

**MINUTES**  
**Town of Blowing Rock**  
**Board of Commissioners**  
**May 12, 2009**

The Town of Blowing Rock Board of Commissioners held their regular meeting on Tuesday, May 12, 2009 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, Public Works Director Johnny Lentz, Building Inspector Jessie Horner, Finance Director Nicole Norman, Emergency Services Director Kent Graham, Parks & Recreation Director Jennifer Brown, Police Chief Eric Brown, 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**

Commissioner Pickett made a motion to approve minutes for meetings held on April 13 & 14, 2009. Commissioner Klutz requested the following change to the April 14 minutes: Omit the words "*unanimously approved*" from paragraph 5. Commissioner Tester also suggested a minor change regarding *the placement of paragraph seven on page 6* of the April 14, 2009 minutes. Commissioner Tester seconded the motion with the incorporation of these changes. Unanimously approved.

**PUBLIC HEARINGS**

**1. CUP #2009-01 Holiday Inn Express (former Days Inn)**

Mayor Lawrence requested those wishing to speak during the public hearing be sworn by the clerk. Planning Director Kevin Rothrock and Applicant Architect Bill Robinson were duly sworn.

Planning Director Rothrock presented a request from Milan, Inc. for a conditional use permit for renovations to the exterior of the Days Inn building and construction of a new covered entry. The proposed renovations were in anticipation of the planned conversion from Days Inn to Holiday Inn Express. According to Mr. Rothrock, the permit process would require some upgrades to existing elements of the site including sidewalks, dumpster screening, landscaping, ADA requirements, and improvements to the maintenance building.

Mr. Rothrock stated the following issues needed to be addressed as part of the CUP application:

1. The antenna at the front of the building should be removed if no longer in use.
2. The large satellite dish behind the building should be removed if no longer in use.
3. Dumpster screening dish behind the building should be removed if no longer in use.
4. The juniper bushes along both sides of both driveways will need to be cut back from the edge of the road for sight triangle purposes.
5. Handicap signs that meet the NC State Building Code are required to be in place at all designated spaces.
6. The maintenance shed needs improvements and should match the hotel building colors and materials.
7. Exposed HVAC equipment and vents on the hotel roof shall be painted to match the roof colors.
8. Additional landscaping/screening is required along Ransom Street.
9. A five-foot wide sidewalk will need to be installed along the full length of Hwy. 321 and the section of property along Ransom Street. The sidewalk along Hwy. 321 can be deferred until the widening project is underway.

Mr. Rothrock also addressed the following proposed architectural modifications:

- A new porte cochere is proposed at the main building entry. The new entry would have a pitched roof and the appearance of a heavy wood beam structure. The base of the support would be stone columns to match the existing columns.
- A new covered entry at the rear entrance.
- A new paint scheme for the entire building.
- New roof shingles on the entire building.

During the April 16, 2009 meeting of the Planning Board, the following recommendations were made:

1. The metal antenna in front of the building should be removed.
2. The large satellite dish located behind the building should be removed if no longer in use.
3. Dumpster screening should be opaque.
4. The juniper bushes along both driveways should be cut back for sight triangle.
5. Handicap signs should meet NC State Building Code in all designated spaces.
6. Exposed HVAC equipment and vents on hotel roof should color match and be maintained.
7. An opaque screen buffer along Ransom Street.
8. Ransom Street sidewalk should be installed – Hwy. 321 sidewalk would wait for widening of the highway.
9. Town staff to address the sink hole, the excess metal poles and water issue on site.
10. If the applicant desires a driveway connection with Ransom Street a CUP

amendment must come back before the Planning Board.

Council had several questions regarding the sidewalk for this project. Mr. Rothrock explained it was staff's recommendation that the applicant cooperate with NCDOT by reserving a five foot right-of-way for the proposed sidewalk due to the widening of Hwy. 321. Mr. Rothrock stated it would be ineffective to construct the sidewalk at the present time.

