

**MINUTES**  
**Town of Blowing Rock**  
**Board of Commissioners**  
**November 11, 2008**

The Town of Blowing Rock Board of Commissioners held their regular meeting on Tuesday, November 11, 2008 at 7:00 p.m. The meeting took place in the Council Chambers located at 1036 Main Street, Blowing Rock. Present were Mayor Pro tem Keith Tester, Commissioners Bobby Ball, 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, Public Works Director Johnny Lentz, Emergency Services Director Kent Graham, Parks & Recreation Director Jennifer Brown, Finance Director Nicole Norman and Town Clerk Sharon Greene.

Mayor Lawrence was out of town and unable to attend.

**CALL TO ORDER**

Mayor Pro tem Tester called the meeting to order at 7:00 p.m. and in honor of Veteran's Day, recognized any veterans present at the meeting.

**APPROVAL OF MINUTES**

*Upon a motion received from Commissioner Pickett, seconded by Commissioner Klutz, the minutes for meetings held on October 14 & 24, 2008 were approved with changes. In paragraph one under Public Hearings for the October 14<sup>th</sup> meeting "9:00 a.m. to 6:00 p.m." was added regarding construction noise on Saturdays. In paragraph seven under Public Hearings, the motion was made by Commissioner Pickett, seconded by Commissioner Tester. Unanimously approved.*

**PUBLIC HEARINGS**

Ordinance #2008-13 with the following changes to the current noise ordinance was presented to Council for their approval by Planning Director Kevin Rothrock.

- Construction noise as listed under "*Noises Expressly Prohibited*" to include pneumatic nailing.
- Construction noise to be no longer permitted on Sunday or the following holidays: New Years Day, Good Friday, Thanksgiving Day, and Christmas Day.
- Construction noise hours on Saturday to be shortened from 7:00 AM to 9:00 PM to 9:00 AM to 6:00 PM.
- The definition/exception for lawn equipment, etc. to be expanded to include leaf blowers, weed trimmers, chain saws, and chippers.

- The noise hours for the use of lawn equipment to be changed for Sundays, with the new hours for this type of noise be from 1:00 PM to 6:00 PM and Lawn equipment noise Monday through Saturday to remain from 7:00 AM to 9:00 PM.
- Noise from parties to be prohibited from 11:00 PM to 7:00 AM.
- Noise from disposing of garbage and recyclables to be prohibited between 11:00 PM and 7:00 AM

Mr. Rothrock advised the changes resulted from Council's work session held on October 24<sup>th</sup>. He also advised Council could incorporate limitations regarding construction noise during issuance of specific conditional use permits.

Commissioner Klutz expressed he wanted more flexibility on Sundays for people who traveled from out of town to work in the area. He felt construction should be allowed from 1:00 p.m. to 6:00 p.m. on Sunday.

Commissioner Ball disagreed. She felt residents had the right to one day of peace and quiet. Mrs. Ball stated large projects were planned near residential neighborhoods and residents needed to be protected from construction noise on Sundays and certain holidays.

Commissioner Yount had questions regarding penalties for those who chose not to abide by the noise ordinance. Mr. Rothrock advised a warning would most likely be given for the first offense, a fine would be charged thereafter which would increase with each offense.

Audience Member Earl Horne asked who would enforce the noise ordinance. He also suggested the penalty amounts be written into the ordinance. Town Manager Hildebran advised the Police Department would continue to enforce the noise ordinance and penalties would be charged at their discretion.

Mr. Horne asked what the Town deemed as construction. Mayor Pro tem Tester explained the definition was given in the ordinance. Mr. Horne also asked if residents would be allowed to do small building projects during the limited times. Commissioner Pickett responded small projects could be done if there were no complaints from neighbors.

Mrs. Ann Rhyne of 128 Globe Road thanked the Town for the leaf pick up. She also expressed her concerns regarding construction noise and the disposing of garbage and recyclables on Sundays. She requested the time be changed slightly on Sundays for the disposal of garbage and recycling.

Mrs. Sarah Gilley of 221 Wallingford Street spoke regarding her concern for the taxpayers of Blowing Rock and construction noise they had to endure. She requested further clarification regarding the proposed changes. Mrs. Gilley

stressed her desire for Council to think about the residents and taxpayers of Blowing Rock.

