

**MINUTES**  
**Town of Blowing Rock**  
**Board of Commissioners**  
**Special Meeting-June 30, 2011**

The Town of Blowing Rock Board of Commissioners held a special meeting on Thursday, June 30, 2011 at 9:00 a.m. The meeting took place in the Town Council Chambers at Town Hall located at 1036 Main Street, Blowing Rock. Present were Mayor J.B. Lawrence, Commissioners Albert Yount, Phillip Pickett, Tommy Klutz, Doug Matheson, and Jim Steele. Others in attendance were Town Manager Scott Hildebran, Town Attorney Allen Moseley, Finance Director Nicole Norman, Planning Director Kevin Rothrock, Police Chief Eric Brown and Town Clerk Sharon Greene.

**CALL TO ORDER**

Mayor Lawrence called the meeting to order at 9:00 a.m.

**DISCUSSION ITEMS**

**1. Budget Amendment Ordinance #2011-11**

Town Manager Hildebran presented Budget Amendment Ordinance #2011-11 for fiscal year 2010-2011 to Council for their consideration. He stated that Section I (General Fund) was to allocate funds to reimburse Parks & Recreation for seasonal salaries of two part-time employees, one funded by BRAAC and the other through NC Job Rehabilitation. Section I also placed remaining funds unused for paving in FY 2010-2011 in a capital reserve account to be used at a later date. Mr. Hildebran stated this section also reallocated funds to close out the fiscal year.

Section II (General Capital Fund) completed the placement of remaining unused funds for FY 2010-2011 paving in a capital reserve account to be used at a later date.

Section III (Water Fund) reallocated funds to close out the fiscal year.

With no comments, Commissioner Pickett made a motion to approve Budget Amendment Ordinance #2011-11 as presented, seconded by Commissioner Steele. Unanimously approved. **Budget Amendment Ordinance #2011-11 – Exhibit A**

**2. Valet Parking**

Mayor Lawrence advised that Commissioner Klutz had requested that valet parking be discussed further. Commissioner Klutz began the discussion by stating his reason for denying Mr. Phillips' request for valet parking (during the June 14th meeting), wasn't just to deny the use of public parking spaces. His intention was for Council to look for a way to help with the valet parking request by developing guidelines. Commissioner Klutz mentioned his concerns with the valet parking request; such as the use of public property, health and safety issues, as well as insurance. Commissioner Klutz continued

by stating that he had received numerous telephone calls over the weekend regarding a valet service being in operation at the Southmarke property. Cars were then being placed on Mr. Nelson Storie's property located on Storie Street. Commissioner Klutz commented that after the valet service request had been denied during the June 14<sup>th</sup> Council meeting, he was not aware of any plans to operate the valet service at another location. Commissioner Klutz stated that he had seen directional signage for the valet service and employees of the valet service were soliciting customers. Commissioner Klutz stated that he had been unsure as to what to tell people since Mr. Phillips' request had been denied by Council previously.

Mayor Lawrence commented the valet parking request had only been denied the use of public parking spaces in front of the Village Shoppes. Mayor Lawrence asked Planning Director Rothrock if the Town had control over the use of private property. Mr. Rothrock stated the Town had some control if there was a violation of the existing conditional use permit, but the Town Ordinance did not address valet parking. Mr. Rothrock presented Council with examples of other towns such as Charlotte, Matthews, Greensboro and Chapel Hill that addressed the issue in their ordinances.

Mayor Lawrence reiterated that a valet service did not charge for the use of public parking spaces; they charged for the service of parking cars in the parking space.

Commissioner Yount inquired if a valet service was an exempt business. Mr. Rothrock responded that he had been unable to locate anything regarding a business license in the NC General Statutes that pertained to a valet service. He also commented that Mr. Phillips had made an application for a business license with the Town, but it had not been issued at the present time.