Other issues discussed were, dumpster sites, antennas, and the satellite dish. Mr. Robinson conveyed with technology changes, the antennas in question would be removed because they were now obsolete. Commissioner Ball requested the satellite dish be painted a different color and suggested more shrubbery be planted in front of it. Mr. Robinson explained when the contract was up, it would be removed also. Mr. Robinson addressed the dumpster site near the front of the building. He advised that Holiday Inn Express would no longer have a restaurant on the premises. They would only be serving a continental breakfast to their guests and the dumpster would have an opaque screen in front of it.

Commissioner Klutz had concerns regarding traffic control on Ransom Street. He felt that proper signage needed to be installed deterring traffic from Ransom Street.

With no further discussion, a motion to close the public hearing was made by Commissioner Tester, seconded by Commissioner Ball. Commissioner Tester then made a motion to approve CUP #2009-01 with the following modifications:

- The second sentence be omitted from Item #3
- The last sentence be omitted from Item #10
- Wording changed in Item #4 stating "*when no longer in use*" instead of "*if no longer in use.*"
- Item #4 should read the juniper bushes "*shall*" be cut back.
- Change the word "*should*" to "*shall*" in Item #6 and #7.

Mr. Tester's motion received a second from Commissioner Ball. Unanimously approved

#### **CUP #2009-01 – Exhibit A**

### **2. Dogs in the Park – Code Amendment (#2009-02)**

Planning Director Rothrock explained after the April Council meeting and discussion regarding dogs in Town parks, staff had revised the draft ordinance. The revised language allowed dogs at the Glen Burney Trail, the perimeter of Davant Field, Annie Cannon Gardens, and Broyhill Park if the dogs were on leashes. He advised that dogs would be restricted from all of Memorial Park and the Robbins Pool area as stated in the previous draft ordinance.

According to Mr. Rothrock, the revised draft ordinance was consistent with the current town policy and the recommendations of the Parks and Recreation Staff, which restricted dogs in Memorial Park including the bench area for the following reasons:

1. The Garden Club expressed concern regarding possible damage to the landscaped gardens below the Memorial park bench area, due to dogs trampling through them and using the bathroom, and thereby damaging the plants.
2. Unsanitary conditions for the public from dog waste not removed by dog owners.
3. Children using the bench area as well as the playground area. Mixing dogs with children was not recommended since both could be easily excited and unpredictable.
4. Some adults and children being intimidated by dogs.

Mr. Rothrock stated Chapter 15 of the Town Code pertaining to use of and prohibited activities on Town Property would be amended by the draft ordinance and a civil penalty of \$100.00 per day would be charged for violation. He also stated that anticipated enforcement would likely be through a warning from the police department for the first offense, then through normal enforcement action as cited in the Code.

Changes in the signage to reflect violation fines for dogs in Memorial Park were briefly discussed.

Commissioner Yount inquired as to how long this issue had been discussed over the years. Commissioner Ball stated this issue had been discussed at various times over the past 16 years since she had been on the Council.

Council asked Parks & Recreation Director Jennifer Brown to address the issue. Mrs. Brown advised she had been in her position for approximately 5 years and after hearing complaints, doing research, and speaking with staff members her department recommended no dogs in Memorial Park because this area was for children.

Commissioner Klutz stated he did not think it would be an issue if people cleaned up after their dogs. It was Mr. Klutz's desire for dogs to be allowed in the Memorial Park bench area and a defined line be installed behind the benches.

Mayor Lawrence welcomed public comments and asked those wishing to speak to hold their comments to a maximum of 5 minutes.

Jeff Eason, Editor of the Blowing Rocket, inquired if there was any discussion regarding a separate area for dogs to play unleashed. Mrs. Brown explained all dogs were to be on a leash at all times in town according to the Town Code. She also advised the Town did not have any property that could be turned into a dog park.

Commissioner Tester stated he had read the code and ordinances and did not find the word “leash” anywhere. Mr. Rothrock explained it was stated that all dogs had to be restrained. Commissioner Klutz suggested the Town review the Town of Boone’s ordinance regarding this situation.

