

**MINUTES  
Town of Blowing Rock  
Board of Commissioners  
October 14, 2008**

The Town of Blowing Rock Board of Commissioners held their regular meeting on Tuesday, October 14, 2008 at 7:00 p.m. The meeting took place in the Council Chambers located at 1036 Main Street, Blowing Rock. Present were Mayor J.B. Lawrence, Commissioners Bobby Ball, Keith Tester, Phillip Pickett, Albert Yount and Tommy Klutz. Others in attendance were Town Manager Scott Hildebran, Town Attorney Allen Moseley, Town Engineer Doug Chapman, Planning Director Kevin Rothrock, Assistant Public Works Director Mike Wilcox, Emergency Services Director Kent Graham, Building Inspector Jesse Horner, Parks & Recreation Director Jennifer Brown, Finance Director Nicole Norman and Town Clerk Sharon Greene.

**CALL TO ORDER**

Mayor Lawrence called the meeting to order at 7:00 p.m. and welcomed everyone.

**APPROVAL OF MINUTES**

Upon a motion by Commissioner Ball, seconded by Commissioner Klutz, minutes for meetings held on September, 8, 9, 22, and 25, 2008 were approved as written. Unanimously approved.

**PUBLIC HEARINGS**

**1. Noise Ordinance Amendment (Ordinance #2008-13) –Construction**

Per Planning Director Kevin Rothrock, the Planning Board reviewed amendments to the noise ordinance dealing with construction. The recommended changes were as follows: construction noise limited to 1:00 p.m. to 6:00 p.m. on Sundays and holidays, and 7:00 a.m. to 9:00 p.m. on Saturdays. Also, noise from parties would be prohibited from 11:00 p.m. to 7:00 a.m., and noise from disposing of garbage and recyclables would be prohibited between 11:00 p.m. and 7:00 a.m.

Mr. P. Coleman Ratterree of 321 Westview Drive spoke of a recent experience in his neighborhood and encouraged Council to make the recommended changes to the noise ordinance.

Commissioner Ball expressed she did not want any construction noise allowed on Sundays. She was in favor of allowing homeowners to cut their grass and

use leaf blowers, etc. Mrs. Ball also stated she would like for construction noise to be stopped by 7:00 p.m. on Saturdays.

Commissioner Pickett and Tester concurred with Mrs. Ball and her suggestions.

Commissioner Klutz disagreed. He felt that construction should be allowed from 1:00 p.m. to 6:00 p.m. on Sundays.

Council further discussed the types of equipment that could be allowed and homeowners being allowed to do work on Sundays and holidays, with the exception of major construction projects. Town Attorney Moseley stated trying to enforce who makes the noise would not be feasible. He suggested a compromise be made stating the hours when work would be permissible on Sundays or certain holidays.

A motion was received from Commissioner Pickett to close the public hearing, seconded by Commissioner Ball. Unanimously approved.

Commissioner Pickett made a motion to table this item until Council could hold a work session to discuss the noise ordinance further, seconded by Commissioner Klutz. Unanimously approved.

## **OLD BUSINESS**

### **1. CUP #2007-04- Blowing Rock Commons**

During the September 8, 2008 meeting, Council approved a motion to tentatively approve the Conditional Use Permit in concept and requested that an additional 10 feet of greenspace be provided along buildings 3 and 4; that the CUP be finalized to reflect all changes made to the site plan; and for the Applicant to work with staff to make the necessary changes to the plans and the CUP.

According to Planning Director Rothrock, the Applicant had provided a list of all items for the proposed project shown as "Exhibit A" as well as a list of all evidence from the public hearings held.

The Applicant also submitted the following information:

1. A revised landscape plan from Cooper Carry showing additional landscaping in buildings 3 & 4 areas, which exceeded Council's request.
2. A revised site plan indicating the changes to the buildings and retaining wall along Main Street, a no-right turn island at Hill Street driveway, a revised crosswalk area near driveway #1, and labeling the location of the emergency/police parking.
3. An estimated time-line providing an overall project phasing schedule.