Mayor Lawrence asked Town Attorney Moseley if the Town could legally deny the valet service to operate on private property. Mr. Moseley responded that he and Mr. Rothrock had discussed this issue and in his opinion, a zoning permit would be needed since this was a change in use for the property. He also stated that conditions could be placed in the zoning permit that dealt with various concerns. Mr. Moseley mentioned that he had also heard complaints regarding Storie Street being blocked. Mr. Moseley stated the Town could adopt an ordinance that addressed valet parking, but Blowing Rock was different than other places such as Charlotte and Greensboro where valet parking was more commonplace. He thought the Town's primary concern should be that other property owners were not negatively impacted by the valet service.

Audience member Mr. O. Wayne Green stated that while he was the Zoning Officer for the Town, he had received a similar request from a restaurant that wanted to offer valet parking and also park the cars in public parking spaces. According to Mr. Green, Council at that time denied the request because business owners could not make money off of public parking. Mr. Green also stated a similar request was made from a person who wanted to paint portraits, this was allowed when another business gave permission to set up on their property. According to Mr. Green, the town required an amendment to their conditional use permit. Mr. Green went on to say if the valet

parking business was not considered an itinerant merchant they were required to have a building in which to conduct business. Mr. Green stated an amendment to the conditional use permit or a zoning permit would be needed.

Mayor Lawrence stressed that a valet service was not charging for the parking space they were only charging for the service of parking a car for someone in a space they would have found themselves.

Commissioner Steele thought this issue should be sent to a planning subcommittee to be reviewed; and any recommendations made by the subcommittee be sent to Council for approval.

Commissioner Yount asked Attorney Moseley if the business could legally continue without a business license if a mistake was made by staff in not requiring a license. Mr. Moseley asked for more clarification.

Mr. Rothrock stated an application had been submitted on June 16<sup>th</sup> by Mr. Phillips, and after reviewing the Town Code regarding this type of business he could not find any information pertaining to a valet service, nor could he find that a license was required by reviewing the NC General Statutes. Mr. Rothrock also stated that while he was on vacation Mr. Phillips had submitted and received a 14-day grand opening banner permit to be placed on the Southmarke property. Mr. Phillips had also completed an application and paid for a miscellaneous business license that had not yet been issued. Mr. Moseley stated a business license as well as a zoning permit would be needed that included the signatures of Mr. Storie and Mr. & Mrs. Herterich.

Commissioner Klutz questioned if Mr. Storie chose to rent his office spaces later, how this would affect the applicant. Mr. Klutz also mentioned that the Southmarke conditional use permit included employee parking spaces and questioned whether this request would affect that parking requirement. Ms. Herterich stated the valet service was not parking on the Southmarke property, but rather the staging process was being held there. Commissioner Klutz inquired if Mr. Phillips had a contract with Mr. Storie. Mr. Phillips stated that Mr. Storie allowed him to utilize his parking lot without a contract. Commissioner Klutz asked if Mr. Phillips' insurance could be applied to Mr. Storie's property and that he would like to see the certificate of insurance. Mr. Rothrock stated according to square footage; 7 parking spaces would be required and Mr. Storie had 24 spaces in his parking lot which would leave 17 spaces.

Mayor Lawrence commented that essentially the Town would be gaining 17 free spaces for public parking with the use of Mr. Storie's lot. He asked Town Manager Hildebran what the cost of a public parking space was. Mr. Hildebran responded the cost was approximately \$20,000 per space. Mayor Lawrence stated that the 17 spaces would provide approximately \$340,000 in free parking. Mayor Lawrence then asked Chief Brown if he had received any complaint calls over the weekend regarding valet parking. Chief Brown stated he was not aware of any calls except from two Council members.

Mayor Lawrence asked if he had received any complaints from merchants. Again, Chief Brown stated he was not aware of any calls.

