabilities	<u>\$ 520,920</u>	<u>\$ 449,531</u>
Quick Ratio	5.60	1.50

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## Cash Flow Less Debt Service – Water and Sewer

---

	<u>2019</u>	<u>2020</u>
Cash Flow-Operations	\$ 401,456	\$ 377,037
Debt Service	<u>\$ 319,020</u>	<u>\$ 377,181</u>
Cash Flow Less Debt Service	\$ 82,436	\$ (144)

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# Discussion & Questions

## **Presentation Agenda - Staff Report**

**To: Mayor Charlie Sellers and the Blowing Rock Town Council**

**From: Shane Fox, Town Manager**

**Subject: Middle Fork Greenway Update**

**Date: March 9, 2021**

### **Information:**

Wendy Patoprsty, Middle Fork Greenway Director will be presenting an update with regards to the Middle Fork Greenway. The last update was held in August 2020.

## MEMO

TO: Mayor Charlie Sellers and Blowing Rock Town Council

FROM: Kevin Rothrock, Planning Director

SUBJECT: General Statutes 160D – Updates to Land Use Ordinance (CH. 16), Minimum Housing Ordinance (CH. 17), and Town Code (CH. 3)

DATE: March 3, 2021

In 2019, the NC General Assembly adopted sweeping changes for Land Use Law in North Carolina as a new chapter **160D** in the NC General Statutes. These statute changes require each local government in NC (city and county) to modify their land use regulations consistent with 160D. Due to the onset of the Coronavirus pandemic, the deadline to adopt changes to local ordinances was extended from January 1, 2021 to July 1, 2021.

Planning Board member Bill McCarter volunteered and provided an update to the entirety of Chapter 16 - Land Use Ordinance. Mr. McCarter also updated Chapter 17, the Town's minimum housing standards, and Chapter 3 of the Town Code. The full ordinance revisions for Chapters 16, 17, and 3 are attached for your review and consideration.

The effective date for these new changes is upon adoption, but not later than July 1, 2021.

### **Brief Summary**

A couple of the major changes to Chapter 16 include:

1. Switching all references from Conditional Use Permits (CUPs) to Special Use Permits (SUPs).
2. Conflicts of interest clarifications and statements for the Town Council and appointed board membership. With respect to legislative decisions, the governing body members or appointed board members should not participate in voting on map or text amendments if they have a direct financial impact on the member, a member's family, or a member's close personal relationship. (Section 16-3.5)

### **Other Amendments**

Please also note a few other amendments proposed with the proposed draft of Chapter 16:

1. Allowing Single-family with accessory apartment uses in CB, TC, GB, and O-I districts to be permitted with a zoning permit rather than a special use permit. (See Table of Permissible Uses on page 10-7)



2. Removing the commercial design requirements for single-family uses and two-family uses which was prohibit by General Statutes a few year ago. (See Section 16-21.2 and 16-21.2.1 on page 21-1 and 21-2)

## **ATTACHMENTS**

- G.S. Chapter 160D – Checklist of Changes to Local Ordinances *Amendments in Red*
- Ord No. 2021-04 Chapter 3, 16, and 17 – Updates for 160D
- Ord No. 2021-04 **Attachment A** – Chapter 16 *Amendments in Red*
- Ord No. 2021-04 **Attachment B** – Chapter 17 *Amendments in Red*

**ORDINANCE NO. 2021-04**

**AN ORDINANCE TO AMEND CHAPTERS 3, 16, AND 17 OF THE TOWN CODE TO BE CONSISTENT WITH CHAPTER 160D OF NC GENERAL STATUTES**

WHEREAS, in 2019, the NC General Assembly adopted Session Law 2020-25 (S.B. 720) which enacted Chapter 160D, a comprehensive overhaul of Land Use Law in North Carolina; and

WHEREAS, local governments must comply with the State Law and enact local ordinances consistent with NCGS Chapter 160D by July 1, 2021; and

WHEREAS, to be consistent with Chapter 160D, amendments had to be made to Chapters 3, 16, and 17 of the Town Code; and

WHEREAS, the Planning Board reviewed draft ordinance revisions for Chapters 16 and 17; and

WHEREAS, amendments to Chapter 3, Administration, Article V, also had to be made to be consistent with Chapter 16.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Blowing Rock, North Carolina, that:

Section 1. Chapter 3, Article V of the Town Code is hereby revised to read as follows:

**“CHAPTER 3 – ADMINISTRATION**

**Article V - Planning and Regulation of Development**

***Section 3-20. Building Inspections Department.***

(A) There shall be a building inspections department which shall have the authority and responsibility to enforce the North Carolina State Building Code. The Building Inspections Department shall have the authority and shall follow the procedures set forth in Article 11 of NCGS 160D ~~Article 19 of G.S. 160A~~ and Chapter 1 of the North Carolina State Building Code. From time to time the Board may make arrangements to have the functions of the Building Inspections Department performed by other than town employees, as provided in NCGS 160D-1105 ~~G.S. 160A-413~~.

