

**MINUTES**  
**Town of Blowing Rock**  
**Board of Commissioners**  
**June 9, 2009**

The Town of Blowing Rock Board of Commissioners held their regular meeting on Tuesday, June 9, 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, Finance Director Nicole Norman, 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 7:03 p.m. and welcomed everyone.

**APPROVAL OF MINUTES**

Commissioner Tester made a motion to approve minutes for meetings held on May, 12<sup>th</sup>, 19<sup>th</sup>, and 20<sup>th</sup>, 2009 with the following changes to the May 12th minutes: *Omit duplicated line #6 on page 2, at the end of page 6, add a line that reads "Commissioner Klutz's motion died for lack of second", change wording on page 8 from "Dogs Running at Large" to "Animals Running at Large" and on page 9, change the word "with" to "within" under the Drought Update section.* Commissioner Ball seconded the motion. Unanimously approved.

**PRESENTATION**

Mayor Lawrence introduced Mr. Michael Keibelbeck of the Blowing Rock Rotary Club. Mr. Keibelbeck thanked Council for allowing the Rotary Club to use the old Fire Department building for a garage sale in 2008. He presented Council with a check for \$850.00, which was 10% of the proceeds of the sale, earmarked for the Robbins Pool Project. Mr. Keibelbeck advised he had spoken with Town Manager Hildebran regarding the use of the building by the Rotary Club to hold another garage sale in 2009 with the Town receiving 10% of those proceeds as well. Mr. Keibelbeck stated that the 75 members of the Blowing Rock Rotary Club thanked Council for their support. Mayor Lawrence commended the Rotary Club on their achievements.

**PUBLIC HEARINGS**

- 1. FY 2009-2010 Budget (Ordinance #2009-04)**

Town Manager Hildebran advised the Recommended 2009-2010 Budget was presented to Council on May 12, 2009 and pursuant to N.C.G.S. 159-12 (b) the public hearing and public notice of budget availability were duly advertised.

Mr. Hildebran stated the 2009-2010 Budget exceeded last year's budget by only \$1,085.00. With the current economic times, no increase in taxes or other town fees were recommended. He advised the budget addressed many of Council's priorities such as the Town Master Plan, Water/Sewer Improvements Plan, 5-Year Capital Improvements Plan, etc.

Commissioner Yount had questions regarding Sales Tax, Powell Bill, Hold Harmless, and Video Tax Revenue which totaled approximately \$650,000. Mr. Yount asked if Mr. Hildebran had a contingency plan should this money be taken away by the State of North Carolina, or if the laws had changed regarding this issue. Mr. Hildebran replied that the law had changed in 2001 prohibiting the State from withholding franchise taxes from municipalities and after speaking with Representatives Tarleton and Goss, he did not anticipate any change.

With no further comments, a motion was made by Commissioner Klutz to close the public hearing, seconded by Commissioner Ball. Unanimously approved.

Commissioner Pickett made a motion to accept the Recommended 2009-2010 Budget and Fee Schedule as presented, seconded by Commissioner Ball. Unanimously approved.

#### **Recommended 2009-2010 Budget Exhibit A**

Town Manager Hildebran thanked Town Staff for their assistance with preparation of the 2009-2010 Budget.

### **2. Town Property Code Amendment – Leash Law/Penalties (Ordinance #2009-06)**

Planning Director Kevin Rothrock presented Council with Ordinance #2009-06 amending the Town Code pertaining to animals running at large. Mr. Rothrock stated the current code prohibits dogs from running at large but does not require them to be on a leash. He also advised at Council's request, Town Staff had reviewed penalties for violations of dogs running at large or owners not cleaning up after their dogs. According to Mr. Rothrock, the amended ordinance addressed these issues by establishing escalating penalties of \$100 for the first offense, \$250 for the second offense, and \$500 for the third and subsequent offenses.

Commissioner Tester had questions regarding Section 10-1 Definition (3) *Runs at Large*, Mr. Tester stated the Town Code addressed animals running at large not dogs running at large and he felt the wording should be changed to dogs running at large. Mr. Tester also suggested the wording be changed from "*under the immediate and effective constraint*" to "*under physical restraint*". In Section 10-1 Definition, (1)

*Administrator*, Mr. Tester requested a paragraph be added specifically stating the Blowing Rock Police Department be the designated enforcement agent.

