

**MINUTES  
Town of Blowing Rock  
Board of Commissioners  
October 13, 2009**

The Town of Blowing Rock Board of Commissioners held their regular meeting on Tuesday, October 13, 2009. The meeting took place in the Town Council Chambers at Town Hall, 1036 Main Street, Blowing Rock. Present were Mayor J.B. Lawrence, Commissioner 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, Public Works Director Johnny Lentz, Police Chief Eric Brown, Parks & Recreation Director Jennifer Brown, Finance Director Nicole Norman, Building Inspector Jessie Horner 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**

Prior to the meeting, Council was given a revision on page two, paragraph three to the draft minutes dated September 28, 2009. Commissioner Tester made a motion to approve minutes for meetings held on August 31, September 1 & 28, 2009 with the revision. The motion was seconded by Commissioner Ball. Unanimously approved.

**PUBLIC HEARING**

**1. Extension of Nonconforming Uses – Code Amendment (Ordinance #2009-08)**

According to Planning Director Kevin Rothrock, in September 2004, Section 16-124 of the Land Use Code was amended to prohibit extensions of nonconforming situations, including those on single-family uses. Mr. Rothrock stated that staff understood that the amended ordinance prohibited nonconforming decks from being modified into porches and porches into building enclosures, etc.

Mr. Rothrock said that the Board of Adjustment had recently made an interpretation that Section 16-124 did not prohibit modifying an existing nonconforming porch to an enclosed space, based on what was written in the Land Use Code.

Mr. Rothrock then summarized the proposed changes for single-family nonconformities for expansion/conversion in street yard, and side and rear yard and showed a power point presentation of various diagrams of the proposed changes.

Commissioner Tester questioned if someone had a home and lot exactly like their neighbors' who had a porch or deck that they were enclosing, and they chose to build a porch or deck onto their home, would they be allowed this addition with the proposed revisions to the land use code. Mr. Rothrock stated this would not be allowed. Commissioner Tester advised that he strongly disagreed with this. Other members of Council concurred with Mr. Tester.

Commissioner Tester commented that he was on Council in 2004 when this issue was first discussed and in his opinion, the proposed change would be rewriting the code somewhat back to how it was before the changes were originally made.

Council also questioned if patios were subject to any setback regulations. Mr. Rothrock stated they were not subject to setback regulations, but decks were.

Mr. O. Wayne Green had questions regarding the proposed changes to Section 16-124 of the Land Use Code. He felt further clarifications was needed in reference to this issue.

At this time, Commissioner Yount made a motion to close the public hearing, seconded by Commissioner Pickett. Unanimously approved.

Commissioner Tester made a motion to refer this item back to the Planning Director with instructions to further clarify the wording of the code to prohibit expansions to non-conforming situations, seconded by Commissioner Yount. Unanimously approved.

## **NEW BUSINESS**

### **1. Art in the Park – Location Approval and Lease Renewal**

Town Manager Scott Hildebran advised that during prior consideration of Art in the Park, Council requested the Chamber of Commerce return in October 2009 to discuss the renewal of their lease agreement and possible locations for future Art in the Park shows.

According to Mr. Hildebran, the Chamber had requested a five (5) year extension of the lease agreement with the Town. The lease would commence January 1, 2010 and terminate December 31, 2014.

Locations considered were Blowing Rock School, Memorial Park, the top level of the American Legion Parking Facility & Lot, Park Avenue and Maple Street Parking Lot.

Ms. Rita Davis, President of the Chamber of Commerce thanked the businesses and individuals for their support of Art in the Park and advised this meeting was not about whether Art in the Park would continue, but about the location of the event. Ms. Davis advised there were several factors such as the impact on businesses and residents, impact on parking spaces, vendor access and comfort, etc, that determined which location they felt would be most suitable. Ms. Davis advised that the Chamber of

Commerce thought the American Legion Parking Facility was the best location because of efficiency in set-up and break down of exhibits, safety, and its proximity to the downtown area. Ms. Davis also commented this location would not block access to the Police Department or residences and was easily accessed by people attending who were handicapped.

At this time, Ms. Davis recognized Chamber Executive Director Charles Hardin, Events Director Stephanie Keener, and Melissa Pickett, a volunteer on the Chamber Events Committee, for their hard work in making this season of Art in the Park a success.

