

DRAFT

**MINUTES
Town of Blowing Rock
Board of Commissioners
Regular Meeting- November 12, 2013**

The Town of Blowing Rock Board of Commissioners met in regular session on Tuesday, November 12, 2013 at 5:30 p.m. The meeting took place at Town Hall located at 1036 Main Street, Blowing Rock. Present were Mayor J.B. Lawrence, Commissioners Albert Yount, Dan Phillips, Tommy Klutz, Doug Matheson and Jim Steele. Others in attendance were Town Manager Scott Fogleman, Town Attorney Allen Moseley, Town Engineer Doug Chapman, Planning Director Kevin Rothrock, Police Chief Eric Brown, Finance Director Nicole Norman, Public Works Director Mike Wilcox, Building Inspector John Warren, Parks & Recreation Director Jennifer Brown, Emergency Services Director Kent Graham, Water Treatment Plant Supervisor Tom McRary, Planning Intern Zack Ollis and Town Clerk Sharon Greene.

CALL TO ORDER

Mayor Lawrence called the meeting to order at 5:30 p.m. and welcomed everyone.

AGENDA CHANGE

Mayor Lawrence then advised that Item #2 Ensemble Stage Request to Consider Former Blowing Rock Fire Station Building as Future Home under New Business had been deferred to the December 10, 2013 Council meeting.

APPROVAL OF MINUTES

A motion was made by Commissioner Phillips to approve the minutes for the October 8, 2013 meeting, seconded by Commissioner Steele. Unanimously approved.

PUBLIC HEARING

**1. Rules for Board of Adjustment Procedure, Variances, and Public Notices
(Ord. 2013-14)**

Planning Director Kevin Rothrock presented Ordinance #2013-14 to Council for their consideration. He stated that Michael Egan, the consultant for Land Use Code amendments had worked with staff to incorporate NC General Statute changes into the Town's Land Use Ordinance. Proposed amendments were to voting rules and related procedures for the Board of Adjustment, variance standards, public notification, and quasi-judicial procedures.

During their October meeting, the Planning Board had recommended approval of the draft ordinance.

Planning Director Rothrock then reviewed the recommended changes to the Land Use Code. He noted that a significant change regarding variances had been made.

Mayor Lawrence inquired if a variance was granted, would it be recorded with a plat. Mr. Rothrock stated usually a variance was recorded separately. Town Attorney Allen Moseley stated that a variance was recorded separately, unless a plat was required by the Board of Adjustment.

A motion was made by Commissioner Steele, seconded by Commissioner Matheson to close the public hearing. Unanimously approved.

Commissioner Steele made a motion for approval of Ordinance #2013-14 as presented, seconded by Commissioner Matheson. Unanimously approved. **Rules for Board of Adjustment Procedure, Variances, and Public Notice (Ord. 2013-14) Exhibit A**

OLD BUSINESS

1. Weapons on Town Property (Ord. 2013-12)

Planning Director Rothrock stated that during their October meeting Council voted 3-2 to amend the Town Code concerning limitations on carrying concealed firearms on Town property. The draft ordinance had to pass by a 4/5ths super majority to be approved at the first reading. As such, the draft ordinance was being considered for a second reading.

Mr. Rothrock stated a question had arisen during the public hearing and discussion in October whether Memorial Park was an appurtenant premise to Town Hall. According to Mr. Rothrock, staff had consulted Jeff Welty, Assistant Professor of Public Law with the UNC School of Government and he indicated that he would not consider Memorial Park to be appurtenant to Town Hall; therefore it could not be restricted to concealed carry holders.

Mr. Rothrock reviewed the following changes to the ordinance:

- 1) Removed Memorial Park from the list of concealed carry prohibited locations;
- 2) Amends the language about limitations of possessing a firearm at Davant Field during scheduled athletic events;
- 3) And further clarified how firearms can be properly stored in a vehicle in Town limits.

Commissioner Klutz asked if any changes were made other than those to comply with State law. Mr. Rothrock responded those were the only changes made.

Commissioner Klutz made a motion for approval of Ordinance #2013-12 as presented, seconded by Commissioner Phillips. In favor: Phillips, Steele, & Klutz Abstain: Yount & Matheson. Commissioner Yount explained that he did not wish for the record to state that he voted in favor of allowing guns in Memorial Park. Commissioner Matheson was in agreement with Commissioner Yount. Motion carried. **Weapons on Town Property (Ord. #2013-12) – Exhibit B**

Commissioner Klutz was recused from the following Agenda item due to him being a resident of Ransom Street.