Commissioner Klutz agreed with the amended ordinance except for the penalty amounts proposed. He felt the penalties were excessive and that it would be difficult to keep track of the offenses. It was Mr. Klutz's opinion that the first offense should be a warning and subsequent offenses should be \$50.00. Commissioner Ball disagreed with Commissioner Klutz. She felt the penalties should be higher in order to stop people from violating the ordinance. Commissioner Klutz reiterated that the proposed fines were too high and a \$50.00 fine would be fair to everyone.

Mr. Rothrock stated that several people had volunteered to purchase dispensers for bags to clean up after dogs to be placed at strategic areas.

Several audience members voiced their opinions that for the ordinance to be effective there should be a significant fine.

Audience member Mr. R.V. Hayes voiced his dissatisfaction regarding the \$500.00 maximum penalty, stating that he felt it to be too excessive for visitors and residents to pay and that the penalty should not exceed \$100.00.

After several other comments from the audience regarding penalties and signage, a motion was given by Commissioner Ball, seconded by Commissioner Pickett to close the public hearing. Unanimously approved.

Commissioner Pickett made a motion to approve Ordinance #2009-06 with Commissioner Tester's recommended changes to Section 10.1. The motion was seconded by Commissioner Tester. Commissioners Klutz and Yount voiced they did not support a penalty of \$500.00 and Commissioner Klutz asked that the motion be changed. Mr. Pickett requested his motion remain as previously stated. In favor of the motion were: Ball, Pickett & Tester - Against the motion were: Yount & Klutz. Motion carried 3-2.

#### **Ordinance #2009-06 – Exhibit B**

### **3. Financing Proposal – BRAHM Parking Facility (Resolution #2009-03, #2009-04, & #2009-05)**

For public comment, Town Manager Hildebran presented an installment financing contract for financing the construction of a public parking facility. Notice of the public hearing for the financing of the project was published in the Blowing Rocket as required by the N.C. Local Government Commission.

Mr. Hildebran gave a brief synopsis regarding the background for the two-level public parking structure. He explained the Town had earlier approved the design concept for the 58-space parking facility to be located adjacent to the Blowing Rock Art & History Museum and Town Council had agreed on a firm fixed price of \$1,300,000 for the

structure which BRAHM had accepted. According to Mr. Hildebran, \$300,000 of the project cost was to be funded by monies already on hand.

Mr. Hildebran explained that staff had met with various banks to discuss financing options available to fund the parking facility and had drafted a Request for Proposals (RFP). The RFP had solicited bank quotes to borrow up to \$1,200,000 for 15 years with the first 2-years being interest only and the remaining 13-years being fixed principal and interest.

On May 26<sup>th</sup>, the Town received the following proposals:

<u>Institution</u>	<u>Rates</u>	<u>Fees</u>	<u>Prepay Penalty</u>	<u>Costs</u>
Bank of America		No Bid		
BB&T	4.09%-annual	\$3,900	yes-1%	\$368,100
First Citizens	4.08%-annual	\$1,500	yes-\$250	\$367,205
High Country Bank	4.18%-annual	\$3,000	none	\$376,200
RBC Bank		No Bid		
Sun Trust		No Bid		
United Community Bank		No Bid		
Wachovia		No Bid		

Mr. Hildebran stated that the overall low bid was from First Citizens Bank with an interest rate of 4.08% for a 15-year term, with the first 2 years requiring interest only payments and the remaining 13 years requiring fixed principal plus interest payments.

If Council wished to proceed, staff recommended the adoption of the following resolutions:

- #2009-03 - authorizing the filing of an application with the Local Government Commission
- #2009-04 – stating its findings that an installment financing contract is a necessary and expedient method to fund the proposed project and authorizing all related filings to the Local Government Commission for approval of the proposed financing.
- #2009-05 – First Citizens Bank Financing Proposal & Amortization Schedule

Commissioner Yount requested assurance that the Town could afford the \$118,000 payment per year based on the financing schedule. Mr. Hildebran advised based on the current economic situation, the town remained stable and had the capacity to retire capital debt. According to Mr. Hildebran, the Town pays fixed principal payments which are applied towards the retirement of debt for the Fire Station, American Legion Parking Facility, Tiller/Lane Property and the Visitor Center which decreases the payment each year. Due to the decreasing payment structure of fixed principal payments, the payment decreases over the life of the loans which would enable funds to be used toward the debt on the proposed parking facility. Mr. Hildebran stated if nothing

drastically changed in the future, the Town would be able to fund the 13 annual payments.