(B) In addition to the authority granted to the Building Inspections Department in subsection (A) above, the Building Inspections Department shall have the authority to enforce the provisions for swimming pools, spas, and hot tubs contained in Appendix D of Volume VII of the North Carolina State Building Code (One and Two Family Dwellings), which are hereby adopted by the Town of Blowing Rock. ~~[Amended August 12, 1997]~~

**Section 3-21. Permit Fees.**

The Board shall establish and may revise from time to time a schedule of fees for the issuance of permits under the North Carolina State Building Code. This schedule of fees shall be maintained by and shall be available for public inspection in the Building Inspections Department. A copy of this schedule shall also be available in the office of the Town Clerk.

**Section 3-22. Condemnation of Unsafe Buildings.**

Buildings that appear to the Inspections Department to be especially unsafe may be condemned and the owners thereof required to take corrective action pursuant to the provisions of NCGS 160D-1119 ~~G.S. 160A-426~~ through 160D-1125 ~~160A-432~~. In addition, the town may summarily abate any situation found to be dangerous or prejudicial to the public health or safety, under the authority of G.S. 160A-193 and in accordance with the procedures set forth in Chapter 11 of this code.

**Section 3-23. Planning Board, Board of Adjustment, Appearance Commission.**

The planning board, board of adjustment, and appearance commission are established in Chapter 16 of this code.

**Sections 3-24 and 3-25 Reserved.”**

Section 2. Chapter 16 of the Town Code (Land Use Ordinance) is hereby amended in its entirety as is referenced to this adopting ordinance as **Attachment A**. New text is underlined and omitted text is struck through.

Section 3. Chapter 17 of the Town Code (Minimum Housing Standards) is hereby amended in its entirety as is referenced to this adopting ordinance as **Attachment B**. New text is underlined and omitted text is struck through.

Section 4. Severability; Conflict of Laws. If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to that end, the provisions of this ordinance are declared to be severable. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 5. Effective Date. This ordinance shall be effective upon adoption.

Adopted this the \_\_\_\_\_ day of \_\_\_\_\_, 2021

\_\_\_\_\_  
Charlie Sellers, Mayor

ATTEST: \_\_\_\_\_  
Hilari H. Hubner, Town Clerk

Town Code for Blowing Rock, North Carolina

ATTACHMENT B

CHAPTER 17 - MINIMUM HOUSING STANDARDS

Article I – Definitions

**Section 17-1. Definitions.**

The following terms shall have the meanings whenever used or referred to as indicated when used in this Part unless a different meaning clearly appears from the context:

Owner – The holder of the title in fee simple and every mortgagee of record.

Parties in Interest – All individuals, associations, and corporations who have interests of record in a dwelling and any who are in possession thereof.

Public Authority – Any officer who is in charge of any department or branch of the government of the town, county, or state relating to health, fire, building regulations, or other activities concerning dwellings in the local government.

~~Article II – Authority to Repair, Close, and Demolish Certain Dwellings~~

~~Section 17-2. Authority to Repair, Close, and Demolish Certain Dwellings Unfit for Human Habitation.~~

~~(A) The purpose of this Ordinance is to provide a means for the Town to determine that a dwelling within the Town Limits is unfit for human habitation if the officer in charge of administering this Ordinance determines that conditions exist in the dwelling that render it dangerous or injurious to the health, safety or morals of the occupants of the dwelling, the occupants of neighboring dwellings, or other residents of the Town. Defective conditions may include defects herein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanness.~~

**Section 17-2. Authorization.**

**17-2.1. Occupied Dwellings.** The existence and occupation of dwellings that are unfit for human habitation are inimical to the welfare and dangerous and injurious to the health and safety of the people of the town. A public necessity exists for the repair, closing, or demolition of such dwellings. Whenever there exists in the planning jurisdiction, dwellings that are unfit for human habitation due to dilapidation; defects increasing the hazards of fire, accidents or other calamities; lack of ventilation, light, or sanitary facilities; or other conditions rendering the dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety, morals, or otherwise inimical to the welfare of the residents of the local government, power is conferred upon the town to exercise its police powers to repair, close, or demolish the dwellings consistent with this Chapter.