Commissioner Ball stated Council was thinking about the residents and taxpayers, that was the reasoning behind the proposed changes to the noise ordinance. Commissioner Tester further explained the proposed changes were more restrictive than the current noise ordinance.

Mrs. Gilley requested the recommended changes to be posted on the Town website. Town Manager Hildebran advised it was currently on the Town website. He also stated the current ordinance allowed for construction on Monday through Sunday and with the recommended changes, construction would not be allowed on Sundays, and Saturday hours would be shortened.

*Commissioner Pickett made a motion to close the public hearing, seconded by Commissioner Ball. Unanimously approved. Mr. Pickett continued to make a motion to accept Ordinance #2008-13 as written, seconded by Commissioner Ball. Commissioner Yount asked if wording should be included to limit construction hours on a CUP. Mr. Hildebran stated a change in code would not be needed in reference to restricting a CUP.*

Audience member Earl Horne inquired if the same restrictions would be made to building permits. Planning Director Rothrock advised the State Building Code did not give the Town authority to make these revisions.

Mayor Pro tem Tester called for a vote on the motion given by Commissioner Pickett. *For: Ball, Yount, Pickett Against: Klutz Motion carried.*

#### **Ordinance #2008-13 – Exhibit A**

### **OLD BUSINESS**

#### **1. Art in the Park – 2009**

Per the request of Council during the October meeting, a revised request from the Blowing Rock Chamber of Commerce Events Committee was presented to Council for their review.

Mrs. Pam Vines, Events Chairperson, stated Art in the Park was in its 48<sup>th</sup> year, was a valuable aspect of Blowing Rock, and an important piece of history as well as the future. She stated the Events Committee had explored several options regarding the location for the 2009 Art in the Park season. Mrs. Vines continued by stating originally two options had been given to Council for review, the first option being Memorial Park, the other Park Avenue. After consulting with Town staff, the American Legion Parking Facility was added as a third option.

Mayor Pro tem Tester stated until today, he felt there were two options to look at. With the addition of the third option, there was contradicting information from the

Chamber. He also stressed this recommendation was made by Town staff not by Council.

Mrs. Vines advised originally the Chamber felt it would be politically incorrect to ask to have Art in the Park located on the new American Legion Parking Facility, but this was later recommended by Town staff.

At the request of Town Manager Hildebran, Planning Director Rothrock presented the pros and cons of Art in the Park locations for Memorial Park, Park Avenue, and the American Legion Parking Facility. Mayor Pro tem Tester asked Mr. Rothrock which option he felt was best for the location of Art in the Park. Mr. Rothrock stated in his opinion, the parking facility was the most logical option.

Commissioner Pickett asked when parking was needed most in town. Mr. Hildebran stated July 4<sup>th</sup>, during the leaf season, and the Thanksgiving parade drew the largest crowds. He also advised Art in the Park was in the top ten events that drew a large number of people to Blowing Rock.

Commissioner Pickett felt the parking facility should not be used for events such as Art in the Park. Commissioner Klutz agreed. Commissioner Yount advised he had voted against the parking deck because he did not feel it was cost effective and by putting Art in the Park there, it would be less cost effective. He also advised he was very much against the Park Avenue site. Mr. Klutz stated the residents along that street had been inconvenienced enough.

Mayor Pro tem Tester asked how the Chamber would like for Council to proceed with this item. Mrs. Vines stated she would like to begin with Memorial Park and continue on with the other two options in order to hear Council's feelings on the proposed sites.

Mrs. Ball advised another audience member would like to speak regarding this issue. Mr. Ed Diez, Assistant Scout Leader for Troop 101 asked that Art in the Park remain in the town center, preferably in the American Legion parking facility. He advised this was the only fund raiser for the Boy Scouts and other non-profit groups relied on Art in the Park to raise funds as well.

### **Memorial Park Location**

Mrs. Vines stated according to the Chamber Events Committee, Memorial Park would be the most pleasant experience for consumers, residents, etc.

Mr. Pickett asked if an arborist could be hired to assess the area for damages to the trees and grass. Mrs. Vines advised they had tried to move the vendors away from the trees as much as possible and utilize the hardscape more.

Mrs. Ball stated the walkways in the park were too narrow for all the traffic Art in the Park would generate. She also advised funds were not available to widen the

pathways. Mrs. Ball expressed she was a member of Council when Art in the Park was removed from the park originally due to extensive damage to the grass and trees. Mrs. Ball voiced she would not be in favor of relocating Art in the Park to the area again.

