

**MINUTES**  
**Town of Blowing Rock**  
**Board of Commissioners**  
**July 14, 2009**

The Town of Blowing Rock Board of Commissioners held their regular meeting on Tuesday, July 14, 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, Assistant Police Chief Dennis Swanson, 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 the minutes of meetings held on June 9<sup>th</sup> and 30<sup>th</sup>, 2009 with the following correction on page four of the June 9, 2009 minutes. Change the word “*reassurance*” to “*assurance that*” in paragraph five. Commissioner Ball seconded the motion. Unanimously approved.

**OLD BUSINESS**

**1. Grand Opening/Anniversary Banners – Code Amendment (#2009-01)**

Planning Director Kevin Rothrock presented Council with Code Amendment #2009-01 for their consideration. Mr. Rothrock explained that after Council’s forwarding of the draft ordinance regarding grand opening banners back to the Planning Board, the following changes were recommended:

- To allow business anniversary date banners after 5 years and every five years thereafter. The previous recommendation from the Planning Board was to allow 25 and 50 year anniversary banners.
- To allow businesses to display “grand re-opening” banners after major renovations of at least \$50,000 and after business relocations.
- To decrease the size of grand opening banners from 24 square feet to 16 square feet, consistent with other temporary sign sizes.

Mr. Rothrock also advised the Planning Board had recommended an amendment to the definition of a window sign to reflect the current enforcement policy.

Commissioner Klutz stated that he was currently working on a presentation and asked that Code Amendment #2009-01 be tabled until the next meeting in order for him to complete his presentation.

Commissioner Ball questioned the type of presentation Mr. Klutz was working on. Commissioner Klutz advised that he was in the process of gathering information from businesses in town regarding signage and that he had not spoken with everyone. He also stated that businesses should be present at the meeting. Commissioner Ball reaffirmed that several public hearings had been held regarding this issue. Commissioner Tester stated it could potentially change the parameters of the ordinance if the presentation warranted changes and would therefore delay the code amendment. If delayed, businesses would not benefit during this year's peak season. Mr. Tester also asked if action could be taken to change the code since this was not an actual public hearing. Mr. Rothrock explained that two public hearings had been held regarding this issue and another hearing was not required in order for action to be taken. Town Attorney Moseley concurred with Mr. Rothrock. Mayor Lawrence asked Mr. Klutz if he wished to make a motion to table the issue for another month. Commissioner Klutz stated that he did. Commissioner Yount seconded the motion for discussion only.

Commissioner Tester recommended that **Section 16-278(17)** be amended to read, "*Any sign located inside a building*". Mr. Tester stated the way the code was presently written, each business would be in violation because the majority had signs inside their windows making this section of the ordinance difficult to enforce.

Commissioner Ball stated this was a good example of a section of the ordinance that was difficult to enforce. Mrs. Ball stated that she was on the Board of Commissioners when changes were made disallowing more than one sign, as well as banners, flags, etc. and in her opinion the Town looked better with fewer signs.

Commissioner Pickett was in favor of postponing the code amendment to allow Mr. Klutz to complete his presentation. He emphasized that residents and businesses needed to work together during these struggling economic times.

Mayor Lawrence commended the Planning Board for their work on the draft ordinance. He empathized with Mrs. Ball's comments but also felt the ordinance was not very business friendly at times.

Commissioner Yount agreed with Mrs. Ball regarding enforcement of this issue. He stated that neighboring areas such as Hickory and Newton had designated their police department as the enforcer.

Mr. Rothrock advised he had spoken with Police Chief Eric Brown about weekend enforcement of the illegal signs. Commissioner Ball did not think the police department should have to enforce these issues, that it was not part of their job. Mr. Rothrock

maintained that enforcement would be much simpler with Mr. Tester's recommended changes.

Commissioner Klutz reiterated that he wished to finish his presentation.

Ms. Ball advised she had lived in town for 25 years and had seen a lot of changes and abuse of signs and banners. She did not feel it was Council's job to see that businesses were successful it was up to the business owners. Ms. Ball stated it took away from the village atmosphere and she felt Council should vote on the issue instead of postponing it.

Commissioner Yount asked for further clarification on the motion. Town Manager Hildebran stated a new public hearing would be needed if the sign code was substantially changed. Commissioner Tester stated it seemed that Mr. Klutz was gathering information from businesses in town and this issue would have to be sent to the Planning Board once again if it was changed and therefore, would not be resolved before the season was over.