Commissioner Klutz inquired as to why Memorial Park was not considered as a viable location for this event. Ms. Davis explained when the event began, Memorial Park was a wonderful place to hold Art in the Park, however, the quality of art had surpassed this location and there were potential problems with moisture damaging the art. According to Ms. Davis, the Chamber felt that Memorial Park should be preserved and kept available for the children and tourist to enjoy. She also said that access to and from Memorial Park would be difficult for vendors. However, Ms. Davis did mention that the Chamber had not ruled out the location for a 50<sup>th</sup> Anniversary event in the future.

Commissioner Klutz continued to explain why he felt Memorial Park would be the best location. Mr. Hardin advised Memorial Park would not meet ADA code regulations and to upgrade the park would be very costly.

Commissioner Klutz stated he was against the American Legion Parking Facility because he felt it did not belong in Blowing Rock. He thought that having Art in the Park on the facility would defeat the purpose of the parking deck during one of the Town's busiest times.

Commissioner Pickett explained that Art in the Park brought a large number of people to town that stayed in the hotels/motels and frequented the shops, and since the facility had not been constructed with tax dollars, but rather was funded by the Tourism Development Authority, he felt the parking facility was the most feasible location.

Commissioner Yount concurred with Mr. Pickett. He further commented that he had attended every Art in the Park this season and had concluded the parking facility was the best location. However, Mr. Yount asked Town Attorney Moseley for further clarification regarding who would be held responsible for damages should something happen. He also inquired if it was normal procedure to have a 5-year lease and if Mr. Moseley had reviewed it. Mr. Mosley stated the lease had been drafted possibly 20 years prior and the tenant would be held responsible for any possible damages.

Mayor Lawrence stated that underneath the parking facility, 52 parking spaces were available that were not there before the facility was constructed.

Several audience members, including the Boy Scouts also spoke regarding Art in the Park, encouraging Council to allow this to remain on the parking facility so non-profit groups could continue to raise money during the event.

Commissioner Pickett made a motion to continue to have Art in the Park, for it to remain at the existing American Legion Parking Facility location, increase the vendor fees paid to the Town from \$10.00 per vendor to \$15.00 per vendor and approve a 5 year lease.

Commissioner Klutz asked Mr. Pickett to consider modifying the motion into two parts because he did not want to vote against Art in the Park, but he was not in favor of the location.

Commissioner Tester explained there was never a question of whether to continue Art in the Park, only on where it should be held. He asked that Mr. Pickett amend his motion regarding the continuance of Art in the Park. Mr. Pickett modified his motion as follows: Art in the Park was to remain on the American Legion Parking Facility, vendor fees were to be increased from \$10.00 per vendor to \$15.00 per vendor and approve the 5 year lease between the Chamber and Town. Commissioner Ball seconded the motion. For: Pickett, Ball, Tester & Yount Against: Klutz Motion carried 4-1.

#### **Art in the Park Lease – Exhibit A**

### **2. Speed Humps – Ransom Street**

Town Manager Hildebran advised paving on Ransom Street had been completed in the past month and that staff postponed the replacement of three (3) speed humps until Council reviewed the issue.

Commissioner Klutz commented that he had received a number of phone calls from residents along Ransom Street in opposition of the speed humps. He also gave several reasons residents did not want the speed humps replaced.

Mayor Lawrence stated no formal action would be needed if the residents did not want the speed humps, the Town would not spend money to replace them.

### **3. Mayview Madness – 5K Road Race/Fun Run (November 7, 2008)**

Town Manager Hildebran presented Council with a request from High Country Conservancy to hold their 10<sup>th</sup> Annual Blowing Rock Mayview Madness 5K Run/Fun Run on Saturday, November 7, 2009.

With no further comments, Commissioner Tester made a motion to allow the Mayview Madness 5K Run as requested, seconded by Commissioner Ball. Unanimously approved.

#### **Mayview Madness Fun Run/5K Road Race Maps & Insurance Certification – Exhibit B**

### **4. Oasis Shriners – Parade Request (June 5, 2010)**

TDA Director, Tracy Brown began by thanking Town Manager Hildebran, Town Staff and the Chamber of Commerce for their help in making the Cycle North Carolina event a success.

Mr. Brown stated he had received a request from the Oasis Shriners to hold their Spring Ceremonial Parade in Blowing Rock at 2:00 p.m. on Saturday, June 5, 2010. He commented that during their parade in 2009, the Shriners had enjoyed the area very much and wished to hold their parade in Blowing Rock once again.