4. An updated CUP reflecting the most recent changes referencing the latest site/landscape plans.

Mr. Rothrock explained the Applicant had agreed to move the sidewalk crossing from the intersection of driveway #1 at Main Street further into the site.

He advised that all plans and information for the proposed project had exceeded Council and staff requirements.

Commissioner Yount had questions regarding Item 4 (b) (ii) of the CUP. He was unclear as to who would be making the final decisions regarding paint colors, materials, etc. for the proposed buildings. Commissioner Tester explained that Council was approving the project in concept only and each building would come before Council for final approval.

Commissioner Yount questioned if Commissioner Pickett would be allowed to participate in future aspects of the project. Town Legal Counsel Mr. Tom Terrell advised the General Assembly had amended the General Statutes in 2005 regarding this, and, in his opinion, Commissioner Pickett would be allowed in the decision making process for the project building designs as long as it did not conflict with his motel business.

Commissioner Tester stated this project was very large and would be developed over a long period of time he felt a phasing schedule was needed. Mr. Kent Tarbutton of Chetola Severn, LLC assured Mr. Tester they would provide one.

Commissioner Yount stated he had heard several statements regarding the Town hiring outside counsel to assist with this project. He explained that Mr. Terrell specialized in this type of an issue. He commended Mr. Terrell, Mr. Moseley and Mr. diSanti for their hard work during the process. Mr. Yount also mentioned several items Chetola Severn, LLC would be doing to enhance the town. For example, Chetola Severn, LLC would be updating the sewer system in the vicinity of the project, making a large donation to the water emergency connection fund, and adding more parking, etc.

After some discussion, Commissioner Tester made a motion to approve Conditional Use Permit No. 2007-04 as follows:

In the matter of Chetola Severn, LLC's application for a conditional use permit for tax parcel 2817-08-4516-000, 1) I make the following motions:

**Number One**

*I move pursuant to Land Use Ordinance Section 16-265.08(B)(2) that the Town of Blowing Rock allow Chetola Severn, LLC up to 67 percent built-upon area as part of this CUP for the commercial portion of this project upon the evidence before us that a) Chetola Severn, LLC has adopted Best Management*

*Practices by, among other things, choosing to pretreat stormwater runoff in a manner greater than otherwise required by law, b) it will use Chetola Lake for water quality detention, which lake is sized to accommodate this site, c) Chetola Severn, LLC is voluntarily addressing water shortage issues by contributing to the water connection between Boone and Blowing Rock, d) Chetola Severn, LLC had agreed to allow other properties to use Chetola Lake for water quality detention and e) this is the type of high quality development for which the Special Intensity Allocation was designed. The motion received a second from Commissioner Klutz. Unanimously approved.*

### **Number Two**

*I move that we approve the CUP based upon the competent, material and substantial evidence before this Council tonight and in previous public hearings, and that we make the following findings and conclusions pursuant to Section 16-54 of the Town of Blowing Rock Land Use Ordinance.*

*First, pursuant to the Land Use Ordinance Section 16-54(C), the requested permit is within its jurisdiction according to the Table of Permitted Uses, the application is complete, and the development will comply with the requirements of this Chapter, based upon the recommendations and report of the Town of Blowing Rock Planning Director.*

*Second, pursuant to Land Use Ordinance Section 16-54(D)(1), the development will not materially endanger the public safety, based upon a) the Traffic Impact Analysis prepared by Kimley Horn and Associates, b) the site's design limitations on vehicular ingress and egress, c) the additional pedestrian crossings and sidewalk upgrades on Main Street and Hill Street, d) the applicant's offer to donate a segway to the Town of Blowing Rock which will enable town police to reach the site quickly during holiday or weekend traffic, and e) the applicant's willingness to reserve two centrally-located parking spaces for emergency vehicles making it easier to serve and protect the public. Additionally, the development will not materially endanger public health based upon evidence that a) the project will meet or exceed all requirements related to stormwater and land disturbance, b) it will meet or exceed all local and state requirements for water quality protection, c) it will provide public restrooms, and d) the developers have offered to contribute \$151,800 for future water interconnection with the Town of Boone.*