Commissioner Tester mentioned the Town's capital debt service was only 15% of the total budget. According to Mr. Hildebran, the Town had a low debt burden based on the current tax base. Mr. Tester also mentioned that the Town had received an improved credit rating from Moody's Rating Agency which was based on the Town's finances and budget. With taking this loan into account the Town's credit rating had improved from A-2 to A-3.

With no further comments, Commissioner Pickett made a motion to close the public hearing, seconded by Commissioner Ball. Unanimously approved. Commissioner Tester made a motion to approve Resolution #2009-03, #2009-04, and #2009-05 as written, seconded by Commissioner Ball. Commissioner Klutz commented with the current economic times, he was not in favor of the funding proposal or the construction of another parking facility. Mr. Klutz thought it would be detrimental to Blowing Rock. In favor of Mr. Tester's motion were: Tester, Ball, Pickett, & Yount. Against: Klutz. Motion carried 4-1.

**Resolution #2009-03, #2009-04, & 2009-05 – Exhibit C, C-1 & C-2**

**4. Museum Parking Standards – Code Amendment (Ordinance #2009-05)**

Planning Director Rothrock stated during the April 14, 2009 Council meeting, an amendment to the Blowing Rock Art & History Museum CUP had been approved. The amendment reduced the required number of parking spaces from 77 spaces, at a rate of 1 space per 300 square feet, to 58 spaces at a rate of 1 per 400 square feet. According to Section 16-292, the permit-issuing authority may permit deviations from the table of parking requirements in Section 16-291. According to Mr. Rothrock, when the Board allows a deviation in the parking requirements and finds that the standard is erroneous, the Board shall make a request for a code amendment.

During the May 21, 2009 meeting, the Planning Board concurred with staff and made a recommendation to amend the parking standard for museums from 1 space per 300 square feet to 1 space per 400 square feet.

After receiving no comments from the public, a motion was made by Commissioner Ball, seconded by Commissioner Tester to close the public hearing. Unanimously approved. Commissioner Tester then made a motion to approve Ordinance #2009-05 as presented. The motion was seconded by Commissioner Pickett. Unanimously approved.

**Ordinance #2009-05 – Exhibit D**

**5. Resolution (#2009-06) – Minority Business Participation Goal/Outreach Plan**

Per G.S. 143-128.2, public entities are subject to the requirements for building contracts to implement a program for promoting the use of minority business enterprises (MBEs).

Town Manager Hildebran presented Council with a draft resolution establishing a verifiable goal of ten percent (10%) for participation by minority businesses in building construction contracts and creates an Outreach Plan addressing intent, definitions, responsibilities of the owner, designer, prime contractor CM at Risk, first-tier subcontractors, minority businesses, minimum compliance requirements, and dispute procedures.

Mr. Hildebran stated the resolution was necessary for support of the application by the Town for state funds for water and wastewater infrastructure improvements, as well as other infrastructure projects, and fulfilled public goals established by the state.

Commissioner Tester questioned if this was something new or a renewal. Mr. Hildebran advised the resolution was needed for compliance with General Statutes and he had been unable to find that one had been approved by the Town when it was first required between 1987-1989. Commissioner Tester asked if this would jeopardize the parking facility project in any way. Mr. Hildebran advised state funds would not be received for the parking facility and the resolution only pertained to the use of state funds.

Town Engineer Doug Chapman explained the resolution did not mean a certain percentage of the work had to be completed by a minority business, but a good faith effort was needed to make it feasible for minority businesses. Mr. Chapman advised while soliciting bids, one of the criteria was to advertise in minority publications and that this was already being done.

Commissioner Klutz asked how this would affect local contractors. Mr. Chapman explained it would not have an affect on local contractors especially if work was not subcontracted out.