Mr. O. Wayne Green of Vilas stated he hoped Council would be open-minded to the comments they would hear during the public hearing. He stated the revision of the ordinance was better than it had been previously, but it still did not address the problems. It was Mr. Green’s opinion that a dog on a leash was better behaved than most children.

Mr. Michael Keibelbeck of 215 Valley View Road also spoke in favor of dogs being allowed in Memorial Park. He spoke regarding a survey the Town had done several years prior, which concluded the majority of the public wished for a dog park. He mentioned the restricted playground area that Watauga County had and the fact that they did not have a restricted dog park, he felt it would be easier to fence in the playground area instead of fencing an area for dogs in Memorial Park. Mr. Keibelbeck stated the town should have a leash law and enforce it. He felt the town should provide bags for cleaning up after dogs.

Ms. Lisa Carlson of 221 Heritage Lane felt this issue had been a “sore spot” among residents in town and it was her desire that bridges between residents be mended. Ms. Carlson used Asheville, NC as an example of a neighboring community that allowed dogs in many areas.

Ms. Carlson commended Council for the changes that had been made to allow pets in Broyhill Park, Annie Cannon Gardens, etc., but she felt dogs should be allowed in the bench area if on a 6-foot leash. She also felt that dog owners should be held accountable for their animals. Ms. Carlson wanted everyone to work together to keep Blowing Rock environmentally friendly and clean, and recommended that bags be provided for cleaning up after dogs. She asked that Council try a temporary trial ordinance allowing dogs in the bench area of Memorial Park.

Mrs. Kathy Williamson of 252 Mockingbird Lane mentioned she owned a business across from Memorial Park and had watched many locals and tourist sitting in the park with their animals, some of them being senior citizens who could not go to Bass Lake or Broyhill Park. Mrs. Williamson felt if there was a complete and total ban of dogs in the park, Council would be endorsing a very “short-sided”, “heavy-handed”, “zero tolerance” policy when a compromise was needed. It was Mrs. Williamson’s opinion, if liability was the issue, all the equipment in Memorial Park, the pool, and the tennis courts needed to be removed.

Mrs. Williamson requested all dog bites that had occurred in the park to be made public. She also felt the Town “should get on board” with other places and provide bags for cleaning up after dogs. According to Mrs. Williamson, Blowing Rock did not need another way of telling people they were not welcome in town.

Mr. Mark Crumpler a resident of 215 Morningside Drive commended Council for the changes proposed in the draft ordinance and felt this was a fair compromise. However, he also felt the small amount of square footage where the park benches were located should be made user friendly for dog owners also. He felt a compromise allowing this would make many people happy in town.

Ms. Sandra Mallonee of 128 Laurel Grove spoke on behalf of the Blowing Rock Garden Club. She stated much effort was put into the garden area in front of the benches and the Garden Club was not in favor of allowing dogs in this area because of potential damage to the plants and dog mess in the area.

Commissioner Klutz asked if the Garden Club did not like dogs. Ms. Mallonee stated they did like dogs, but felt the proposed changes to the ordinance were adequate. Mr. Klutz had several other questions in reference to the garden area.

A resident of 148 Globe Road, Mrs. Ann Rhyne also spoke on behalf of the Garden Club. Mrs. Rhyne stated the 40 members of the club worked very hard on the beautiful gardens and were concerned the gardens in front of the park would be damaged. Mrs. Rhyne reiterated if dogs were allowed in the park, they would likely do their business in the garden area. Commissioner Klutz had several questions for Mrs. Rhyne also.

Mr. Tom Mahoney of 263 Wonderland Trail thanked the members of the Garden Club for their hard work. He stated dogs on a 6-foot leash could not access the gardens in front of the park and it was his opinion this was not a problem nor would it be a problem in the future.

Ms. Regina Pelsmaeker residing at 426 Wallingford Road stated she had checked the rock wall in front of the park and did not think dogs could access the garden area. She also commended Council on the proposed changes to the ordinance. Ms. Pelsmaeker suggested that Council look into fencing the playground area to protect the children.