Mayor Pro tem Tester asked how many vendors were in the park when it was removed approximately 16 years ago. Chamber Director Charles Hardin responded there were 120 vendors at that time.

Mr. Klutz stated the park had been misused for years without repair and the Chamber would be willing to improve Memorial Park. Mrs. Vines advised the concrete to widen the walkways would be donated. Mr. Tester asked if a diagram showing where new sidewalks were planned had been done. Mrs. Vines responded it had not. Mr. Tester felt a diagram of the layout of Art in the Park encouraging people to stay away from the playground area was needed.

Town Manager Hildebran asked Town Engineer Doug Chapman to come forward to discuss this issue. Mr. Chapman advised after reviewing the park area, a retaining wall might be needed in certain areas because of the grade change. Mrs. Ball asked if the planned sidewalk improvements had to meet ADA requirements. Mr. Chapman stated he wasn't sure they had to meet ADA requirements, but he recommended it. Mrs. Ball stated this would be more expensive and wanted to know who would be paying for these improvements. She did not think taxpayer money should be spent. Mrs. Ball stated in her opinion many residents of Blowing Rock did not attend Art in the Park due to the lack of parking. Mrs. Ball stated there were several people in town that did not care if Art in the Park continued. Commissioner Klutz disagreed with Mrs. Ball.

Mayor Pro tem Tester stated Council could do one of three things regarding this issue, they could (1) act on it and say no they did not want it in Memorial Park, (2) say yes with the plan they have today, or (3) table the idea until a detailed proposal was presented. Mr. Tester advised he could not make a decision to move forward without knowing what he is committing to. He wanted to see a plan showing how the vendors and people would be accommodated and also be assured the park would be left in the same condition it was found after each show and a funding plan for restoration plans. Commissioner Klutz asked if the Chamber would be agreeable to this. Mrs. Vines responded they would restore the area after each show, but they would need to work with Town staff before she could commit to other stipulations mentioned. I

Audience member Sarah Gilley wanted assurance that tax dollars would not be used to subsidize this event. Mayor Pro tem Tester inquired if the Chamber would be willing to put all the profit from Art in the Park into an account in order to restore the park to it's original state before the events, and to make the needed improvements, etc. Mrs. Vines stated she could not answer that question without consulting with the Chamber executive board.

Commissioner Pickett stressed the need for the Town and the Chamber to work together regarding this issue because the town needed tourism in order to flourish.

Mrs. Ball responded there were many people who lived in town that did not own businesses and had moved here for the peace and quite.

Mayor Pro Tem Tester stated whether to have Art in the Park or not was not the issue to be heard but where to have the event.

Mr. Klutz felt Art in the Park belonged in the park and the Town and the Chamber should work together to achieve this. Mr. Klutz felt Art in the Park had done a lot for the community and was the stepping stone in making Blowing Rock the town it is today.

Mr. Yount stated he was not in favor of Art in the Park being located in Memorial Park. He felt there were other viable locations.

*Mr. Tester called for a motion regarding Art in the Park being held in Memorial Park. Commissioner Klutz made a motion to allow Memorial Park to be used as a location for Art in the Park with the following stipulations: a restroom attendant for both the men's and women's restrooms be available, a plan to establish for repair of any damages done to the park after each show, placement of port-a-johns (number to be determined) and the upgrade of walkways in Memorial Park from the front to the back. Commissioner Pickett seconded the motion. Mayor Pro-tem Tester asked for further discussion. Mr. Pickett had concerns regarding the walkway improvements and if they were required to be ADA accessible. Commissioner Ball voiced her concerns with the cost and who would be paying for the improvements. Mr. Tester inquired if Mr. Klutz's motion was to add the walkways before the next Art in the Park, which would be held in May of 2009, or afterwards. Mr. Klutz stated he wanted the walkway improvements before the May event. Mr. Klutz amended his motion to state he approved Art in the Park to be located in Memorial Park in concept only and for Chamber and Town staff to work the details out together.*

*After further discussion regarding the costs, design and funding, Commissioner Yount made an alternate motion for the Chamber and Town to prepare a design plan, including cost estimates stating who would pay for these improvements. Mayor Pro tem Tester advised a motion was on the floor, without Mr. Klutz withdrawing his motion, an alternate motion could not be accepted. Commissioner Klutz refused to withdraw his motion. Commissioner Yount protested, and stated Roberts Rules of Order allowed an alternate motion to be made. Mayor Pro tem Tester advised the Town Code specifically stated if Roberts Rules of Order were violated, action would not be invalidated. He overruled Commissioner Yount's motion. Mayor Pro Tem Tester called for a vote*