With no further comments, a motion to close the public hearing was made by Commissioner Pickett, seconded by Commissioner Ball. Unanimously approved. Commissioner Yount made a motion to approve Resolution #2009-06 as presented, seconded by Commissioner Pickett. Unanimously approved.

#### **Resolution #2009-06 – Exhibit E**

### **OLD BUSINESS**

#### **1. Drought Update**

Town Manager Hildebran advised that with the recent rainfall, the town reservoir was at full pond and with the concurrence of the State he recommended the voluntary water restriction be lifted. Mr. Hildebran also noted the restrictions had been in place since June 2007. A motion was made to lift the voluntary water restriction by Commissioner Pickett, seconded by Commissioner Ball. Unanimously approved.

### **NEW BUSINESS**

#### **1. Chamber of Commerce – Blue Ridge Wine Festival/Art in the Park Dates**

Charles Hardin, Executive Director of the Blowing Rock Chamber of Commerce, submitted a request for approval of April 15-18 as the dates for the 2010 Blue Ridge Wine Festival for Council consideration. He also made a request to Council for the use of the Maple Street Parking Lot for the Wine Tasting Festival on April 17, 2010.

Mr. Hardin thanked Council for allowing the festival to be held in the Maple Street Parking Lot and reported it had been a great success. Several members of Council commented on the festival and how well received it was.

Commissioner Pickett made a motion for approval of the Blue Ridge Wine Festival to be held on April 15-18, 2010 in the Maple Street Parking Lot, seconded by Commissioner Klutz. Unanimously approved.

In addition, Mr. Hardin addressed a conceptual drawing for a proposed permanent electrical box structure for the Maple Street Parking Lot that had been given to Council for their review. He explained the installation of the pole would eliminate the need for annual temporary pole placement at the lot and that the electrical line would be located underground. Mr. Hardin also advised the Chamber had paid approximately \$1,675.00 for the structure and a roof was need for an additional cost of \$463.00. Mr. Hardin requested the Town partner with the Chamber to pay for the construction of the roof.

Commissioner Tester inquired if the festival had generated a profit. Mr. Hardin replied a small profit had been made after gifting the Hayes Performing Art Center and the Blowing Rock Fire Department with a percentage of the proceeds. Mr. Tester was not in favor of using town funds to pay for the roof addition.

Council also requested the door to the electrical structure be locked at all times for safety purposes. A motion to approve the permanent structure (without any Town funding) was made by Commissioner Pickett, seconded by Commissioner Klutz. Unanimously approved.

#### **Conceptual Drawing/Wine Festival Letter of Request – Exhibit F**

Next, Mr. Hardin presented the proposed list of dates for the 2010 Art in the Park season. The dates were: May 15, June 12, July 17, August 14, September 11, and October 2, 2010.

He also noted, per Council's direction, the Chamber would return during the October Council meeting to discuss the renewal of their lease agreement as well as the location for the 2010 Art in the Park dates. Commissioner Tester agreed with the proposed dates, but emphasized that the Chamber was to look at all the viable options for the location of Art in the Park and come before Council with their recommendations during the October meeting. Commissioner Pickett made a motion to accept the proposed dates for the 2010 season of Art in the Park, seconded by Commissioner Ball. Unanimously approved.

#### **Chamber of Commerce Letter of Request – Exhibit G**

## **2. 2009 Cycle North Carolina – Mountains to the Coast (Blowing Rock to Surf City)**

TDA Director Tracy Brown approached Council with a request for authorization to host the kick-off of the 2009 Cycle North Carolina event. He advised the ride would be held Saturday, September 26 through Saturday, October 3, 2009. The route would begin in Blowing Rock and end in Surf City with overnight locations in Lenoir, Statesville, Thomasville, Sanford, Dunn and Kenansville.

Mr. Brown advised approximately 1,000+ riders were expected with some staying in the Blowing Rock hotels/motels and others camping at Blowing Rock School and Davant Field.

Mr. Brown conveyed very little assistance from the town staff would be needed for this event and minimal expenses would be incurred by the Town which the TDA would pay for.

Mr. Brown also added that he had spoken with areas that had hosted this event in the past and they all welcomed the event again in the future.