Audience member Earle Horne, asked what economic impact this event had on the town. Mr. Brown stated he did not have approximate numbers, but a survey had been sent to merchants and the majority had seen a positive impact. Mr. Horne also asked who sponsored the event. Mr. Brown responded it was a cooperative effort between the TDA, Chamber of Commerce, Blowing Rock School PTO and several others.

A motion was made by Commissioner Yount to approve the request as stated, seconded by Commissioner Klutz. Unanimously approved.

#### **5. Green Challenge Initiative (Resolution #2009-10)**

Town Manager Hildebran presented to Council, Resolution #2009-10 to participate in the North Carolina League of Municipalities (NCLM) Green Challenge that pledges work towards achieving various levels in the challenge to save energy and other natural resources over the next three years.

Mr. Hildebran read the items that were included in Blowing Rock's Green Challenge submission and stated that staff would continue to monitor the submitted items as well as develop a Green Strategy for future consideration from Council.

Mr. Hildebran also advised the Town had received Level I Status from the NCLM and a plaque would be awarded at a later date.

Mr. O. Wayne Green spoke regarding the China Creek conservancy easements and deed restriction covenants asking Council to change the Town Code to allow hunting on the China Creek property. He advised the way the Town Code was written no one was allowed to have a firearm on any Town property, including town owned streets. He asked that in the future, Council repeal this section of the Town Code. Town Manager Hildebran explained, in the Code Town streets were excluded from the definition of Town owned property.

With no further comments, Commissioner Tester made a motion to adopt Resolution #2009-10 to participate in the NCLM Green Challenge. The motion was seconded by Commissioner Pickett. Unanimously approved.

#### **Resolution #2009-10 NCLM Green Challenge - Exhibit C**

#### **6. Streetscape Phase One (AT&T Underground Service)- Change Order #1**

During the August 11, 2009 Council Meeting, a contract was awarded to Wilkie Construction Co. Inc. in the amount of \$127,626.00 for construction of Phase One of the Downtown Streetscape Improvement Plan.

According to Town Manager Hildebran, the project consists of the construction of new sidewalks (as warranted), curb and guttering, paving, concrete pavers, utilities, landscaping, and related appurtenances located on the West Side of Main Street/US 321A Business from Memorial Park to the Intersection of Chestnut Drive (Edgewood Cottage).

Mr. Hildebran advised McGill Associates had recommended additions for a net total of \$29,325.00. The proposed change order would cover expenses associated with labor and installation of conduit for future AT&T Underground Service in the Phase One area. Mr. Hildebran stated that AT&T would be providing the conduits if the Town would agree to pay for the installation. He also advised the funding was available from the sidewalk contingencies and the storm drainage reserve and a budget amendment to establish this project's funding would be forthcoming.

Town Engineer Doug Chapman was available to answer any questions Council might have regarding this issue. Commissioner Klutz had several questions regarding the crossover conduits. Mr. Chapman explained the conduit should be installed now instead of later. He also advised there would be stub-outs located on Chestnut Drive, Laurel Lane and Pine Street.

Commissioner Klutz asked about right of ways that would be needed for placement of underground utility lines while doing the streetscape plan.

Audience member Earle Horne questioned what effect the change order would have on the overall budget. Town Manager Hildebran stated the budget would not be affected by the change order due to contingency money already budgeted.

Audience member Karyn Herterich also questioned if the change order would be cost effective for future phases of the Streetscape Plan. Ms. Herterich asked about other utility lines. Mr. Chapman stated other utilities were located on the opposite side of the street and would be dealt with during that phase of the Streetscape Plan.

After further discussion, Commissioner Yount made a motion to approve Change Order #1 as presented, seconded by Commissioner Ball. Unanimously approved.

#### **Streetscape Phase One Change Order #1 – Exhibit D**

##### **7. Robbins Pool Project – Change Order #1**

Town Manager Hildebran stated that on May 12, 2009, Council authorized the execution of a contract with Enterline & Russell, Inc. for \$1,052,337.00 to construct the Robbins Swimming Pool Improvement Project.

Mr. Hildebran presented Council with a summary of proposed additions and deletions as recommended by McGill Associates for their review. Items included were spring mitigation, foundations subgrade, equipment building drainage, storm drain replacement, increase height of perimeter fencing and a corkscrew pool slide.