*on the motion by Mr. Klutz. For: Klutz Against: Ball, Yount & Pickett. Motion failed.*

*Commissioner Yount made a motion for collaboration between the Chamber and Town staff to prepare a detailed plan with cost estimates of what the Chamber feels is within their cost range, and for Council to review other alternatives, one being a suggestion from Mr. Bill Hall given to Mr. Yount earlier in the evening. The motion was seconded by Mrs. Ball. She clarified the stipulations talked about earlier were to be included in the motion, such as the bathroom attendants, port-a-johns, walkway improvements, replacing grass/sod, etc. Mayor Pro tem Tester stated if this motion were passed, would the Park Avenue alternative and the American Legion Parking Facility alternative be eliminated. Mrs. Ball asked Mrs. Vines if the Chamber would agree to the stipulations in this motion. Mrs. Vines stated she would like to hear Council's opinion of the two other alternatives. Mr. Tester suggested a vote be taken on the motion presented with understanding by the Chamber that these were the conditions in which Art in the Park is held in Memorial Park. The other alternatives would be examined and the Chamber would decide which option they would like to proceed with.*

Public Works Director Johnny Lentz mentioned if this area remained in a drought situation, would they be allowed to water grass in the park while residents were restricted. Mr. Tester stated this needed to be addressed in the packet regarding the use of Memorial Park.

*With no further discussion, Mr. Yount's motion was unanimously passed.*

### **Park Avenue Location**

Mayor Pro tem Tester opened the floor for discussion of the Park Avenue alternative. Mrs. Vines stated the alternative being proposed was slightly different than the previous shows held on Park Avenue in September and October. The road would remain open and Park Avenue would be utilized from Main Street to Wallingford Street.

Commissioner Klutz stated he was opposed to the use of this site. He felt the residents did not want this and Art in the Park should be returned to the park. He did not want access to the parking deck blocked or the road restricted. Commissioner Ball asked if the residents in this area had been approached regarding the use of Park Avenue. Mrs. Vines advised this had been discussed with the residents and they had received some opposition. Mrs. Ball expressed she was opposed to this option. *Commissioner Pickett made a motion to reject the option of Park Avenue being the site for Art in the Park for the 2009 season, seconded by Commissioner Yount. Unanimously approved.*

### **American Legion Parking Facility Location**

The American Legion Parking Facility was discussed next. Commissioner Pickett stated this was the most logical place for Art in the Park to be held. Mr.

Pickett stated town staff had done a remarkable job regarding this option. Commissioner Ball asked where the non-profit organizations would be located. Mrs. Vines stated room would be made for them during the events. Mrs. Tester asked when the projected date for completion of the parking facility was. Mr. Hildebran stated the proposed completion date was March 2009. Commissioner Klutz stated the parking facility was constructed so there would be more parking in town and taking this away would be a mistake. He stated Art in the Park created a parking problem and he was against the use of the facility as a proposed site.

Commissioner Ball stated Art in the Park had been in that area for several years and the lower lot would be used strictly for parking. She clarified that tax money had not been spent on this parking facility and she felt this was the most logical place for Art in the Park for at least one year. Mrs. Ball stated there were several other places such as the school or possibly Main Street if the merchants would be interested in closing Main Street during Art in the Park. Mrs. Vines stated other options had been discussed as a group, but were discounted.

Mr. Bill Hall, Chamber President, advised many man hours had been spent on this issue. Another viable option discussed was to split the show. A portion of Art in the Park would be located in the park and the remainder could possibly be in the street. After working with Town staff, the split option was decided against and the parking facility option was added. He agreed the parking facility was the best place. Mr. Hall stated Art in the Park was economically good for the town and personally as a citizen, he preferred Art in the Park to be located at the parking facility.