2. Ransom Street Storm Water Options

Town Engineer Doug Chapman explained that staff and those impacted by Ransom Street storm water issues had worked together to identify potential solutions, pros and cons, costs and impacts. A meeting was held on October 3, 2013 to review four different options with property owners in the area. The options were then presented to Council during their October 8, 2013 meeting; however, Council had requested additional information at that time.

Mr. Chapman explained the options in greater detail. He advised if Town Staff performed the work to complete Option II, the cost would be approximately \$9,643. He also advised the Town did not own dedicated right-of-ways beyond the edge of the pavement on the west side of Ransom Street along the section of roadway under consideration for this project and an estimate of the cost to obtain the right-of-ways was currently being prepared for review later. He stated that it was possible to obtain the right-of-ways by condemnation if needed.

Mr. Chapman continued to explain that Option 4 could be broken down into three different phases should Council decide to move forward with this option.

An estimate to provide drainage assistance on the Brumley property across from the Gould property was also given. Mr. Chapman stated for approximate cost of \$500, Town Staff could execute this option.

Commissioner Steele wanted to know why the Town would consider curb and gutter along the ditch lines if the Town didn't own the property. He stated there were other areas of Town such as Sunset Drive that had similar problems as Ransom Street. He did not see the reason for spending a large sum of money in this area if the Town didn't have a dedicated right-of-way.

Commissioner Steele then asked who would be responsible for managing the water, the Town or the land owners. Mr. Chapman stated that question needed to be referred to Town Attorney Moseley. Mr. Moseley stated the Town would only have an interest in the situation if property owners could not resolve the problem. However, the Town Ordinance did not have anything referring to storm water management.

Commissioner Phillips stated that in his opinion, the problem needed to be dealt with properly so that it would not continue to happen and a decision needed to be made that would have a long-term effect.

After further discussion, Commissioner Steele stated that he was not in favor of Option 4 to curb and gutter the area, he didn't feel it was a feasible solution.

Commissioner Phillips asked if there was a potential for litigation between property owners. Mr. Moseley responded there was always a potential for litigation, and during the last meeting, several property owners had spoken regarding the problems that were occurring on their properties.

Commissioner Yount stated that it seemed the majority of problems had occurred after the "Smith" house had been torn down and before a silt fence had been installed. However, a silt fence had been placed on the property and other things had been done to help alleviate the problems.

Commissioner Yount also inquired about the cost for Option 2 if done by Town Staff at an approximate cost of \$9,600 and, if done otherwise, the cost would be \$23,500. Town Manager Fogleman stated the \$9,600 amount did not cover any right-of-way purchases.

Town Manager Fogleman further stated that staff recommended Option 1 at an approximate cost of \$500 to remove a strip of grass approximately three feet wide along the Brumley property to help direct the water flow into an existing culvert under the driveway on the Brumley property. Also, for an approximate cost of \$700; a berm could be placed on the east side of the street near the Martin property formally the "Smith" house. A slotted driveway could then be placed at the owner's expense once construction began on the Martin property.

Commissioner Yount made a motion to move forward with the staff recommendation as stated by Town Manager Fogleman. Commissioner Phillips seconded the motion. Unanimously approved.

NEW BUSINESS

1. Presentation of the Fiscal year 2013 Audit

Commissioner Klutz returned to the meeting at this time.

Finance Officer Nicole Norman stated the Fiscal Year 2013 financial statements had been completed and approved by the North Carolina Local Government Commission with a clean audit opinion. Representatives Jason Carpenter and Billy Combs were present to provide a summary of the audit process.

Mr. Jason Carpenter began by thanking the Town for once again allowing them to perform an audit of all Town financial statements. He commended Ms. Norman and her staff for the great job they did for the Town.

Mr. Carpenter reviewed several financial highlights contained in the audit. An increase of \$110,109 in comparison to the prior year had been seen to the combined ending fund balance of \$3,331,558. The Town had seen a debt decrease of \$156,814 (2.40%)

during the current fiscal year mostly attributable to debt retirements via payments being made on the Fire/Rescue Building., American Legion Parking Facility and Sewer Bonds.

Mr. Carpenter also stated the Town continued to maintain a strong tax collection rate of 98.88%, one of the highest in the state and a slight improvement over last year's collection rate of 98.16%.