**17-2.2. Abandoned Structures.** The town may by ordinance provide for the repair, closing, or demolition of any abandoned structure found to be a health or safety hazard as a result

*Town Code for Blowing Rock, North Carolina*

of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities. The ordinance may provide for the repair, closing, or demolition of such structure pursuant to the same provisions and procedures as are prescribed by this Chapter for the repair, closing, or demolition of dwellings found to be unfit for human habitation. (2019-111, s. 2.4.)

**Section 17-3. Ordinance authorized as to repair, closing, and demolition.** Upon the adoption of an ordinance finding that dwelling conditions of the character described in this Chapter, the Board of Commissioners is authorized to adopt and enforce ordinances relating to dwellings within the planning jurisdiction that are unfit for human habitation. These ordinances shall include the following provisions:

**17-3.1. Designation of enforcement officer.** ~~(B)~~ The Building Inspector for the Town of Blowing Rock is hereby designated and appointed to exercise the powers prescribed by this Chapter Ordinance.

**17-3.2. Investigation, complaint, hearing.** ~~(C)~~ That whenever a petition is filed with the Building Inspector by a public authority or by at least five residents of the Town charging that any dwelling is unfit for human habitation or whenever it appears to the Building Inspector (on his own motion) that any dwelling is unfit for human habitation, the Building Inspector shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwellings a complaint stating the charges in that respect and containing a notice that a hearing will be held before the Building Inspector (or his designated agent) at a place within the county in which the property is located fixed not less than 10 days nor more than 30 days after the serving of the complaint; that the owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Building Inspector.

**17-3.3. Orders.** ~~(D)~~ That If, after notice and hearing, the Building Inspector determines that the dwelling under consideration is unfit for human habitation, he shall state in writing his findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order:

**17-3.3.1.** ~~(i)~~ If the repair, alteration or improvement of the dwelling can be made at a reasonable cost in relation to the value of the dwelling requiring the owner, within the time specified, to repair, alter or improve the dwelling in order to render it fit for human habitation. The ordinance may fix a certain percentage of this value as being reasonable. The order may require that the property be vacated and closed only if continued occupancy during the time allowed for repair will present a significant threat of bodily harm, taking into account the nature of the necessary repairs, alterations, or improvements; the current state of the property; and any additional risks due to the presence and capacity of minors under the age of 18 or occupants with physical or mental disabilities. The order shall state that the failure to make timely repairs as

*Town Code for Blowing Rock, North Carolina*

directed in the order shall make the dwelling subject to the issuance of an unfit order under Section 17-3.4.

**17-3.3.2.** ~~(ii)~~ If the repair, alteration or improvement of the dwelling cannot be made at a reasonable cost in relation to the value of the dwelling requiring the owner, within the time specified in the order, to remove or demolish such dwelling. The ordinance may fix a certain percentage of this value as being reasonable. However, notwithstanding any other provision of law, if the dwelling is a contributing structure in a National Register District, after a public hearing as provided by ordinance, and the dwelling has not been condemned as unsafe, the order may require that the dwelling be vacated and closed consistent with NCGS 160D-949.

**17-3.4. Repair, closing, and posting.** ~~(E) That,~~ If the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the Building Inspector may cause the dwelling to be repaired, altered or improved or to be vacated and closed; that the Building Inspector may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This Building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful ." Occupation of a building so posted shall constitute a Class 1 misdemeanor. The duties of the public officer set forth in this section shall not be exercised until the Town shall have by ordinance ordered the Building Inspector to proceed to effectuate the purpose of this Chapter with respect to the particular property or properties that the Building Inspector shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance. This ordinance shall be recorded in the office of the Register of Deeds in the County where the property or properties are located and shall be indexed in the name of the property owner in the grantor index.

**17-3.5. Demolition.** ~~(F) That,~~ If the owner fails to comply with an order to remove or demolish the dwelling, the Building Inspector may cause such dwelling to be removed or demolished. The duties of the Building Inspector set forth in sections (D) and (E) above shall not be exercised until the governing body shall have by ordinance ordered the Building Inspector to proceed to effectuate the purpose of this Article with respect to the particular property or properties which the Building Inspector shall have found to be unfit for human habitation and which property or properties shall be described in the Ordinance. No such Ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with the housing code. This Ordinance shall be recorded in the office of the Register of Deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index.