With no further public comments, Mayor Lawrence called for a motion to close the public hearing. Commissioner Pickett made the motion which was seconded by Commissioner Klutz. Unanimously approved.

Commissioner Klutz made a motion to construct an iron fence behind the bench area in Memorial Park and allow pet owners in front of the iron fence. Commissioner Yount stated he would like to second the motion but had reservations regarding the construction of a fence.

Commissioner Pickett commended the Garden Club members for their hard work and stated Council had worked diligently to reach a compromise that would benefit everyone. He explained he was not in favor at the present time of allowing the bench areas in the park to be used by dogs, nor was he in favor of a fence being installed in the park. He felt the idea of the bench area needed further review.

Commissioner Klutz's motion died for lack of a second.

Commissioner Klutz made another motion allowing dogs in the bench area of Memorial Park in addition to the proposed changes already made. Commissioner Yount requested further clarification in reference to the motion. Mr. Klutz clarified his motion was to include 5 feet behind the benches up to the rock wall behind the gardens, in addition to the other proposed changes already made, as long as the dogs were on leashes. Commissioner Yount stated for discussion he would second the motion.

Commissioner Tester explained the benches were sitting on concrete slabs which could be used as the barrier to define where dogs should be allowed if the motion passed. He suggested, the motion be modified stating dog owners would be allowed on the benches situated on the concrete slabs and dogs should be on a leash so they could not go into the park or the gardens.

Mr. Tester also recommended that the motion include direction for Town Staff to amend Chapter 10, Section 10.2 of the Town Code stating all dogs within the town limits are required to be on a leash. Mayor Lawrence explained another public hearing would be needed to change Chapter 10, Section 10.2. Mayor Lawrence asked Mr. Klutz to restate his motion. Commissioner Klutz restated his motion to allow dogs in the area of Memorial Park where the benches are located, but not beyond the concrete slab that held the benches in addition to Annie Cannon Park, Glen Burney Trail, Broyhill Lake, and the perimeters of Davant Field as long as dogs were on a leash. Commissioner Yount seconded the motion and added that he had two concerns; one being the enforcement of the leash law and the second, cleaning up after the dogs. Mr. Yount asked Parks and Recreation Director Jennifer Brown how she felt about this motion. Mrs. Brown stated that ultimately she would do whatever Council directed her to do.

Commissioner Ball voiced her concerns with the enforcement of this change. Mrs. Ball conveyed that in the 16 years she had been on Council, this issue had been heard many times. She stated, if everyone was like the people in the audience who owned dogs and cleaned up after them and didn't allow them in the park or gardens, this would not be an issue. But unfortunately, everyone was not like the audience members, if so increasing violation fines to \$1,000 or more would not have been discussed by other areas as mentioned previously.

Mrs. Ball explained she did not want to see another thing changed in the Code that could not be monitored. She advised the town could hire more people to monitor these issues and likely, taxes would increase, but Council had worked very hard not to increase property taxes. Also, Mrs. Ball was not in favor of a fence being placed in Memorial Park. Commissioner Klutz recommended that Mrs. Ball read the Town of Boone's ordinance addressing this issue.

Commissioner Tester advised enforcement would still be an issue if dogs were not allowed in the bench area. Mrs. Ball expressed a \$500.00 fine would get public

attention much better than a \$100.00 fine. Mrs. Ball asked that the fine be stated on the signs so the public would be aware of it. Mr. Tester stated the ordinance was no good unless it was enforced, except, it would provide better legal protection if a problem did occur. Commissioner Tester asked Mr. Moseley if the Town would be more at risk if a child was bitten by a dog with the ordinance or without. Mr. Moseley stated the Town would be better protected with the ordinance and to follow through with enforcement.

Mr. Tester felt that Memorial Park was too compact for dogs to be mixed with children. He spoke favorably of allowing dogs that were on leashes in the bench area only.

Commissioner Yount asked when implementation would occur if this change was passed. Town Manager Hildebran stated it was at Council's discretion.