*Third, pursuant to the Land Use Ordinance Section 16-54 (D)(2), the development will not substantially injure the value of adjoining or abutting property based upon a) coordinated and planned exterior design that is consistent with and complimentary to mountain village architecture, b) site plan landscaping that buffers surrounding properties, c) lighting controls, and d) limitation on the use of the site during construction.*

*Fourth, pursuant to Land Use Ordinance Section 16-54 (D)(3), the development will be in harmony with the area in which it is to be located based upon a) architectural and design controls, b) limitations on building height, and c) site plan changes that create additional green space along Main Street.*

*Fifth, pursuant to Land Use Ordinance Section 16-54 (D)(4), the use will be in general conformity with the Master Plan based upon a) the recommendation of the Town Planning Director, b) the development's design as a mixed use commercial development, and c) the extensive use of sidewalks that create a pedestrian friendly development connecting this site to the historic downtown.*

*I move that we further find that the applicant has met its burden of proof on each of the above standards based upon the fact that no empirical data was presented as evidence that the development would endanger public health or safety, would injure the value of adjoining or abutting properties, would not be in harmony with the area or would not be in general conformity with the Master Plan.*

*Based upon the above findings, I further move that this Council adopt the conclusion that the applicant, Chetola Severn, LLC has presented competent, material, and substantial evidence that it meets the criteria established in the Land Use Ordinance for the issuance of a Conditional Use Permit and that the Town of Blowing Rock should issue a Conditional Use Permit to Chetola Severn, LLC as presented in its final form to this Council with this evening with the attachments of the Conditional Use Permit. Because there have been numerous drafts of the CUP exhibits exchanged between our staff and the Applicant, our staff and the Applicant should make sure the final version of the CUP recorded with the Town Clerk is correct. That recordation may occur on a date later than this meeting. Commissioner Klutz seconded the motion. Unanimously approved.*

### **Number Three**

*Commissioner Tester continued, pursuant to Land Use Ordinance Section 16-189 the Town of Blowing Rock grant Chetola Severn, LLC relief from the strict requirements of Land Use Ordinance Section 16-218(C) requiring streets on the same side of a road, street or arterial to be 400 feet apart, and that as findings for this allowance the Town adopt all of the evidence cited in the previous motion to grant the CUP, including Chetola Severn's decision to construct a left-turn lane from Main Street into Driveway Entrance #1. The motion was seconded by Commissioner Klutz. Unanimously approved.*

### **CUP #2007-04 Blowing Rock Commons Exhibit A**

#### **2. Art in the Park – 2009**

Mrs. Pam Vines, Events Chairperson for the Blowing Rock Chamber of Commerce, presented Council with a request to approve the lease/location for

the 2009 Art in the Park. Mrs. Vines requested that Council consider allowing the 2009 Art in the Park to be held in Memorial Park. She advised the Events Committee determined this to be the best location.

Mayor Lawrence agreed with the suggestion and felt it should be further evaluated after one year.

Mrs. Vines felt this would put the “wow” factor back into Art in the Park and would benefit merchants as well as visitors.

Commissioner Pickett stated the motel business was affected by ASU games and Art in the Park more than any other events in the area.

Council voiced several concerns regarding the use of the park. Mrs. Vines stated the agreement would need to be a joint venture between the Chamber of Commerce and the Town of Blowing Rock and she felt if they worked together, Memorial Park would be a wonderful location for Art in the Park.