**17-3.6. Abandonment of Intent to Repair.** If the dwelling has been vacated and closed for a period of one year pursuant to an ordinance adopted pursuant to Section 17-3.4 or after the Building Inspector issues an order or proceedings have commenced under the substandard housing regulations regarding a dwelling to be repaired or vacated and closed as provided in this subdivision, then the governing board may find that the owner has abandoned the intent and purpose to repair, alter, or improve the dwelling in order to

## *Town Code for Blowing Rock, North Carolina*

render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, and welfare of the local government in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling that might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this State, then in such circumstances, the governing board may, after the expiration of such one-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

**17-3.6.1.** If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within 90 days.

**17-3.6.2.** If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within 90 days.

This ordinance shall be recorded in the office of the Register of Deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this ordinance, the public officer shall effectuate the purpose of the ordinance.

### **17-3.7. Liens.**

**17-3.7.1.** ~~(G) That~~ The amount of the cost of repairs, alterations or improvements, or vacating and closing, or removal of demolition by the Building Inspector shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessments provided in ~~Section (J) of this Chapter.~~ Article 10 of Chapter 160A of the General Statutes.

**17-3.7.2.** If the real property upon which the cost was incurred is located within the town limits, then the amount of the cost is also a lien on any other real property of the owner located within the city limits or within one mile thereof except for the owner's primary residence. The additional lien provided in this sub-subdivision is inferior to all prior liens and shall be collected as a money judgment.

**17-3.7.3.** If the dwelling is removed or demolished by the Building Inspector, he shall sell the materials of the dwelling, and any personal property, fixtures or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition and any balance remaining shall be deposited in the superior court by the Building Inspector, shall be secured in the manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed

## *Town Code for Blowing Rock, North Carolina*

to impair or limit in any way the power of the Town to define and declare nuisances and to cause their removal or abatement by summary proceedings, or otherwise.

**17-3.8. Civil action.** If any occupant fails to comply with an order to vacate a dwelling, the Building Inspector may file a civil action in the name of the Town to remove such occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as defendant any person occupying such dwelling. The Clerk of Superior Court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed 10 days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. If the summons appears to have been duly served and if at the hearing the Building Inspector produces a certified copy of an ordinance adopted by the Town pursuant to subdivision (5) of this section authorizing the officer to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. 7A-228, and the execution of such judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this paragraph unless such occupant was served with notice at least 30 days before the filing of the summary ejectment proceeding that the governing board has ordered the public officer to proceed to exercise his duties under subdivisions (4) and (5) of this section to vacate and close or remove and demolish the dwelling.

**17-3.9. Additional notices to affordable housing organizations.** Whenever a determination is made pursuant to Section 17-3.3 that a dwelling must be vacated and closed, or removed or demolished, under the provisions of this section, notice of the order shall be given by first-class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for such notices. A minimum period of 45 days from the mailing of such notice shall be given before removal or demolition by action of the public officer, to allow the opportunity for any organization to negotiate with the owner to make repairs, lease, or purchase the property for the purpose of providing affordable housing. The Building Inspector or Clerk shall certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail such notices, and the sole remedy shall be an order requiring the public officer to wait 45 days before causing removal or demolition. (2019-111, s. 2.4.)

**17-4. Standards.** An ordinance adopted under this Article shall provide that the Building Inspector may determine that a dwelling is unfit for human habitation if the officer finds that conditions exist in the dwelling that render it dangerous or injurious to the health, safety, or welfare of the occupants of the dwelling, the occupants of neighboring dwellings, or other residents of the jurisdiction. Defective conditions may include the following, without limiting the generality of the foregoing: defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair;



structural defects; or uncleanliness. The following standards will be used to guide the Building Inspector in determining the fitness of a dwelling for human habitation. (2019-111, s. 2.4.)

**17-5. Service of complaints and orders.**

**17-5.1.** ~~(H)~~ Complaints or orders issued by the Building Inspector pursuant to an Ordinance adopted under this Chapter Ordinance shall be served upon persons either personally or by registered or certified mail. When service is made by certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the certified mail is unclaimed or refused but the regular mail is not returned by the post office within 10 days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

**17-5.2.** If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the Building Inspector in the exercise of reasonable diligence, or, if the owners are known but have refused to accept service by certified mail, and the Building Inspector makes an Affidavit to that effect, then the serving of the Complaint or Order upon the unknown owners or other persons may be made by publication in the newspaper having general circulation in the jurisdiction Town at least once no later than the time at which personal service would be required under the provisions of this Chapter Ordinance. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected effected. (2019-111, s. 2.4.)