Mayor Lawrence called for a vote on Mr. Klutz's motion. For: Klutz, Yount, & Tester  
Against: Ball & Pickett. Motion carried.

#### **Dogs in the Park (Code Amendment #2009-02) Exhibit B**

Commissioner Tester also made a motion for Town Staff to look at Section 10.2 Animals Running at Large in the Ordinance and add a paragraph that specifically stated that dogs must be on a leash when on public property in the Town of Blowing Rock and if not already stated, that violators be fined \$100.00 per day. Commissioner Klutz seconded the motion.

Commissioner Ball asked that Town Staff also look at increasing the \$100.00 fine. Commissioner Klutz disagreed; he felt it should remain as is. Mayor Lawrence explained this issue would be discussed during the public hearing process. Unanimously approved.

### **OLD BUSINESS**

#### **1. CUP 6-month Extensions**

Town Manager Hildebran presented three requests for extensions to conditional use permits issued in May or June of 2008. The projects were as follows:

1. Grover C. Robbins Memorial Pool Project - Approved May 13, 2008
2. Chetola Resort Condos - addition of two condo buildings (10 units) - Approved May 13, 2008
3. Ransom Street, LLC – retail/office/Subway restaurant-Approved June 10, 2008

Commissioner Pickett made a motion to grant the extensions as requested, seconded by Commissioner Ball. Unanimously approved.

**CUP # 2007-14 (Amendment to CUP #1993-08) Exhibit C,  
CUP #2008-02 Exhibit D & CUP #2008-03 Exhibit E**



## 2. Drought Update

Town Manager Hildebran advised the Town had received notification from the State to amend the drought policy to coincide with new state laws. Mr. Hildebran stated Council would receive a draft of the new policy within 30-45 days. He also recommended the Town remain at Level I Voluntary Conservation.

## NEW BUSINESS

### 1. BIDS – Robbins Pool Improvement Project

The Town received bids for the Robbins Swimming Pool Improvement Project on May 4, 2009.

The project consists of the demolition of the existing pool and associated structures, grading, erosion control, swimming pool construction, asphalt paving, concrete paving, sidewalk construction, bath house construction, water and sewer services, storm drainage, and related appurtenances located at the Robbins Memorial Swimming Pool.

Town Manager Hildebran stated the following bids were received:

	<u>Base Bid</u>	<u>w/Alts. 1,2, &amp;4</u>	<u>Total w/Alts</u>
Enterline & Russell Builders, Inc	\$ 963,960	\$88,377	\$1,052,337
Hickory Construction Co.	\$ 994,600	\$80,750	\$1,075,350
Hunter Construction, Inc.	\$1,046,264	\$84,683.99	\$1,130,947.99
Wilkie Construction Co., Inc	\$1,021,466	\$73,315	\$1,094,781
Wishion & Carter Builders, Inc.	\$1,105,735	\$76,361	\$1,182,096

Council was presented with a complete breakdown of the bids and a recommendation to award the project to low bidder Enterline & Russell Builders, Inc. from McGill Associates for \$1,052,337.00 (which includes Alternate #1, #2, & #4). The total project budget would be established in the amount of \$1,084,000.00, which includes a 3% contingency.

Mr. Hildebran briefed Council on funding for the project. He advised all funds were available with the exception of \$15,000.00 from the Community Foundation and \$9,000.00 from the Rotary Club which would be forth coming.

Commissioner Tester inquired if any changes had been made to the design of the project. Town Engineer Doug Chapman advised there were minor changes made. Mr. Hildebran also advised the pavilion was not included in the project costs at this time, that portion of the project would be separately funded by an in-kind donation as well as funds pledged by the Blowing Rock Breakfast Club.

Comissioner Yount questioned the timeframe for the project. Mr. Hildebran stated the project was planned to begin around August 15, 2009 after school commenced in the fall.

Commissioner Klutz made a motion to accept the low bid of \$1,052,337 from Enterline & Russell Builders, Inc., seconded by Commissioner Ball. Unanimously approved.