Ms. Sylvia Kiker, a resident of Morris Street, stated while researching the Town Ordinance, she had read that in order to have a business in Blowing Rock, you must have an address/building for the business. Ms. Kiker commented that she was not against a valet service but she didn't believe the Southmarke property was an appropriate place for this type of business. Ms. Kiker also advised a business could not have signage posted anywhere other than where the business was in operation. Mrs. Kiker voiced concerns she had regarding the access road between Southmarke and Storie Street Grill being a public alleyway.

Mr. Green advised the alleyway was not a public street, however, it was supposed to remain unobstructed.

Mr. Bryan Summers, owner of the Hemlock Inn located on Morris Street, gave a brief history of the area in question. He also stated the alleyway had never been a public right-of-way.

Ms. Herterich advised that during her CUP process she deeded 13 feet of the road as right-of-way and was also required by the Town to expand the area from 13 feet to 19 feet to allow for larger vehicles to enter the area. She also advised that Storie Street Grill as well as the Kiker's had access to cross the area, but the alleyway was not a public right-of-way. Ms. Herterich also mentioned the alleyway was used by patrons of Storie Street Grill, UPS, FedEx, the Town, etc. and she did not think that the valet service would add anymore congestion to the area than what was there already.

Ms. Kiker advised the Town Ordinance stated that a minor street or alleyway such as this one was not supposed to have more than 75 cars utilizing it per day and she did not feel this was an appropriate location for the valet service. She also commented that during their conditional use process for their building, they were told their driveway could only be one-way with the exit being on Storie Street.

Mr. Gaines Kiker responded the reason the driveway was one-way was due to the fact they wanted to build a larger building on their property and in order to do so, the driveway had to be one-way.

Mr. Bryan Summers also stated when Storie Street Grill was constructed it was at zero lot line and the landscaping and utilities were sitting in the ROW which narrowed the street by approximately four (4) feet. Mr. Summers stated he did not utilize Storie Street, but there were other violators obstructing the alleyway as well.

After further discussion, Commissioner Yount stated he did not want to debate the issue, but he was troubled because he felt that Council had been made to look weak and unable to make a rational decision relating to a business opening. Commissioner Yount stated that management was to blame and he wanted it to be straightened out.

Mayor Lawrence asked what grounds the Town had to deny this business. Commissioner Yount stated the business did not have a license and Council looked as if they didn't know what they were doing.

Commissioner Matheson asked if Mr. Phillips could continue to operate his business without a permit. Town Attorney Moseley advised that a zoning permit was needed that included terms and conditions that dealt with potential impact to other businesses.

Commissioner Steele commented he had always thought that all businesses were required to have a business license before opening. He also reminded everyone that at the last Council meeting he had stated there were details that needed to be addressed before voting, but Council had voted anyway. Mr. Steele inquired what needed to be accomplished in order for the valet business to operate and stated the Town could not tell Mr. Phillips that he could not have a valet service, but if Council chose to; they could say there were certain areas in which he could not have a valet business.

Commissioner Klutz stated rules were needed in order for the valet service to continue to operate. He again stated that he had seen off-premise directional signs and customer solicitation which were not allowed by the Town Code. Commissioner Steele advised this was not for Council to enforce and he did not recall Council giving staff direction on having a full-time enforcement officer who would work seven days a week. Commissioner Steele stated Council was elected to represent all the people and guidelines were needed and if the business owner met all the criteria outlined in the guidelines they could then operate their business. Commissioner Klutz thought it would be helpful to have an enforcement officer on weekends.

Mayor Lawrence asked everyone if they thought a valet service was an enhancement to the town or detrimental to the town.

Mr. Gaines Kiker commented that his family was not against a valet service, but all businesses should adhere to the same rules.

Town Manager Hildebran stated that he took full responsibility for this issue if indeed it had been improperly handled, but staff needed guidelines from Council. He commented that he was unsure if a zoning permit would address all the issues being discussed. Mr. Hildebran stated at the last meeting, public parking spaces were discussed and Mr. Phillips had not used public parking spaces this time.

Commissioner Pickett asked if the Town could render Mr. Phillips exempt temporarily for two weeks until Council could set some guidelines.

