

**MINUTES**  
**Town of Blowing Rock**  
**Board of Commissioners**  
**Regular Meeting- August 12, 2014**

The Town of Blowing Rock Board of Commissioners met in regular session on Tuesday, August 12, 2014 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, Sue Sweeting, Doug Matheson and Ray Pickett. Others in attendance were Town Manager Scott Fogleman, Town Attorney Allen Moseley, Town Engineer Doug Chapman, Planning Director Kevin Rothrock, Building Inspector John Warren, Police Chief Tony Jones, Finance Officer Nicole Norman, Public Works Director Mike Wilcox, Parks & Recreation Director Jennifer Brown, Emergency Services Director Kent Graham and Town Clerk Sharon Greene.

**CALL TO ORDER**

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

**APPROVAL OF MINUTES**

Commissioner Sweeting made a motion to approve the minutes for meetings held on July 8<sup>th</sup>, 14<sup>th</sup> and 29<sup>th</sup> as written. The motion was seconded by Commissioner Pickett.

**SPECIAL RECOGNITIONS AND REPORT**

**Naming Wednesday, September 10, 2014 “Tom Robbins Day” in Blowing Rock**

Mayor Lawrence read a proclamation naming September 10, 2014 as “Tom Robbins Day” in Blowing Rock. Mayor Lawrence stated that Mr. Robbins was an American based author who was born in Blowing Rock on July 22, 1932 and best known for his novel *Even Cowgirls Get the Blues*.

**Highway 321 Valley Boulevard Construction Update**

Mr. Kipp Turner of Maymead Construction was present to update everyone on the Hwy. 321 Widening Project. He began the update regarding the various retaining walls within the project. He also advised that the wall near Rocky Knob Road had begun. He also mentioned that traffic would be shifted to the other side of the highway near the Fire Department in the near future and a traffic shift would also occur near the furniture showroom on the south end of Hwy 321 as well.

Mr. Turner also stated that drain pipe work would commence at the intersection of Sunset Drive and Valley Boulevard.

Mr. Turner advised that Skyland View Drive would remain closed for approximately 30 more days.

Commissioner Matheson inquired about the retaining wall below Cliff Dwellers Inn. Mr. Turner stated that additional work was being done in that area to further secure the rock and that as of right now, a rock catchment fence is not expected to be needed.

Mayor Lawrence thanked Mr. Turner for his update.

### **2014 General Obligation Bond Referendum Overview**

Town Manager Fogleman provided a brief summary of the General Obligation Bond Referendum to be held on November 4, 2014. He stated there would be four different questions on the ballot regarding capital improvements in the amount of \$9 million dollars for streets, \$1 million dollars for parks & recreation, \$1 million dollars for sewer and \$2 million dollars for water. Mr. Fogleman advised that a comprehensive information packet would be forthcoming in October.

Town Manager Fogleman then presented the following items on the Consent Agenda.

### **CONSENT AGENDA**

#### **1. ABC Store Travel Policy**

In accordance with the NC General Statute 18B-700(g2), the ABC Store must have a personnel travel policy in place and it must be accepted and approved annually by its appointing authority which is the Blowing Rock Town Council. **ABC Store Travel Policy – Exhibit A**

#### **2. Recognize Donation from the ABC Store for the American Legion Building Renovation**

The ABC Store has donated \$40,000 to the Town of Blowing Rock to be used for the American Legion Building Renovation effort, bringing funds donated/pledged for the project thus far to \$70,800.

#### **3. Water Line Connection at Tanger Outlets to Improve Service and Leak Detection Capability**

According to Mr. Fogleman, \$60,000 is needed to move forward with a water line connection at Tanger Outlets.

#### **4. Water Plant Filter Basin Repair**

With the recent replacement of filter material at the water plant, it was discovered that basin repairs were needed. The cost to complete the work estimated at \$47,195. Staff proposes using \$25,000 of currently authorized water capital funding and reallocating \$22,195 of previously authorized sewer capital funding to fund this effort.

#### **5. Resolution Approving the Town of Blowing Rock Local Water Supply Plan for 2012**

The Town of Blowing Rock is required each year to complete a Local Supply Plan to the North Carolina Department of Environment and Natural Resources (NCDENR). The

2012 plan has recently been reviewed and approved by NCDENR, and in order to complete the process, a resolution for officially approving the plan must be adopted by the Town Council. **Resolution Approving the Town of Blowing Rock Local Water Supply Plan – Exhibit B**

**6. Wonderland Trail Road Repair Additional Funding**

The Wonderland Trail Road suffered damage as a result of the heavy rains in July 2013. That event has since been declared a natural disaster which made qualifying repairs eligible for Federal Emergency Management Agency (FEMA) and North Carolina Department of Public Safety (NCDPS) funding. Council has already appropriated a combination of FEMA (75%) and NCDPS (25%) funding totaling \$374,972.99 for this project. An additional \$23,820 is needed at this stage of the project to accommodate additional quantities of grout and shotcrete that were initially anticipated. The Revenue appropriation for the project should be broken down as follows: FEMA (75%) \$17,865 and NCDPS (25%) \$5,955.