Commissioner Tester stated Art in the Park was held in Memorial Park for years but eventually outgrew the park. He felt this request needed to be further reviewed. Mr. Tester mentioned several criteria that were needed before Art in the Park could be relocated in Memorial Park. The criteria were:

- Art in the Park needed to be designed to fit the park, the park would not be modified.
- This needed to be a joint venture between the Town and the Chamber of Commerce.
- The joint agreement would be for one year only, with the Town having the option to discontinue the use of Memorial Park at any time less than one year should this not work out.
- Memorial Park bathrooms be refurbished by the Town prior to the 2009 season of Art in the Park.

Mayor Lawrence expressed his concern with the sidewalk located in the park being too narrow. He felt it needed to be widened. Town Manager Hildebran advised the amount of funds needed to do this were not available at the present time.

Commissioner Tester commented the Town needed to commit to a quality stage in order for the Chamber to have a quality show. He also expressed that any damage to Memorial Park be repaired immediately and funded by the Chamber. Mr. Tester stated documentation was needed in the agreement as to how the vendors would be entering the park to set up.

Commissioner Ball stated she was on the Town Council when Art in the Park was removed from Memorial Park and she was not in favor of allowing it to be

held there again. She advised the grass and trees were damaged during this time and a tremendous amount of work was needed to restore the park. She also expressed the park was for the children in town and should not be used for Art in the Park.

Mrs. Vines stated that she too loved the park, but times had changed since then. The park now had pathways for people to walk on and they planned to spread the vendors out more.

Commissioner Klutz stated Art in the Park belonged in Memorial Park and should it be approved, he would like the park grounds and bathrooms to be restored to the condition they were found after each art show.

Commissioner Tester expressed he would like for the Chamber and town staff to work as partners to reach an agreement regarding this issue. If accomplished, the agreement would come before Council for final approval.

Mayor Lawrence asked Parks & Recreation Director Jennifer Brown to speak regarding the request. Mrs. Brown stated when she was first approached, she was unsure, but now she was in favor of trying it for one year. She also felt an attendant was needed for both bathrooms during the art shows because of the large amount of traffic.

Commissioner Yount wanted to know if other locations for holding Art in the Park had been reviewed. Mrs. Vines stated the Events Committee had discussed other options but Memorial Park was the most feasible.

Commissioner Tester made the following motion that representatives of the Chamber of Commerce and Town Staff work together regarding issues of concern and draft a document and mitigation strategy for Art in the Park to be held in Memorial Park. Commissioner Pickett seconded the motion. In favor: Tester, Pickett, and Yount. Against: Ball and Klutz. Motion carried.

Commissioner Klutz spoke regarding perceived disagreements between the Town and the Chamber. He desired for both entities to work together as partners regarding this issue. He also recommended that funds received from the Chamber be used for park repair and maintenance and vendor charges be increased.

### **3. Drought Update**

Town Manager Hildebran stated there was no apparent change in the drought situation and recommended the Town remain in Stage I Voluntary Conservation. Council concurred.

## NEW BUSINESS

### 1. Bids – Robbins Pool Improvement Project

Town Manager Hildebran advised the Town had received bids for the Robbins Swimming Pool Improvement Project on October 2, 2008 at 10:00 a.m. He explained that all bids had exceeded the preliminary budget estimate. With the current economic situation and project costs exceeding current budgeted revenues, Mr. Hildebran recommended all bids be rejected at this time.

According to Mr. Hildebran, staff would reevaluate the economic conditions possibly in the spring and depending on the financial climate, the project could be re-bid. All monies reserved would remain earmarked for the pool project and the Town would continue to seek additional funding. Mr. Hildebran advised the PARTF Grant for \$500,000 had a construction completion deadline of 3 years or until June 2010.

The following bids were received:

	Base Bid	Alternate 1	Total w/Alt.1
Eagle Wood, Inc.	\$1,244,500	\$74,000	\$1,318,500
Enterline & Russell Builders, Inc	\$1,158,950	\$46,465	\$1,205,414
Greene Construction, Inc.	\$1,186,485	\$42,000	\$1,228,495
Wilkie Construction Co. Inc.	\$1,086,762	\$27,200	\$1,113,962

Town Engineer Doug Chapman stated the footprint for the pool project had increased with the addition of the pavilion, storage and new restrooms, as well as an increase in storm drainage.