**17-6. Remedies.**

**17-6.1.** ~~(H)~~ An appeal from any decision or order of the Building Inspector is a quasi-judicial matter and may be taken by any person aggrieved thereby or by any officer, board or commission of the Town. Such appeal shall lie with the Board of Adjustment. Any appeal from the Building Inspector shall be taken within (10) days from the rendering of the decision or service of the order by filing with the Building Inspector and with the Board of Adjustments which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Building Inspector shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the Building Inspector refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When any appeal is from a decision of the Building Inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board of Adjustment, unless the Building Inspector certifies to the Board, after the notice of appeal is filed with him, that because of facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of this requirement would cause imminent peril to life or property. In that case, the requirement shall not be suspended except by restraining order, which may be granted for due cause shown upon not less than one day's written notice to the Building Inspector, by the Board of Adjustment, or by a court of record upon petition made pursuant to this Chapter Ordinance.

## Town Code for Blowing Rock, North Carolina

**17-6.2.** ~~(H)~~ The Board of Adjustment ~~appeals board~~ shall fix a reasonable time for hearing appeals, shall give due notice to the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make any decision and order that in its opinion ought to be made in the matter, and to that end it shall have all the powers of the Building Inspector, but the concurring vote of four members of the board shall be necessary to reverse or modify any decision or order of the Building Inspector. The board shall have power also in passing upon appeals, when practical difficulties or unnecessary hardships would result from carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

**17-6.3.** ~~(K)~~ Every decision of the board shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the board, but not otherwise.

**17-6.4.** ~~(L)~~ Any person aggrieved by order issued by the Building Inspector or a decision rendered by the board may petition the superior court for an injunction restraining the Building Inspector from carrying out the order or decision and the court may, upon such petition, issue a temporary injunction restraining the Building Inspector pending a final disposition of the cause. The petition shall be filed within 30 days after issuance of the order or rendering of the decision. Hearings shall be had by the court on a petition within 20 days and shall be given preference over other matters on the court's calendar. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. It shall not be necessary to file bond in any amount before obtaining a temporary injunction under this subsection.

**17-6.5.** ~~(M)~~ If any dwelling is erected, constructed, altered, repaired, converted, maintained, or used in violation of this Part or any ordinance or code adopted under authority of this Part or any valid order or decision of the Building Inspector or board made pursuant to any ordinance or code adopted under authority of this Part, the Building Inspector or board may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration or use, to restrain, correct or abate the violation, to prevent the occupancy of the dwelling, or to prevent any illegal act, conduct or use in or about the premises of the dwelling. (2019-111, s. 2.4.)

**17.7. Compensation to owners of condemned property.** Nothing in this Article shall be construed as preventing the owner or owners of any property from receiving just compensation for the taking of property by the power of eminent domain under the laws of this State nor as permitting any property to be condemned or destroyed except in accordance with the police power of the State. (2019-111, s. 2.4.)

**17-8. Additional powers of public officer.** An ordinance adopted by the governing board may authorize the enforcement officer to exercise any powers necessary or convenient to carry out and effectuate the purpose and provisions of this Article, including the following powers in addition to others herein granted:

*Town Code for Blowing Rock, North Carolina*

17-8.1. To investigate the dwelling conditions within the planning jurisdiction in order to determine which dwellings therein are unfit for human habitation.

17-8.2. To administer oaths, affirmations, examine witnesses, and receive evidence.

17-8.3. To enter upon premises for the purpose of making examinations in a manner that will do the least possible inconvenience to the persons in possession.

17-8.4. To appoint and fix the duties of officers, agents, and employees necessary to carry out the purposes of the ordinances.

17-8.5. To delegate any of his or her functions and powers under the ordinance to other officers and other agents. (2019-111, s. 2.4.)

17-9. **Administration of ordinance.** A local government adopting an ordinance under this Article shall, as soon as possible thereafter, prepare an estimate of the annual expenses or costs to provide the equipment, personnel, and supplies necessary for periodic examinations and investigations of the dwellings for the purpose of determining the fitness of dwellings for human habitation and for the enforcement and administration of its ordinances adopted under this Article. The local government is authorized to make appropriations from its revenues necessary for this purpose and may accept and apply grants or donations to assist it. (2019-111, s. 2.4.)

17-10. **Supplemental nature of Article.** Nothing in this Article shall be construed to abrogate or impair the powers of the courts or of any department of the town, to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof. The powers conferred by this Article shall be supplemental to the powers conferred by any other law in carrying out the provisions of the ordinance. (2019-111, s. 2.4.)

~~(N) This Ordinance shall become effective on August 9, 1988.~~

# Town of Blowing Rock

## Request for Council Action

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FROM: Jennifer Brown, Director of Parks & Recreation  
SUBJECT: Proposed Memorial Park Playground  
TO: Town Council  
DATE: March 9, 2021  
REQUESTED BY: Parks Strategy Committee

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### BACKGROUND:

During the Town Council retreat in January, the Parks Strategy Committee presented a drawing of park improvement needs to Town Council. Town Council encouraged the Parks Strategy Committee to pursue applying for a Parks & Recreation Trust Fund Grant (PARTF). This grant is a matching grant that the Town would match with the current approved bond money.