Mayor Lawrence called for a vote on Commissioner Klutz's motion. In favor: Klutz & Yount. Against: Ball, Tester, & Pickett. Motion failed 3-2.

Commissioner Tester made a motion to approve Code Amendment #2009-01 with the recommended change to **Section 16-278 (17)**. Commissioner Ball seconded the motion. Commissioner Yount asked that Mr. Rothrock and Town Manager Hildebran further consider who would be enforcing this issue. Commissioner Tester stated he too had an issue with how vigorously the code is enforced at times, but there were instances where the code was changed knowing that strict enforcement was unlikely. This change would at least give the Town a vehicle in which they could seek enforcement against someone who blatantly violated the code. He did not feel there was a need for someone to be designated to walk the streets looking for violators.

Commissioner Pickett advised he was in favor of allowing Mr. Klutz to continue with his presentation, but was not in favor of postponing the issue for several months. Mr. Rothrock stated that even if the code amendment was adopted, Council could still consider Mr. Klutz's presentation and make further adjustments if needed. Town Manager Hildebran also encouraged Mr. Klutz to continue working on his presentation. Commissioner Tester suggested that Mr. Klutz bring his completed presentation to the workshop held in January. If Council felt changes were needed, they could send the issue back to the Planning Board for further review.

Mayor Lawrence called for a vote on Commissioner Tester's motion. Unanimously approved. **Code Amendment #2009-01-Exhibit A**

## **2. Absher Boundary Agreement – Plat/Easement**

Planning Director Rothrock presented Council with a boundary agreement/drainage easement agreement between the Town and Mrs. Louise Absher for property adjacent to the Robbins Pool.

Mr. Rothrock advised that McGill Associates had completed a survey of the area and Town Attorney Moseley had also reviewed the matter. Council was given a property boundary adjustment survey and drainage easement with Mrs. Absher to correct some boundary issues related to the storm water culvert installed in 1989. Mr. Rothrock stated the property line adjustment would place the common boundary along the eastern edge of the storm water culvert and provide a 10-foot drainage easement on the Absher property for maintenance by the Town.

With no further discussion, Commissioner Yount made a motion to approve the agreement as written, seconded by Commissioner Pickett. Unanimously approved.  
**Drainage Easement Agreement –Exhibit B**

## **NEW BUSINESS**

### **1. Watauga County FY 2009 CDBG Site Housing Program**

Town Manager Hildebran presented to Council for their consideration a Local Government Participation Certification Statement declaring the Town of Blowing Rock's participation in the FY 2009 Watauga County Scattered Site Housing Program.

According to Mr. Hildebran, Watauga County became eligible to apply for up to \$400,000 in funding from the N.C. Division of Community Assistance to provide housing repair assistance to low and moderate income homeowners in the county.

Mr. Hildebran advised if Council chose to participate in the program, Planning Director Kevin Rothrock would serve as a staff representative on the Watauga County Advisory/Selection Committee. If Council chose not to participate, homes within the town limits would still be eligible for assistance.

With no further comments, Commissioner Pickett made a motion to participate in the CDBG 2009 Scattered Site Housing (SSH) Program, seconded by Commissioner Ball. Unanimously approved. **Municipality Certification – Exhibit C**

### **2. Records Retention and Disposition Schedule**

Council received an updated Municipal Records Retention and Disposition Schedule prepared by the NC Department of Cultural Resources-Government Records Branch for their review.

Mr. Hildebran explained the document provided a tool for the Town Clerk and staff to use when managing the records in their offices and would give an assessment of their value and when (and if) those records could be destroyed.

Commissioner Tester made a motion to approve the document as presented, seconded by Commissioner Pickett. Unanimously approved. **Records Retention & Disposition Schedule – Exhibit D**

### **3. Settlement of 2008 Property Taxes/Charge of 2009 Property Tax Collection**

Council was presented with the Property Tax Settlement Report for 2008 property taxes per N.C.G.S. 105-373 for their consideration.

Also, pursuant to G.S. 105-321(b), an Order of the Town Board for the Collection of 2009 Property Taxes was also presented for approval.

Town Manager Hildebran commended Tax Collector Greene on a 99% property tax collection rate for the 2008 tax year.

A motion was made by Commissioner Pickett, seconded by Commissioner Ball to approve the 2008 Settlement Report and the Charge of 2009 Property Tax Collection. Unanimously approved. **Settlement of 2008 Property Taxes/Charge of 2009 Property Tax Collection – Exhibit E & F**

### **4. Budget Amendment (Ordinance #2009-08)**

Council received Budget Amendment #2009-08 for fiscal year 2009-2010 for their approval.