Audience member Carol Horne questioned how this would affect the upcoming pool season. Mr. Hildebran responded it depended on the time of the re-bid and the Town's decision to move forward.

A motion was made by Commissioner Pickett to reject all bids for the Robbins Swimming Pool Project based on bids exceeding current budgeted fund and economic conditions, seconded by Commissioner Ball. Unanimously approved.

### 2. Blowing Rock Retail Study (Resolution #2008-09)

The Blowing Rock Tourism Development Authority (TDA) retained the services of Hyett/Palma, an experienced national downtown consulting firm to evaluate the retail market and development conditions in the downtown area.

After several months of study and public input, Hyett/Palma drafted the Blowing Rock Downtown Retail Strategy 2009.

Council was presented with Resolution #2008-09 for adoption of the Downtown Retail Strategy 2009 study. TDA Director Tracy Brown advised on October 7,



2008 the Tourism Development Authority (TDA) adopted the report. He requested the Town take similar action and adopt Resolution #2008-11.

Commissioner Klutz advised he had not had enough time to study the report thoroughly and suggested this item be tabled.

Commissioner Tester advised this was a guide to be used in conjunction with the Town's Comprehensive Plan. He also stated that Council had been invited to all the meetings regarding the strategy report and he was in favor of adopting the resolution and moving forward.

Mr. Brown stated a Downtown Partnership would be formed with representatives from the Town, Chamber, merchants, etc.

Commissioner Yount made a motion to accept Resolution #2008-09 as presented, seconded by Commissioner Ball. Unanimously approved.

#### **Resolution #2008-09 Exhibit B**

### **3. Identity Theft Policy (Resolution #2008-10)**

Town Manager Hildebran presented Resolution #2008-10 to Council for their consideration. He advised as part of the Fair and Accurate Credit Transactions Act of 2003 (the FACT Act), the Federal Trade Commissioner and several other federal agencies had issued rules requiring creditors (including municipalities under certain circumstances) to develop, adopt and implement a written Identity Theft Prevention Program. The (Red Flag) Program must be in place by November 1, 2008.

The rules would apply to all municipal utility and other operations that provide a service for which a payment is deferred until a future date. For example, water, sewer, or electricity is provided by the municipality and paid for by the consumer at the end of a billing period, the town/city has extended credit for the purpose of the Rules.

Mr. Hildebran stated a draft policy to protect consumer identity and fight theft of customer account information, and provide procedures that identify, detect and respond to possible signals of identity theft know as Red Flags had been completed by Finance Director Norman.

With no further discussion, a motion was made by Commissioner Pickett, seconded by Commissioner Ball to accept Resolution No. 2008-03 as presented. Unanimously approved.

#### **Resolution #2008-10 Exhibit C**

#### **4. Surplus – Vehicles/Equipment (Resolution #2008-11)**

Resolution #2008-11 was presented to Council for their approval by Town Manager Hildebran. If approved, the resolution would authorize the Town Manager or his designee to sell the following equipment via electronic auction on GovDeals.com. The surplus items were as follows:

1. Pool Cover and Rack- MacBall Industries aluminum rack on wheels 21' 5" long with two 36' 4" X 80' blue pool covers
2. 4 Pool Ladders- 22" X 6' Aluminum with 3 plastic steps
3. 2 Life Guard Chairs- 6' 3" high from seat to ground, aluminum stairs with white plastic seat. Each includes a blue and white umbrella
4. Diving Board- SR Smith Inc. 14' fiberglass diving board
5. Refrigerator- Whirlpool Limited Edition double door refrigerator. 19.1 cubic feet, no ice maker or water dispenser, almond color. Model # ED19TKXLNRO, Serial # S40326577.
6. Garage Door- 7' X 9' white overhead garage door.
7. House Windows- 2- 3' X 27" Reliabuilt series 3201 vinyl double hung clear glass windows.
8. House Door- 3' X 6' 7" solid core pine 6 panel door.
9. Oven/Stove- 64" X 30" Sears Kenmore, classic model, double stacked oven. Rust color.
10. Refrigerator- 64" X 32" Sears Coldspot Frostless Spacemaker, 6.8 amps. , Model # W14E5, Serial # 4E319281. Almond color.
11. Utility Truck- 1994, Chevrolet 4X4, Model # 3500, 6.5 leader V8 engine, runs on Diesel and has an automatic transmission. Tan vinyl interior with AM/FM radio, out side is red with 9' X 8' utility bed. VIN # 1GBHK34F1RE118236. Vehicle has no AC and has various dents, scratches and dings.
12. Garbage Truck- 1997, Chevrolet Garbage Truck, Model # C8500, 3116 leader V6 engine, runs on Diesel and has an automatic transmission. Gray vinyl interior with AM/FM radio and Power Steering, outside is white with 17 cubic yard garbage bed. VIN# 1GBS7H1JXWJ101273. Vehicle has no AC, no engine and various dents, scratches and dings.
13. Air Compressor- Craftsman 5 H.P, 80 gallon. Serial # 191-177350.

Mr. Hildebran advised items 1 & 4 would no longer be surplus due postponing the pool project. A motion to approve Resolution #2008-11 with the exception of items 1 & 4 was made by Commissioner Tester, seconded by Commissioner Ball. Unanimously approved.

#### **Resolution #2008-11 Exhibit D**

#### **14. Budget Amendment (Ordinance #2008-14)**

Town Manager Hildbran presented Ordinance #2008-14 to Council for their review. He stated the budget amendment for Fiscal Year 2008-2009 was for the following:

Section 1 (General Fund) is to account for the expenses involved in the demolition of the Balestrieri house on Laurel Park Road and the corresponding lien put on the property for those costs, as well as to account for the year end TDA revenue.

Section 2 (General Capital Fund) allocates the remaining 1/3 Fiscal Year 07-08 Occupancy Tax revenue due to the Town from the TDA and applies it towards parking revenues. This amendment will also allocate the \$50,000 ABC Board donation towards Park Avenue Building renovations.

Section 3 (General Capital Fund) will reallocate funds already budgeted for various capital projects which corrects a clerical error in the budget ordinance.

Section 4 (Water Fund) is to account for the costs and proceeds associated with the sale of the second order of rain barrels.

Section 5 (Water Capital Fund) is to account for the expense and reimbursement of the expenses for the Quail Hollow Sewer Line extension. Reimbursement for the project is expected from Mr. Cigler and Mr. Glaser over a period of three years.

Commissioner Pickett made a motion to accept Ordinance #2008-14 as presented, seconded by Commissioner Klutz. Unanimously approved.

#### **Ordinance #2008-14 Exhibit E**

### **SPEAKERS FROM THE FLOOR**

Planning Director Rothrock advised his office had received new flood plain maps with modifications. According to Mr. Rothrock, the base flood elevations were changes in several locations. He advised there would be a 90-day appeal period beginning October 15, 2008 through January 12, 2009.

Town Manager Hildebran reminded everyone Fall Clean-up was Monday, October 13<sup>th</sup>, through Friday, October 17<sup>th</sup>.

### **ADJOURN**

With no further business to discuss, the meeting adjourned at 9:08 p.m.

**MAYOR** \_\_\_\_\_  
**J.B. Lawrence**

**ATTEST** \_\_\_\_\_  
**Sharon Greene, Town Clerk**

**Attachments** (10-14-08)  
CUP #2007-04 Exhibit A  
Resolution #2008-09 Exhibit B  
Resolution #2008-10 Exhibit C  
Resolution #2008-11 Exhibit D  
Ordinance #2008-14 Exhibit E