Mr. Carpenter stated the Town Audit complied with all grant requirements.

Mayor Lawrence asked if Mr. Carpenter had seen anything that might raise a red flag that Council should know about regarding the Town's financial status. Mr. Carpenter stated that he had not seen anything of concern. Mayor Lawrence thanked Mr. Carpenter for his audit presentation.

2. Consideration of Tax Refunds and Releases

Town Manager Fogleman presented Council with the following five tax refunds/releases identified by staff as meeting all requirements pursuant to NC General Statutes 105-381(b) for their approval:

- Tax Refund #2013-01 in the amount of \$338.80 to Cullie and Sylvia Tarleton
- Tax Release #2013-01 in the amount of \$263.59 for Daniel Winkler Knifemaker
- Tax Release #2013-02 in the amount of \$420.84 for Maurice Ewing
- Tax Release #2013-03 in the amount of \$1,431.64 for Carlton Rembert
- Tax Release #2013-04 in the amount of \$562.80 for Mary Gwyn Harper Addison.

With no further comments, Commissioner Matheson made a motion to approve the tax refunds/releases as presented, seconded by Commissioner Phillips. Unanimously approved. **Tax Refund #2013-01- Tax Releases #2013-01-2013-04 – Exhibit C-1-5**

3. Project Set-Up Funding Approval for Wonderland Trail and Quail Hollow (Ord. #2013-15 & 2013-16)

Town Manager Fogleman presented Ordinance #2013-15 allocating funds necessary to complete road repairs to Wonderland Trail due to a road slide resulting from the July 2013 rain storms declared as disaster events by the Federal Emergency Management Association (FEMA). Mr. Fogleman stated that initially the project would be paid for with funds from fund balance then reimbursed by NC Department of Public Safety (25%) and FEMA (75%).

He further stated, ordinance #2013-16 would allocate funds necessary to complete road repairs to Quail Hollow Drive due to a road slide from rain storms in July 2013 also declared as a disaster event by the Federal Emergency Management Association (FEMA). Funds would initially be taken from fund balance then reimbursed by NC Department of Public Safety (25%) and FEMA (75%).

Mr. Fogleman advised to repair Wonderland Trail the cost would be approximately \$270,000 and \$70,000 to repair Quail Hollow Drive. He commented the Town would

advertise for bids in December, award the bid by February 2014, and begin construction in March and hopefully complete the repairs within a 90-day period. Commissioner Klutz made a motion to approve Ordinance #2013-15 and #2013-16 as presented. Commissioner Steele seconded the motion. Unanimously approved. **Wonderland Trail (Ord. 2013-15) & Quail Hollow Drive (Ord. #2013-16) – Exhibit D & E**

4. Classification and Pay Study Approval and Appropriation

Town Manager Fogleman stated that part of staff's responsibility was to assess the operations of Town government. Mr. Fogleman stated that over time staff members took on added responsibilities, sometimes without requisite recognition of their increased workloads. He advised it was a sound business practice to periodically review employee job descriptions, responsibilities, level of compensation, and the area job market to identify any areas that were out of sync. Mr. Fogleman also commented that the personnel policy would be reviewed to help ensure it is consistent throughout with best practices and all applicable state and federal laws. To help with this study, staff was recommending an external consultant be retained.

Mr. Fogleman stated the last Classification and Pay Study was done prior to the year 2000. It was normal practice to perform this type of study at least every five years. The study would begin in January 2014 and be completed in a four month period. Any suggested changes would be reviewed by staff and any related recommendations would come back before Council for consideration. Should there be any fiscal impacts; Council would be able to consider them during the fiscal year 2015 budget discussions in the spring of 2014 prior to adoption in June.

A Memorandum of Agreement between the North Carolina League of Municipalities (NCLM) and the Town of Blowing Rock to contract with the League to conduct a Classification & Pay Study of all Town of Blowing Rock employment positions was presented to Council for their consideration. Mr. Fogleman stated that staff recommended acceptance of the Memorandum of Agreement and allocation of the estimated \$10,000 necessary to conduct the study. He also recommended that incremental sales tax revenues above and beyond budgeted levels be officially recognized as revenue and allocated for this one-time expense. According to Mr. Fogleman, during the first two months of fiscal year 2014, a net of approximately \$58K, or 75% more sales tax revenue had been received than anticipated under the prior distribution approach. He also presented Budget Amendment #2013-17 to allocate funds as such.