According to Mr. Hildebran, Budget Amendment #2009-08 Section 1 (General Capital Fund) would complete the appropriation of prior years funds from the Emergency Services Building Project Reserve as well as Parking Reserve.

Commissioner Pickett made a motion to approve Budget Amendment #2009-08 as presented, seconded by Commissioner Tester. Unanimously approved. **Ordinance #2009-08 – Exhibit G**

### **5. Water/Wastewater CIP Phase One – Change Order #04 (Close Out)**

Town Manager Hildebran stated that last year Council authorized the execution of a contract with Gilbert Engineering Co. for \$1,545,925.00 to construct improvements to both the Water and Wastewater Plants.

Town Manager Hildebran presented a summary of proposed contract additions as recommended by McGill Associates for Council's consideration. The net contract sum increase of Change Order #04 would be in the amount of \$26,483.00 and extend the final contract time by thirty-five days.

The revised contract amount with all change orders totaled \$1,614,877.95. Change Orders to date for the project total \$68,952.95 or 4.45% of the original contract. Mr. Hildebran advised the budget included \$154,575.00 for contingencies for this project.

Town Engineer Doug Chapman of McGill Associates further explained the change order and advised the project was still well under the original estimate of \$1.9 million. He also advised that Phase One of the project would most likely be completed by the end of July.

Commissioner Yount made a motion to approve Change Order #04 as presented, seconded by Commissioner Klutz. Unanimously approved. **Water/Wastewater CIP Phase One – Change Order #04 – Exhibit H**

#### **6. Water Interconnection Update – Bid Documents/Authorization to Bid**

Town Manager Hildebran presented several selected plan sheets for the Boone/Blowing Rock water interconnection project for informational purposes. He also noted that a full set of plan documents had been available at Town Hall for review.

Mr. Hildebran advised the bid documents had been proposed and were acceptable for issuance per USDA guidelines. He asked that Council formally approve the plan and authorize staff and McGill Associates to advertise for bids in accordance with funding agency requirements and N.C. General Statutes with the approval of Resolution #2009-08. **Resolution #2009-08 – Exhibit I**

Commissioner Tester made a motion to approve Resolution #2009-08 as written, seconded by Commissioner Ball. In favor: Tester, Ball, Pickett & Yount, Against: Klutz. Motion carried 4-1.

Commissioner Klutz urged Council to wait before moving forward with the water interconnection due to the current economic status. He felt the total project would cost more than originally thought. Town Manager Hildebran responded by stating that if the Town chose to wait, they would forfeit \$1,800,000 in grant money from the estimated \$4,000,000 project which needed to be used as soon as possible. He further explained the funding for this project and how critically important it was to move forward with the bid process. He advised that if Council was not satisfied with the bids, they would have the option of rejecting them. He also advised the State of North Carolina most likely would not be in favor of delaying the process.

Commissioner Yount asked Mr. Chapman if there would be a separate rock clause in the project. Town Engineer Chapman advised the bids would be itemized with a line item for potential rock encountered. Mr. Chapman voiced it was prudent for the Town to move forward with the bid process. He also explained that generally the bids were coming in under budget and any amounts that came in under bid could be deducted from the \$2,200,000 loan amount, rather than grant funds.

Commissioner Klutz stated he was unaware of the deadline for use of the grant money and this made a substantial difference. Mr. Chapman advised that the project was already behind schedule.

Commissioner Yount asked Mr. Hildebran to speak regarding the State mandate. Mr. Hildebran explained the Town was not currently under a moratorium, but was restricted in allowing new extensions of water lines in Blowing Rock. He advised if the Town encountered problems with their water source, the Town would not have anywhere to get water. He also advised the State had encouraged Boone and ASU to interconnect. During the recent drought situation, ASU had an abundance of water that could have been shared with Boone and Blowing Rock. Also, the interconnection could aid the area not only in drought situations, but also in an emergency situation.

Commissioner Klutz asked for further clarification regarding the interconnection and whether it was State mandated. Mr. Chapman advised the State had not demanded that the Town and Boone interconnect, but the State was aware of the Town's endeavors to work on their water supply issues and had encouraged this route.