Commissioner Yount asked who had given permission to Mr. Phillips to move forward with the valet business without the proper paperwork. Attorney Tony diSanti stated that he had directed his client Mr. Phillips to speak with the Town to obtain all pertinent paperwork in order to operate his business. Mr. diSanti stated that his client was told at

that time that he did not need a business license, but a permit would be needed for a 14-day banner to advertise the opening of his valet service. Mr. diSanti stated that his client had tried to follow the rules.

Commissioner Klutz stated once again that he had seen off-premise directional signage. Mr. Phillips adamantly responded there was no off-premise directional signage. Audience member Linda Walker stated that Mr. Phillips may have received a permit for a 14-day banner but she had not seen a banner displayed. She advised that she had seen two plastic signs and she felt that Mr. Phillips had not followed the rules. Ms. Walker also stated she had witnessed cars stopping and blocking traffic instead of pulling into the staging area.

Ms. Kiker remarked that Blowing Rock was a small town and merchants needed to help one another but everyone should follow the same rules. She also stated that better enforcement was needed and penalties should be charged to those in violation.

Commissioner Pickett commented he did not feel the applicant or Mr. Rothrock were at fault, but that Council had to accept some fault in the matter. He also felt that Mr. Phillips should be allowed to continue to operate his business until proper guidelines were worked out.

Mr. Hildebran advised that staff could have a draft ordinance completed by the next Council meeting, but felt some guidelines were needed.

Commissioner Klutz voiced that he would like for Mr. Phillips to cease his valet service until proper guidelines were established. Town Attorney Moseley stated a moratorium could not be placed because this was not a public health and safety issue. He advised a zoning permit would be needed since there was a change in use on Mr. Storie's property and in his opinion a business license was also needed. Commissioner Klutz inquired as to who would be asking for the zoning permit. Mr. Moseley commented that Mr. Storie and Mr. and Mrs. Herterich needed to sign the zoning permit along with Mr. Phillips. Mr. Moseley continued by stating there was a potential for adjoining property owners to be negatively impacted and a zoning permit would deal with these concerns.

Mr. Rothrock asked if this needed to be based on the use of Mr. Storie property. Mr. Rothrock stated he did not think an ordinance was needed for a valet service because he did not foresee a lot of other requests for this type of business and an ordinance would deal mostly with the use of public parking. Mr. Rothrock also stated there were businesses that did not require a business license according to the NC General Statutes. Commissioner Yount inquired if Mr. Phillips' business was exempt and if his attorney had advised him to obtain a business license.

Ms. Herterich commented that she had received positive comments from people regarding valet parking. She also stated if there had been directional signs it might have been helpful because cars would know about the valet service instead of driving around Main Street. Commissioner Klutz stated once again that he had seen off

premise directional signage. Ms. Herterich stated that he should have taken photos of the signs that he had seen. Ms. Klutz stated that she too had seen the signs. Mr. Phillips reiterated that he did not have off- premise signage.

Mr. Roger Robertson spoke in favor of the added parking spaces since the valet service would be using Mr. Storie's parking lot. Mrs. Julie Robertson stated a valet business would be beneficial to all the businesses in town.

Mr. Green asked if a zoning permit was needed or an amendment to a conditional use permit. Mr. Moseley responded that in his opinion Southmarke would need a minor administrative amendment that Mr. Rothrock would grant. He also stated there was no conditional use permit for the Storie property therefore; he thought a zoning permit would suffice.

Commissioner Yount inquired if it would be legal to allow Mr. Phillips to operate his business temporarily for 2 weeks until the details could be worked out. Mr. Moseley explained that what resulted from the discussion was for Mr. Rothrock to issue a business license and grant an administrative amendment and a zoning permit in order for Mr. Phillips to do business. Mr. Moseley also stated the permit would need to be signed by the property owners as well as Mr. Phillips.