With no further comments, Commissioner Phillips made a motion to accept the Memorandum of Agreement between NCLM and the Town and Budget Amendment #2013-17 as presented, seconded by Commissioner Klutz. Unanimously approved. **Memorandum of Agreement & Budget Amendment #2013-17 – Exhibit F**

5. Bid Award for the Horse Show Grounds Sewer Service Project (Ord. #2013-18)

Town Engineer Doug Chapman stated that on October 31, 2013, three (3) bids were received and opened for the Horse Show Grounds Sewer Project. Iron Mountain Construction of Mountain City, TN was the low bidder with a total base bid of \$24,688.50. The said project would include 250 linear feet of 8-inch gravity sewer across the Town Shop property to extend public sewer service to the Horse Show Grounds. Mr. Chapman stated that Iron Mountain Construction had previously performed work on other Town projects. He also commented they were appropriately licensed with the North Carolina General Contractor Board and capable of completing work on this project.

Mr. Chapman stated that staff recommended the Town award the project to Iron Mountain Construction for a total of \$24,688.50.

With no further discussion, Commissioner Klutz made a motion to award the Horse Show Grounds Sewer Service Project to low bidder Iron Mountain Construction in the amount of \$24,688.50, seconded by Commissioner Matheson. Unanimously approved. **Horse Show Grounds Sewer Service Project (Ord. # 2013-18) – Exhibit G**

6. Surplus Vehicles and Equipment (Ord. # 2013 - 19 & 20)

Finance Officer Nicole Norman presented Council with Resolutions #2013-19 and #2013-20 declaring vehicles/equipment surplus and authorizing their disposal. Pursuant to N.C.G.S. 160A-280, Council was authorized to declare surplus and donate personal property to another governmental unit or an incorporated nonprofit organization. According to Ms. Norman, a request had been made to convey a fire truck to the BR Fire & Rescue for trade-in purposes. Resolution #2013-19 would authorize the Town Manager or his designee to convey this item.

Ms. Norman also stated that pursuant to N.C.G.S. 160A-270(c), Town Council was authorized to sell personal property by electronic auction upon adoption of a resolution authorizing an appropriate town official to dispose of personal property belonging to the Town by public auction. Resolution #2013-20 authorizes the Town Manager or his designee to sell the property via electronic auction on www.GovDeal.com.

Ms. Norman reviewed the items declared as surplus to be disposed of as stated.

Commissioner Klutz asked EMS Director Kent Graham if the freightliner could be useful at their satellite fire station to be constructed in the Aho community. Mr. Graham stated there would be a pumper truck, a tanker, and a brush truck at that site and the freightliner would not be useful.

With no further comments, Commissioner Yount, seconded by Commissioner Klutz made a motion to approve Resolutions #2013-19 and #2013-20 as presented. Unanimously approved. **Resolution Declaring Surplus Property & Authorizing Disposal #2013-19 and #2013-20 – Exhibits H & I**

7. Donation Recognition for Police Car Equipment and Existing Funding Reclassification (Ord. #2013-21)

Finance Director Nicole Norman presented Budget Amendment Ordinance #2013-21 for the fiscal year 2013-2014 for consideration.

Ms. Norman stated that Section 1 (General Fund) allocated funds received from a private donor via the Blowing Rock Community Foundation towards camera equipment in the new police vehicles placed on order following bid award at the October 2013 Council meeting. This section also allocated unallocated grant funds that flowed into fund balance at the end of FY 2012-2013. These funds were granted towards the purchase of police radar equipment. This section would further allocate loan funds to be used in the purchase of previous capital equipment purchases placed on order following bid award at the October 2013 Council meeting.

Section 2 (General Capital Fund) was to complete the appropriation of radar equipment with grant funds.

Section 3 (General Capital Funds) reclassified appropriated funds for lift station maintenance, from the Water/Sewer Plant Operations department to the Water/Field Operations department for proper accounting due to lift station maintenance responsibility changes within the organization.