Mr. Hildebran further explained the Town reservoir supplied 450,000 gallons of water per day and in the summer months the need exceeded that amount. In prior years, the Town had looked at numerous options including digging wells in search of water. At that time the only resolution authorized by the State was for the Town to take water from Payne Branch and bring it back to the reservoir so that it could be treated. He advised the State would only allow this if a dual line was installed in order to have an interconnection with Boone.

Commissioner Pickett reiterated the fact that \$1.8 million dollars in grant money would be lost if the Town did not proceed with this project. Mr. Klutz again stated he had not been aware of that, but he did know we were in uncertain times.

Public Works Director Johnny Lentz voiced his concerns that presently the Town was not under a moratorium but if the Town didn't proceed, and the State chose to mandate one, no single-family or any new connections would be allowed.

Audience member Ruth Klutz wanted to know the outcome of the 192-acre land swap with the Park Service. Mr. Hildebran advised he had not received any information regarding this issue recently. Commissioner Klutz stated he was concerned that once the Town owned their reservoir, they would need to dredge it and do other work and he was concerned the interconnection would somehow prevent this from happening.

Mr. Hildebran further explained that Bertha Cone granted the Town water rights for use of the reservoir many years ago. After her death, the Cone Estate was given to the National Park Service and the Town continued to use the reservoir. Approximately a decade ago the Federal Government under current law, wanted the Town to acquire a permit and begin paying for water usage from the reservoir. Mr. Hildebran stated it was during that time the Town began the process of trying to acquire the reservoir. According to Mr. Hildebran a land exchange with the National Park Service requires an Act of Congress. At which time H.R. 1121 was introduced to Congresswoman Virginia Foxx and endorsed by the entire North Carolina delegation as well as Congressman John Mica. The exchange would trade the twenty acres surrounding the water reservoir

for 192 acres bordering the parkway's property along China Creek. He advised the reservoir was currently situated on 7 acres and with the additional 13 acres, the reservoir could be expanded to enhance the storage of water, but would not aid in meeting the Town's water needs.

Commissioner Klutz questioned the maintenance of the reservoir by the town. Mr. Hildebran explained that any maintenance by the town currently requires a permit from the Park Service and certain regulations need to be followed. He emphasized the need for sole ownership by the Town of their water source.

### **SPEAKERS FROM THE FLOOR**

Mayor Lawrence called upon Ms. Karyn Herterich who wished to speak during the Speakers from the Floor segment of the meeting.

Ms Herterich, a resident of 1930 Main Street, advised that she wished to address a statement made by Commissioner Ball earlier in the meeting. Mayor Lawrence acknowledged that Council welcomed any comments she might have, but that she needed to address Council as a body and not direct her comments only to Ms. Ball. Ms. Herterich continued, stating she "took a serious issue with the comment that Council was not responsible for the success of the businesses in Blowing Rock".

Ms. Herterich stated she had been a fulltime resident of Blowing Rock for the past 15 years and a business owner for 17 years and she too did not want to see Blowing Rock turned into another Gatlinburg. Ms. Herterich commented if the businesses in town did not succeed the Town's tax revenue would be affected.

She emphasized that people wanted to be in Blowing Rock because of the fine restaurants, shops, the arts, and beautiful natural resources, and as a business owner/resident of Blowing Rock she felt it was Council's/Town Government's responsibility to consider the businesses in town and help them any way they could to succeed.

### **DEPARTMENTAL REPORTS**

Mr. Hildebran updated Council on the status of the new restroom facility at Bass Lake. He advised the Town was not the reason for the delay of the project but that they had been waiting for pipe from the Park Service. He advised the pipe had arrived and the Town would be finished with their part of the project by the end of the week.

Mr. Hildebran also thanked First Citizens Bank for agreeing to enhance the area in front of their building down to the corner at Maple Street as part of Phase I of the Streetscape Plan. He advised that Phase I (from the Martin House to Edgewood Cottage) of the Streetscape Plan would be bid out in the next couple weeks and that Mr. Chapman had Phase I plans to distribute to Council for their review.



**ADJOURN**

With no further business to discuss, the meeting adjourned at 8:05 p.m.

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

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

**ATTACHMENTS** (7-14-09)

Code Amendment #2009-01 – Exhibit A

Drainage Easement Agreement – Exhibit B

Municipality Certification – Exhibit C

Records Retention/Disposition Schedule – Exhibit D

Settlement of 2008 Property Tax/Charge of 2009 Property Tax Collection – Exhibit E-F

Ordinance #2009-08 – Exhibit G

Water/Wastewater CIP Phase I Change Order #04 – Exhibit H

Resolution #2009-08 – Exhibit I