Local residents, David Wray and Cobb Milner were in attendance and expressed support for the event.

Council inquired if residents in the area would be affected by the riders camping at Davant Field. Mr. Brown advised approximately 150 people would be in that area and he understood the riders would be rising early the next morning to begin a 70-80 mile ride, he anticipated 10:00 p.m. would be the "lights out" time.

Council also briefly discussed the large shower trucks that were to be placed at Blowing Rock School and Davant Field for the night.

Commissioner Yount made a motion to approve the 2009 Cycle North Carolina "*Mountains to the Coast*" event in Blowing Rock. Commissioner Klutz seconded the motion. Unanimously approved.

### **Cycle North Carolina Fact Sheet – Exhibit H**

## **3. Resolution (#2009-07) – Watauga County Solid Waste Management Plan 2009 Update Plan**

Town Manager Hildebran presented a Resolution to Approve the Watauga County Solid Waste Management Plan 2009 Update for Council's consideration.

Mr. Hildebran advised the Watauga County Solid Waste Management Plan was originally developed in 1997 to meet the requirements of G.S. 130A-309.09A. The 2009 update reviews the current solid waste programs and policies in place throughout the County as well as waste reduction goals. He also advised that all local governments



must develop a plan or be included in the county's plan. He noted updates were required every three years and must be adopted by resolution.

A motion to approve Resolution #2009-07 was made by Commissioner Tester, seconded by Commissioner Ball. Unanimously approved.

#### **Resolution #2009-07 – Exhibit I**

#### **4. Water/Wastewater CIP Phase One – Change Order #03**

In 2008, Council authorized the execution of a contract with Gilbert Engineering Co. for \$1,545,925.00 for improvements to the Water and Wastewater Plants.

Mr. Hildebran gave a description of the improvements proposed and presented Council with a summary of the proposed additions and deletions as recommended by McGill Associates for their review.

Change Order #03 was for a net contract sum of \$3,907.00 and extended the final contract completion time by seven (7) days. With the previously approved change orders, the net contract sum would total \$1,588,394.05.

Change Orders to date for the project totals \$42,469.95 or 2.75% of the original contract. The budget included \$154,575.00 for contingencies for the project.

After Town Engineer Doug Chapman further explained the purpose of the change order, Commissioner Pickett made a motion to approve Change Order #03 as presented, seconded by Commissioner Ball. Unanimously approved.

#### **Change Order #03 – Exhibit J**

### **SPEAKERS FROM THE FLOOR**

Mrs. Louise Absher, a resident of 461 Wallingford Street, asked Council if a decision had been made regarding the boundary line between her property and the Robbins Pool Property.

Mr. Hildebran stated Town Attorney Allen Moseley was currently working on this issue and would be in touch with Mrs. Absher as soon as a decision had been made.

Mrs. Ginny Stevens addressed the closing of the historic Green Park Inn and mentioned she had spoken with a non-profit group interested in purchasing the property. Mrs. Stevens asked Council and the citizens in attendance to email the group and voice their encouragement.

Mrs. Danielle Tester suggested the changes made to the leash law be included in the town newsletter.

Commissioner Yount commended the Shriners for the great parade held in town the previous weekend.

**ADJOURN**

With no further business to discuss, the meeting was adjourned at 8:40 p.m.

**MAYOR** \_\_\_\_\_

**J.B. Lawrence**

**ATTEST** \_\_\_\_\_

**Sharon Greene, Town Clerk**

**ATTACHMENTS (06-09-09)**

FY 2009-2010 Budget Ordinance #2009-04 – Exhibit A  
Ordinance #2009-06 – Exhibit B  
Resolutions #2009-03 – Exhibit C  
Resolution #2009-04 – Exhibit C-1  
Resolution #2009-05 – Exhibit C-2  
Ordinance #2009-05 – Exhibit D  
Resolution #2009-06 – Exhibit E  
Conceptual Drawing/Wine Festival Letter of Request – Exhibit F  
Chamber of Commerce Letter of Request – Exhibit G  
Cycle North Carolina Fact Sheet – Exhibit H  
Resolution #2009-07 – Exhibit I  
Change Order #03 – Exhibit J