Commissioner Steele made a motion to approve Budget Amendment Ordinance # 2013-21 as presented. Commissioner Matheson seconded the motion. Unanimously approved. **Budget Amendment Ordinance #2013-21 – Exhibit J**

8. Painting Specific Area Within Town Hall (Ord. #2013-22)

Town Manager Fogleman stated that staff recommended approval of an appropriation in the amount of \$10,000 for the painting and related improvements of specific interior sections of Town Hall. Included in the improvement would be cleaning and repainting the atrium, Council Chambers, public restrooms, etc. Mr. Fogleman further recommended that incremental sales tax revenues above and beyond budgeted levels be officially recognized as revenue and allocated for this investment in Town Hall.

Staff had received bids for this work and was currently evaluating the value provided by each along with which company offers an implementation schedule that would minimize disruption to citizens, customers and staff should Council approve moving forward with this request.

Commissioner Klutz made a motion to approve the request as presented, seconded by Commissioner Phillips. Unanimously approved. **Budget Amendment Ord. # 2013-22 – Exhibit K**

9. Amendment to Include Liquor in List of Prohibited Alcohol and Exception Provision (Ord. #2013-23)

Police Chief Eric Brown stated that Captain Aaron Miller and Parks & Recreation Director Jennifer Brown had worked diligently on changes to Town Code Section 5-6. The changes to the ordinance came about due to the fact that alcohol was currently being allowed on some town properties during special events. Town Staff felt that a review of the ordinance and the special event process should be completed. The primary proposed change to the ordinance would not allow for the consumption of alcoholic beverages on certain town properties without a special event permit obtained from the Town or is applicable from the North Carolina Alcoholic B Beverage Commission. Other changes would reflect an update to the alcohol content of malt beverages and unfortified wine as defined by North Carolina General Statute 20-138.7. The proposed changes would also eliminate the prohibition of possession during the special events section.

According to Chief Brown, the creation of a special events guide streamlining the application process was completed. Applicants for special events would meet with Ms. Brown who would then coordinate with the appropriate town staff needed during the process.

Commissioner Steele inquired if the proposed changes to the ordinance were consistent with State law. Chief Brown responded the changes were indeed consistent with State law.

Commissioner Yount made a motion to approve Ordinance #2013-23 amending Town Code Section 5-6 as presented. The motion received a second from Commissioner Steele. Commissioner Klutz inquired if any properties where special events were to be held were within a close proximity to the school or churches. Chief Brown stated they were not. Unanimously approved. **Town Code Ordinance Amendment #2013-23 – Exhibit L**

DEPARTMENTAL REPORTS

None

SPEAKERS FROM THE FLOOR

Mr. Tucker Yates, a resident of Green Hill Circle spoke regarding a proposed cell tower in his neighborhood. He stated this item had not yet been placed on the agenda; however, a balloon test had been done recently and area residents were not in favor of a cell tower for various reasons. Mr. Yates stated a cell tower would be unsightly and could easily be seen from surrounding counties. Mr. Yates also stated that property values would be unfavorably affected and most importantly, a cell tower would be detrimental to the health of people who lived close by. He stated that even though it was unlikely, a tower could fall and cause damage or even death. Mr. Yates asked that Council reconsider placing a cell tower on Green Hill Circle.

At 6:45 p.m., Commissioner Steele made a motion to move into Executive Session pursuant to N.C.G.S. 143.318-11(a) 3 to consult with the Town Attorney. Commissioner Matheson seconded the motion. Unanimously approved.

ADJOURN

At 7:25 p.m. Council reentered their regular meeting, and with no further business to discuss, the meeting was adjourned.

MAYOR _____
J.B. Lawrence

ATTEST _____
Sharon Greene, Town Clerk

ATTACHMENTS (11-12-13)

Rules for Board of Adjustment Procedure, Variances, and Public Notice (Ord. 2013-14)
Exhibit A

Weapons on Town Property (Ord. #2013-12) – Exhibit B

Tax Refund #2013-01- Tax Releases #2013-01-2013-04 – Exhibit C 1 - 5

Wonderland Trail (Ord. 2013-15) & Quail Hollow Drive (Ord. #2013-16) – Exhibit D & E

Memorandum of Agreement & Budget Amendment #2013-17 – Exhibit F

Horse Show Grounds Sewer Service Project (Ord. # 2013-18) – Exhibit G

Resolution Declaring Surplus Property & Authorizing Disposal #2013-19 and #2013-20
– Exhibits H& I

Budget Amendment Ordinance #2013-21 – Exhibit J

Budget Amendment Ord. # 2013-22 – Exhibit K

Town Code Ordinance Amendment #2013-23 – Exhibit L