The Parks Strategy Committee has met several times and has options that they need Town Council to decide which option they would like to pursue for the PARTF Grant.

David Harwood (Parks Strategy Representative), Doug Chapman (McGill Engineers), Cory Osborne (High Country Council of Government), Shane Fox (Town Manager), and Jennifer Brown will present options along with explanations.

## **Regular Business Matters Agenda - Staff Report**

**To: Mayor Charlie Sellers and the Blowing Rock Town Council**

**From: Shane Fox, Town Manager**

**Subject: Green Hill Traffic Study**

**Date: March 9, 2021**

### **Information:**

During the Town Council's February 9, 2021 regular meeting, the Town Council instructed the Town Manager to solicit and receive an updated formal quote, and scope of services for a Green Hill Road traffic study. The Town has received a quote and scope of services from Ramey Kemp Associates, a professional transportation engineering firm located in Raleigh, NC.

### **Action:**

Staff is seeking final review and potential approval from Town Council.

### **Attachment:**

Draft of Green Hill Rd. Traffic Study Engagement Letter



February 26, 2021

Shane Fox  
Town Manager  
Town of Blowing Rock  
1036 Main St.  
Blowing Rock, NC 28605  
[sfox@townofblowingrocknc.gov](mailto:sfox@townofblowingrocknc.gov)

Reference: Green Hill Road Traffic study

Subject: **DRAFT** Transportation Engineering Services Agreement

Mr. Fox:

Ramey Kemp & Associates Inc. (RKA) is pleased to provide you with this Transportation Engineering Services Agreement for the above referenced project. We understand the Town would like to have a traffic study completed for Green Hill Road, which connects the Blue Ridge Parkway with US 321 and serves residential properties. The following is our proposed scope of services for the Project ("Services") based on discussions with Town staff. The parties agree that should the scope of services change following any future consultation or coordination, RKA will provide the Town with a revised proposal or an addendum to this agreement setting forth any such changes and associated costs to be paid by the Town.

**I.) SCOPE OF SERVICES:**

**A.) Traffic Engineering:**

- a. RKA will coordinate with Town staff to establish a thorough understanding of the project as well as to obtain all available information and finalize the scope of the study. Based on previous discussions, this proposal assumes that the Town will provide the following information:
  - i. Crash data for the study area
  - ii. Spot speed information collected by the Town and/or Police Department
- b. RKA staff will conduct a field visit to review and verify roadway characteristics (curvature, slopes, sight distance constraints, etc.), traffic operations, and traffic control measures along the roadway. Observations of driver behaviors will be conducted as part of the field visit.
  - i. RKA will review the intersection of Green Hill Road and Green Hill Circle to identify safety and operational concerns.
- c. Once the Blue Ridge Parkway has opened and Town staff feel an appropriate population is present to capture typical operations in the area, 13-hour turning movement counts will be conducted at the following intersections:
  - i. Blue Ridge Parkway at Green Hill Road
  - ii. US 321 at Green Hill Road



- d. RKA will coordinate with NCDOT as appropriate to discuss impacts on the study corridor and nearby roadways (including Goforth Rd) due to US 321 improvements and any other NCDOT projects in the area.
- e. A GIS webmap will be created to collect public input on concerns along Green Hill Road and suggestions for improvements. This task includes coordination with the project team, preparing the map, and summary of the results.

**Note: An alternative option for the public input would include coordination with the project team, a project website in the form of an ESRI StoryMap, a project survey (if desired), the interactive comment map, and a summary of the results. This option also includes electronic copies of print-ready documents in case there are people who don't have access to the internet or would prefer to submit input on paper.**

- f. RKA will analyze the data collected and develop:
  - i. up to two (2) speeding countermeasures for Green Hill Road,
  - ii. up to two (2) cut-through traffic countermeasures for Green Hill Road,
  - iii. up to two (2) recommendations for safety or operational improvements at the intersection of Green Hill Road and Green Hill Circle.
- g. RKA will develop a draft technical memorandum that includes a summary of data and methodologies used for the study and presents the options developed as part of task (g.) above. Approximate cost estimates as well as potential benefits and drawbacks will be established for each alternative to aid the Town in the decision-making process.
- h. RKA will meet with Town staff in-person to discuss the study and identify preferred alternatives.
- i. RKA will produce a final technical memorandum that incorporates any comments on the draft and presents the preferred alternatives.