## **2. Budget Amendment (Ordinance #2009-03)**

Council received Budget Amendment Ordinance #2009-03 for fiscal year 2008-2009 for their consideration. Mr. Hildebran went through each section of the budget amendment and inquired if Council had any questions on the proposed amendment.

With no further discussion, a motion was made by Commissioner Tester to approve Budget Amendment Ordinance #2009-03 as presented, seconded by Commissioner Ball.

### **Budget Amendment Ordinance #2009-03 - Exhibit F**

## **SPEAKERS FROM THE FLOOR**

Mr. O. Wayne Green spoke regarding the proposed land swap with the Blue Ridge Parkway. He stated that he had not been given pertinent information regarding this issue. Mr. Green also advised that Congress would make a decision in reference to hunting and it would be allowed on the property, not the Blue Ridge Parkway.

Mr. Green also questioned Council's action during a recent meeting to go into Closed Session and the public not being advised of the reopening of the regular meeting. He also questioned the recording of minutes for the Closed Session meeting.

Next to speak was Mrs. Rita Davis, President of the Blowing Rock Chamber of Commerce. Ms. Davis thanked Council and Town Staff for their assistance in making the recent 2009 Wine & Food Festival a success.

She also thanked Council and the Town for their support and assistance in obtaining, through the Town, a Rural Center Grant for \$20,000.00. On behalf of the Chamber, Mrs. Davis offered support to the Town in reference to the Blue Ridge Parkway Land Exchange.

Commissioner Yount inquired if the Chamber had forgotten about a Farmer's Market in town. Mrs. Davis advised the Chamber was currently working on this issue and would be coming before Council at a later date.

Commissioner Yount also inquired if the American Legion Parking Facility would be finished for the upcoming Art in the Park scheduled for the following Saturday. Town Manager Hildebran stated due to bad weather, the facility would most likely not be complete in time for the event, and he and Charles Hardin had discussed having Art in the Park on Park Avenue if the structure was not available.

Commissioner Klutz advised he was not in favor of this, because the Town had promised the residents along this street, that Art in the Park would not be held there again. He suggested using the Maple Street Parking Lot.

Mrs. Louise Absher a resident of 461 Wallingford Street approached Council with her concerns regarding the property line between her property and the Town's property where Robbins Pool is located. Mrs. Absher advised that approximately 20 years ago she and former Town Manager Chris May had a verbal agreement in reference to the property line. She requested that Council honor the agreement and give her proper documentation. Town Manager Hildebran advised nothing had been recorded at the Register of Deed's office pertaining to the boundary line agreement. Council requested that the Town Attorney review this issue. Mrs. Absher also asked the Town to install an adequate buffer between her property and the pool property.

### **DEPARTMENTAL REPORTS**

Town Manager Hildebran presented the FY 2009-2010 Budget to Council for their review. He stated the FY 2009-2010 Recommended Budget, including both the General Fund and Water/Sewer Fund, totals \$6,378,025. The proposed budget has a tax rate set at \$0.28 per \$100 valuation, which is the current tax rate. The Recommended Budget includes no increase in taxes, fees or other charge and had a total increase of only \$1,085.00 over last year's budget. Mr. Hildebran also thanked Town Staff for their hard work in the preparation of the budget.

#### **FY 2009-2010 Recommended Budget – Exhibit G**

Mr. Hildebran reminded Council of the upcoming budget work session to be held on Tuesday, May 19, 2009 at 4:00 p.m.

### **ADJOURN**

With no further business to discuss, the meeting adjourned at 9:54 p.m.

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

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

### **ATTACHMENTS** (5-12-09)

Holiday Inn Express CUP #2009-01-Exhibit A  
Dogs in Town Parks Ordinance #2009-02-Exhibit B  
CUP #2007-04 (Amendment to CUP #1993-08)-Exhibit C

CUP #2008-02-Exhibit D  
CUP #2008-03-Exhibit E  
Budget Amendment Ordinance #2009-03-Exhibit F  
FY 2009-2010 Recommended Budget -Exhibit G