Commissioner Pickett said he was very much in favor of Art in the Park and the parking facility was the best alternative. In Mr. Pickett's opinion this option should be reviewed again after one year. *Commissioner Pickett continued by making a motion to allow Art in the Park to be held on the parking facility using the layout presented and to be considered again in June of 2009, seconded by Commissioner Ball. Town Manager Hildebran suggested the Chamber come before Council within 30 days after the final show in October 2009. Mayor Pro tem Tester further clarified the motion on the floor. He advised the current lease agreement between the Chamber and the Town would be extended and within 30 days after the October show, the Chamber would decide if they wanted to further pursue the Memorial Park location or find another alternative.*

After discussing Tourism Development Authority funding, Mayor Pro tem Tester called for a vote on the motion. Commissioner Klutz interjected that he would like for Council to recall previous discussions where they all agreed the parking facility would be for parking only, Art in the Park or other functions would not be allowed on the deck. *In favor of the motion were Ball & Pickett. Voting against the motion were, Yount & Klutz. Mayor Pro tem Tester voted in favor of the motion. Motion carried.*

## **2. Drought Update**

Town Manager Hildebran advised the drought situation remained unchanged.

## **NEW BUSINESS**

### **1. Bass Lake Restroom Facility- In-Kind Donation - (Fees)**

Town Manager Hildebran advised the Town had had ongoing discussions with the US Park Service and Blue Ridge Parkway Foundation regarding the water/sewer service for the new restroom facilities at Bass Lake. To improve relations and expedite the Town's parkway easement request, an in-kind donation was recommended.

According to Town policy adopted in 2003, the Town chose not to waive fees for water and sewer due to this being Enterprise Fund operations and user fees/rates are based on costs. As a previous recipient of federal funds for wastewater, the Town must comply with rate regulations that fairly distribute costs to all users that reflect actual cost incurred to serve the user.

However, according to Mr. Hildebran, staff recommended an in-kind donation in the amount of \$22,500 to the Blue Ridge Parkway Foundation for the water and sewer availability fees and to credit the Town with this amount toward their project. The facility would add much needed restroom facilities to the community.

Mr. Hildebran stated until the Town received a signed easement from the Park Service a connection to the town's system would not be made. Commissioner Klutz asked if the Park Service would pay a bi-monthly water bill. Mr. Hildebran stated they would be paying a bi-monthly utility bill. Commissioner Pickett asked about the natural gas line right of way that would possibly coincide with the emergency water line to Boone. Mr. Hildebran advised Frontier Gas was aware of the procedure to follow in order to get an easement with the park service.

*A motion was received from Commissioner Pickett, seconded by Commissioner Klutz to grant an in-kind donation in the amount of \$22,500 for water and sewer availability fees to the Blue Ridge Parkway Foundation. Unanimously approved.*

### **2. High Country Rural Transportation Planning Organization- MOU**

Mr. Hildebran presented a Municipal Statement of Adoption of the amended Memorandum of Understanding (MOU) for the High Country Rural Planning Organization for Council's consideration.

The original MOU adopted in 2002 required amendments due to changes in the open meetings law requirements. Mr. Hildebran stated the revised MOU was adopted by all seven counties in the RPO and now required municipal approval.

*Commissioner Ball made a motion for approval of the revised Memorandum of Understanding (MOU) as presented, seconded by Commissioner Pickett. Unanimously approved.*

**High Country Rural Transportation Planning Organization – MOU Exhibit B**

**SPEAKERS FROM THE FLOOR**

None

**DEPARTMENTAL REPORTS**

Town Manager Hildebran reminded Council of the Hometown Harvest celebration on Sunday, November 16<sup>th</sup> at 5:30 p.m. to be held at the Emergency Services building.

Commissioner Yount had questions regarding privatization of the ABC Boards in North Carolina. Mr. Hildebran advised the local ABC Board was not in favor of this. He expressed the ABC Board made various donations to the Town each year. He also stated House Representative Cullie Tarleton planned to present the Town's concerns to Legislature regarding the privatization issue and if Council wished, a Resolution could be presented and adopted at the December meeting expressing their stance on the issue. It was consensus of Council to place this item on the December agenda.

Commissioner Klutz inquired about sidewalk improvements. Mr. Hildebran stated a special meeting would be scheduled in the next few weeks to review the Streetscape Plan.

**ADJOURN**

With no further business to discuss, the meeting was adjourned at 9:10 p.m.

**MAYOR PRO TEM** \_\_\_\_\_  
**Keith Tester**

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

**ATTACHMENTS** (11-11-08)  
Ordinance #2008-13 Exhibit A  
Memorandum of Understanding Exhibit B