**B.) Additional Services:**

Additional (extra) services are defined as any work item not included in the above scope of services that are requested by the client or review agencies. Additional services will be billable at the RKA billing rates that are current at the time the extra work is identified. Any meetings not included in the scope of services will be considered extra. Extra work will be identified either in writing or by verbal communication, if requested by the client, but must be approved in writing by client before proceeding to perform such additional services.

Additional services RKA provides includes, but is not limited to, the following areas:

- Driveway permits and encroachment agreements
- Roadway design
  - Intersection Improvement Design
  - Highway and Interchange Design
  - Roundabout Design
  - Sidewalk Design
- Traffic signal design and timing plans
- Signing and pavement marking plans
- Hydraulic Design

**II.) SUMMARY OF FEES:**

RKA will provide the above noted services based on the following fee(s).

Service(s)	Lump Sum or Hourly+Expenses	FEE
A.) Traffic Engineering	Lump Sum	\$12,300.00

- a.) Fee is valid for 30 days from the date of this agreement.
- b.) RKA’s hourly rates/expenses are subject to change and RKA reserves the right to make modifications.
- c.) A schedule of Hourly Rate and Reimbursable Expenses can be provided upon request.

**~~III.) DEPOSIT:~~**

~~Client will be required to pay to RKA twenty five percent (25%) of the fee identified in the proposal before RKA commences any services or work pursuant to this Agreement. RKA will submit invoices to client as provided herein as the services are performed. RKA will hold the client’s deposit and credit the amount of the deposit against RKA’s final invoice(s) for RKA’s services.~~

**IV.) GENERAL CONDITIONS:**

RKA General Conditions (**Attachment 1**) are incorporated herein by reference (see attached). The undersigned client represents and acknowledges that they have been provided with a copy of the General Conditions and have read and fully understand the General Conditions.

**V.) PROJECT/CLIENT INFORMATION SHEET:**

RKA Project/Client Information Sheet (**Attachment 2**) is incorporated herein by reference (see attached). A completed Project/Client Information Sheet must be returned with signed agreement.



**RAMEY KEMP ASSOCIATES**

Moving forward.



T 919 872 5115

5808 Faringdon Place  
Raleigh, NC 27609

**V.) ACCEPTANCE:**

The undersigned represents and warrants that (1) he or she is duly authorized and has legal capacity to execute/deliver this Agreement, (2) the execution/delivery of this Agreement and the performance of the Client's obligations hereunder have been duly authorized, (3) and the Agreement is a valid/legal agreement binding on the Client and enforceable in accordance with its terms.

Accepted this \_\_\_\_\_ day of \_\_\_\_\_ (month), \_\_\_\_\_ (year)

Client Name: \_\_\_\_\_  
(Print)

By: \_\_\_\_\_ Title: \_\_\_\_\_  
(Sign) (Print)

We very much appreciate you contacting us and look forward to assisting you with this project.

Sincerely,  
*Ramey Kemp Associates*

Jessica McClure, PE  
State Traffic Engineering Lead

- Attachments: 1- RKA General Conditions  
2- RKA Project/Client Information Sheet  
~~3- RKA Deposit Invoice~~

**ATTACHMENT - 1**  
**Ramey Kemp & Associates General Conditions**  
**(As of January 1, 2016)**

**1.01 Payment Procedures**

- A. *Invoices:* Invoices are due and payable upon receipt. If Client fails to make any payment due Engineer for Services, extra work, or expenses within 30 days after receipt of Engineer's invoice, then (1) the amounts due Engineer will be increased at the rate of 1.5% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day, and (2) in addition Engineer may, after giving three days written notice to Client, suspend Services under this Agreement until Engineer has been paid in full all amounts due for Services, extra work, expenses, and other related charges. Client waives any and all claims against Engineer for any such suspension.
- B. *Payment:* As compensation for Engineer providing or furnishing Services and extra work, Client shall pay Engineer as set forth herein. If Client disputes an invoice, either as to amount or entitlement, then Client shall promptly advise Engineer in writing of the specific basis for doing so, may withhold only that portion so disputed, and must pay the undisputed portion.