The net cost of the change order would be \$37,472.50, of which \$35,000.00 was for the addition of a corkscrew slide. According to Mr. Hildebran, the Blowing Rock ABC Board voted to provide the Town with an additional contribution of \$35,000.00, which would cover the cost of the slide. The balance of \$2,474.50 would come from the total project budget of \$1,084,000.00 which also included \$31,663.00 for contingencies.

Mr. Hildebran advised the fencing height around the pool was increased from 4 feet to 6 feet for safety and liability purposes.

With no further discussion, Commissioner Pickett made a motion to approve Change Order #1 as presented, seconded by Commissioner Ball. Unanimously approved.

#### **Robbins Pool Change Order #1 – Exhibit E**

#### **8. NCDOT Bridge Inspection Agreement (Resolution #2009-11)**

Council was presented with a resolution executing a municipal agreement with the NC Department of Transportation for bridge inspections for both Sunset Drive and Cornish Road.

Mr. Hildebran explained that the US Surface Transportation Assistance Act requires that municipal bridges be inspected every two years. NCDOT, as in past years through the Federal Highway Administration, would cover 80% of the costs of the inspections. The Town would be responsible for the remainder of the costs, an estimated amount of \$2,600.

Commissioner Yount made a motion to accept Resolution #2009-11 as written, seconded by Commissioner Ball. Unanimously approved.

#### **Resolution #2009-11 – Exhibit F**

#### **9. Budget Amendment (Ordinance #2009-11)**

Town Manager Hildebran presented Council with a Budget Amendment Ordinance for FY 2009-2010 for their consideration.

Mr. Hildebran explained that Section 1 (General Fund) allocated departmental salary budgets to adjust for attrition/promotions and allocate funds to allow for a 1% cost of living increase to non-probationary full time employee salaries in each department as well as allocate additional Powell Bill funds received.

Section 2 ( General Capital Fund) would allocate funds received from the Blowing Rock ABC Board towards a slide at Robbins Memorial Pool and Park Avenue Building Renovations as well as allocate funds from Miscellaneous Sidewalk Projects, Storm

Water Projects and Interest Income line items towards the Downtown Streetscape Phase 1 Project. This section would also recognize the BRAHM Parking Facility Loan with First Citizens Bank.

Section 3 (Water/Sewer Fund) allocated departmental salary budgets to adjust for attrition/promotions and allocate funds to allow for a 1% cost of living increase to non-probationary fulltime employee salaries in each department.

Commissioner Tester made a motion to approve Budget Amendment Ordinance #2009-11 as presented, seconded by Commissioner Pickett. Unanimously approved.

#### **Budget Amendment Ordinance #2009-11 – Exhibit G**

### **SPEAKER FROM THE FLOOR**

Audience member Karyn Herterich, spoke regarding the need for more public restrooms. She inquired as to why there was only one restroom for men and one for women planned at the BRAHM Parking Facility. She did not feel this was adequate. Ms. Herterich also wanted to know if the restrooms located in the museum were going to be public restrooms for anyone who wished to use them. Council stated the restrooms located in the museum would be for paying customers of the museum. Ms. Herterich stressed the need for more restrooms on South Main Street.

Mr. Hildebran explained that the cost to add two restrooms at the BRAHM Parking Facility was approximately \$88,000. He also advised the Town was looking at renovating the Ice House on Maple Street and putting restrooms there in the future.

Ms. Herterich again urged Council to consider putting more restrooms on the South end of town.

### **DEPARTMENTAL REPORTS**

Mr. Hildebran reminded everyone of the bi-annual clean-up that began October 12<sup>th</sup> through the 16<sup>th</sup>.

At 8:55 p.m. a motion was made by Commissioner Ball, seconded by Commissioner Tester to enter into Closed Session pursuant to N.C.G.S. 143-318-11 to consult with the Town Attorney. Unanimously approved.

### **ADJOURN**

Council reentered into the regular meeting and with no further business to discuss, the meeting was adjourned at 9:05 p.m.



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

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

**ATTACHMENTS** (October 13, 2009)

Art in the Park Lease – Exhibit A

Mayview Madness 5K Run/Fun Run/ Insurance Certification – Exhibit B

Resolution #2009-10 Green Challenge – Exhibit C

Streetscape Phase 1 Change Order #1 – Exhibit D

Robbins Pool Change Order #1 – Exhibit E

Resolution #2009-11NCDOT Bridge Inspection Agreement – Exhibit F

Budget Amendment Ordinance #2009-11 – Exhibit G