Commissioner Yount made a motion to follow Attorney Moseley's guidance and for Mr. Phillips to obtain the proper paper work from Mr. Nelson Storie in order to operate his business. Commissioner Pickett stated Mr. Phillips would also need something from Mr. & Mrs. Herterich.

Audience member Keith Tester stated Mr. Phillips was already in business and he thought the valet service would be beneficial to other merchants. Mr. Tester suggested that Mr. Phillips be allowed to park cars on the town's parking deck until he got the proper paper work from Mr. Storie. Mr. Tester stated that Mr. Phillips was not taking spaces away from the town as in his previous request; he would be parking cars that would be possibly parking on the deck anyway.

Commissioner Yount asked Town Manager Hildebran what he thought about the use of the town's parking deck. Mr. Hildebran responded that it was Council's pleasure but while reviewing ordinances from other areas this was usually allowed.

Commissioner Klutz stated he was not in favor of Mr. Tester's suggestion because he had not seen a certificate of insurance that said Mr. Storie would take responsibility for cars and people utilizing his property. Mayor Lawrence asked how this affected the Town. Mr. Moseley stated he did not see anything wrong with Mr. Tester's suggestion.

Commissioner Steele asked Commissioner Yount if he would amend his motion to include that the applicant needed a business license and a minor amendment to be approved by Planning Director Rothrock and if Mr. Phillips chose to use Mr. Storie's property he would then need to obtain a zoning permit.

Commissioner Yount asked to have his motion withdrawn. He stated the applicant had tried to get a business license and the town had returned his money.

Commissioner Pickett stated if Commissioner Yount left his motion on the floor, he would second it. Commissioner Yount withdrew his motion.

Commissioner Steele then made a motion to follow Mr. diSanti's recommendation to his client to obtain a business license and Town Attorney Moseley's recommendation to get administrative approval for a minor amendment to Mr. & Mrs. Herterich's conditional use permit so their property could be used as a staging area for the valet service. Also, if the applicant chose to use spaces on Nelson Storie's property he must obtain a zoning permit and after receiving approval he could also use the Storie property. Mayor Lawrence asked that Commissioner Steele change the word "parking" to "valet service" to avoid confusion. Commissioner Steele agreed. Mr. Moseley mentioned the motion did not include the applicant being allowed to use public parking in the interim. Mr. Moseley advised this also needed to be addressed in the motion. Commissioner Steele agreed to amend his motion. Commissioner Pickett asked that the motion include all public parking excluding Main Street. Mayor Lawrence also suggested the motion include all existing public parking other than Main Street because there were numerous public parking areas. Mayor Lawrence then suggested the motion include other private lots that Mr. Phillips might obtain permission to use. Commissioner Steele thought that would be an administrative decision. Mayor Lawrence stated he did not think it would be the Town's concern if Mr. Phillips chose to use other private lots unless it conflicted with their CUPs. Audience member John Aldridge voiced concerns regarding unknown traffic issues if private lots were allowed to be used without any restrictions. Mayor Lawrence asked the Clerk to strike the statement from the motion.

Mr. Moseley also suggested the motion include that Mr. Phillips be allowed to continue operating his business in the interim. Commissioner Steele agreed to amend his motion to include all the amendments. The motion was then seconded by Commissioner Pickett. In favor of Commissioner Steele's motion were Pickett, Matheson, and Steele. Against were Klutz and Yount. Motion carried 3-2.

Ms. Susan Kiker asked for clarification on Commissioner Steele's motion regarding the use of public parking. Commissioner Pickett responded the person using the valet service would be parking in the public parking facilities if they did not use the valet service. Mr. Gaines Kiker also mentioned the Best Cellar was charged to use public parking with their valet service. Mr. Hildebran stated they were not charged to use public parking with their valet service, but rather were charged to get additional parking required to open their restaurant for a seasonal lunch service.

## **ADJOURN**

With no further business to discuss, the meeting was adjourned at 10:50 a.m.



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

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

**ATTACHMENTS**  
Budget Amendment (Ordinance #2011-11) – Exhibit A