**2.01 Termination**

- A. The obligation to continue performance under this Agreement may be terminated for cause:
  - 1. By either party upon 14 days written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party. Failure to pay Engineer for its Services shall constitute a substantial failure to perform and a basis for termination.
  - 2. By Engineer:
    - a. upon seven days written notice if Client demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
    - b. upon seven days written notice if the Engineer's Services are delayed for more than 30 days for reasons beyond Engineer's control.
- B. Engineer shall have no liability to Client on account of a termination for cause by Engineer.
- C. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under Paragraph 2.01.A.1 if the party receiving such notice begins, within three days of receipt of such notice, to correct its substantial failure to perform, proceeds diligently to cure such failure, and does cure such failure within no more than 14 days of receipt of notice; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 14-day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 30 days after the date of receipt of the notice.
- D. The Agreement may be terminated for convenience by Client effective upon Engineer's receipt of written notice from Client.
- E. In the event of any termination under Paragraph 2.01.D, Engineer will be entitled to invoice Client and to receive full payment for all Services and extra work performed or furnished in accordance with this Agreement, plus reimbursement of expenses incurred through the effective date of termination in connection with providing the Services and extra work, Engineer's consultants' charges, if any, and any other reasonable costs incurred by Engineer as a result of such termination.

**3.01 General Considerations**

- A. Should completion of any portion of the Services by Engineer be delayed, suspended, or impaired, through no fault of Engineer, then the time for completion of Engineer's Services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.



- B. Engineer shall not be responsible for any decision made regarding the construction contract requirements, or any application, interpretation, clarification, or modification of the construction contract documents other than those made by Engineer or its consultants.
- C. All documents prepared or furnished by Engineer are instruments of service, and Engineer retains all ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed. Client shall have a limited license to use the documents on the Project, extensions of the Project, and for related uses of the Client, subject to receipt by Engineer of full payment due and owing for all Services and extra work relating to preparation of the documents and subject to the following limitations:
  - 1. Client acknowledges that such documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Client or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer;
  - 2. any such use or reuse, or any modification of the documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Client's sole risk;
  - 3. Client shall defend, indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the documents without written verification, completion, or adaptation by Engineer; and such limited license to Client shall not create any rights in third parties.
- D. To the fullest extent permitted by law, Client and Engineer waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement or the Project.
- E. **ENGINEER AND CLIENT AGREE THAT ENGINEER'S (INCLUDING ENGINEER'S OFFICERS, DIRECTORS, MEMBERS, PARTNERS, AGENTS, AND EMPLOYEES) TOTAL LIABILITY TO THE CLIENT AND TO ANYONE CLAIMING BY, THROUGH, OR UNDER THE CLIENT FOR ANY AND ALL INJURIES, CLAIMS, LOSSES, COSTS, DAMAGES, AND EXPENSES ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE SERVICES PERFORMED HEREUNDER, WHETHER ARISING IN CONTRACT, TORT, EQUITY, STRICT LIABILITY, BY STATUTE, OR OTHERWISE, SHALL BE LIMITED TO \$25,000.00 OR ENGINEER'S TOTAL FEE FOR THE SERVICES PERFORMED HEREUNDER, WHICHEVER IS GREATER.**
- F. Any disputes relating to or arising out of this Agreement or Engineer's Services shall be subject to mandatory mediation, which shall be a condition precedent to any form of binding dispute resolution. The Parties shall select a mutually agreeable mediator for any such dispute and the Parties agree to split the mediator's costs evenly. The Parties may mutually agree to waive mediation. Any disputes not resolved by mediation shall be subject to Arbitration administered by the American Arbitration Association under its Construction Industry Arbitration Rules in effect as of the date of this Agreement.
- G. This Agreement shall be governed by the laws of the State of North Carolina. The Parties agree that any dispute or other legal action relating to this Agreement, shall be conducted only in Wake County, North Carolina, unless otherwise agreed to by the Parties or provided by law.
- H. A party's non-enforcement of any provision in the Agreement shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or the remainder of this Agreement.

Client Initials: \_\_\_\_\_



**Client Information Sheet**

**Project Name:**

**Client Name:**

Person       Corporation    LLC       Partnership

**Address:**

**Project Contact Name:**

**Title:**

**Email:**

**Phone Number(s):**

**Billing/Invoicing Information:**

**Billing/Invoicing Contact Name (if different):**

**Email:**

**Phone Number(s):**

**Billing/Invoicing Address:**

**Real Property Legal Owner Name:**

**(Who owns the land the project is being built on?)**

Person       Corporation    LLC       Partnership

**Address:**

**Owner Contact Name:**

**Email:**

**Phone Number(s):**

## **Presentation Agenda - Staff Report**

**To: Mayor Charlie Sellers and the Blowing Rock Town Council**

**From: Shane Fox, Town Manager**

**Subject: Green Hill Traffic Study**

**Date: March 9, 2021**

### **Information:**

During the Town Council's Special Meeting held on Monday February 22, 2021, the Town Council asked several follow-up questions to be answered by Mr. Craig Sullivan, Owner of Watauga Medics. Since that time, Mr. Sullivan has been in conversation with the Town Staff regarding those questions and the potential next steps. I will provide an update to Council to results of these conversations.