**7. Easement Agreement For Emergency Raw Water Supply With RSK Mountain Resort, LLC**

To recognize past access to Chetola Lake as an emergency raw water source and usage in excess of 93 million gallons valued at more than \$574,000, along with the provision of the ability for the Town of Blowing Rock to utilize Chetola Lake in the event that a raw water emergency supply is needed in the future, an easement agreement including an appropriation of \$200,000 from the water and sewer fund balance has been prepared. **Easement Agreement for Emergency Raw Water Supply with RSK Mountain Resort, LLC – Exhibit C**

**8. Pool Heater Remaining Funding to Allocate to Current Fiscal Year for Roof Structure**

At the June Council meeting, the Town Council approved a \$16,000 appropriation for the replacement of the pool heater and the installation of a protective roof structure. The work was in progress when fiscal year 2014 ended on June 30 and the heater replacement component was completed. The remaining appropriated funding of \$3,375 currently resides in the general fund balance. By approving this action, Council is approving that the \$3,375 be reappropriated from general fund balance to be allocated for the protective roof structure work to be completed in the current fiscal year 2015.

**9. Budget Ordinance Amendment #2014-30 Detailing Budget Related Actions Included Above**

One budget ordinance amendment has been prepared to consolidate the budgetary impacts of the scope covered on the previous agenda items. Should any amounts as detailed above need to be adjusted, the respective section of this budget ordinance amendment would need to be adjusted accordingly. **Budget Ordinance Amendment #2014-30 – Exhibit D**

There being no further discussion, Commissioner Pickett made a motion to approve all Consent Agenda items as presented, seconded by Commissioner Sweeting. Unanimously approved.

## **PUBLIC HEARINGS**

### **1. Noise Ordinance Amendment**

Planning Director Kevin Rothrock stated that staff was recommending a noise ordinance amendment that would establish decibel readings for music amplification and related activities. The draft ordinance amendment would limit allowable decibel levels at 65 decibels measured 65 feet from the property line of the property where the noise is generated. Mr. Rothrock explained the decibel level of 65 was selected as it is identified in decibel rating charts as midway between the level of conversational speech (60) and normal street noise (70). The noise ordinance would be enforced in such situations when complaints were received.

Mr. Rothrock advised that the Police Department had responded to several noise complaints in recent months and it is being recommended that a specific decibel level be established to provide an objective, measurable standard to help determine when the noise ordinance is being violated.

Mr. Rothrock advised that during the Planning Board meeting held on July 17, 2014, a recommendation was made to approve the draft ordinance as proposed.

After a brief discussion, Commissioner Yount made a motion to approve the draft noise ordinance amendment as presented, seconded by Commissioner Phillips. Unanimously approved. **Noise Ordinance Amendment – Exhibit E**

Commissioner Pickett asked to be recused from the following Public Hearing due to a perceived financial conflict of interest since his property is adjacent to the proposed property. Commissioner Pickett was recused.

Mayor Lawrence asked everyone who wished to speak during the following public hearing to be sworn in by the clerk.

### **2. Conditional Use Permit – Mountainleaf**

Planning Director Kevin Rothrock stated that Catellus Group, LLC is requesting a conditional use permit to construct a mixed-use project on a 7.359-acre parcel located on the corner of Main Street and Hill Street. The applicant is proposing to build a 112-room hotel with conference space, spa, and restaurant, an additional restaurant, up to 26,000 square feet of retail space, twenty (20) condominiums, and related parking spaces.

Mr. Rothrock stated that Council held a public hearing on this CUP request on July 8, 2014. A staff report was presented at that time, along with testimony from the Applicant, and testimony and questions from the public. At the end of the public hearing, Council made a motion to hold an additional public hearing at the August 12<sup>th</sup> meeting. Public

Notices were again mailed to adjacent property owners and the public notice was advertised in *The Blowing Rocket*.

During the July 8<sup>th</sup> public hearing, the following comments and concerns were discussed:

- Phased plan – better understanding/explanation of what will be done and when.
- Not comfortable with 5 year vesting. May consider 2 year with opportunity for extensions as provided in the Land Use Code.
- More detail of storm water design and implications. Will un-potable water be used for irrigation? Will there be irrigation?
- How will the project integrate into the rest of the downtown?
- A clear explanation of three (3) waiver requests (impervious surface, parking and building height).
- Scale appears too large. How does it compare with other developments in Town?

Mr. Rothrock further explained the requested waivers regarding the hotel building height, parking and impervious special density allocation. Mr. Rothrock then stated the draft CUP prepared for the July public hearing had not been changed.

Commissioner Yount inquired if an appraisal was needed on the property. Town Attorney responded that an appraisal was not required.

Mr. Walter Fields, of the Walter Fields Group, Inc. introduced representatives of the project team who were present to answer any questions Council or the public might have regarding the Mountainleaf project.

Mr. Richard Petersheim, Landscape Architect reviewed the proposed project stating there is a 112-room hotel planned as well as 26,000 square feet of retail with residential units above. Mr. Petersheim then gave more detail regarding the positioning of the project on the 7-acre parcel.

Mr. Fields reviewed concerns that Council and the public had during the July public hearing. He stated that Catellus Group had previously planned to construct the project in two phases with the retail units being built first and the hotel later, however, during the previous public hearing, there had been some concern with the phasing. Mr. Fields advised that now the hotel is planned to be built during the first phase and the remainder of the project would follow.

Mr. Fields explained in more detail why the Catellus Group is asking for a 5-year vesting period in which to complete the project.

Mr. Ben Cassarino also spoke regarding the 5-year vesting request. He stated that the NC General Statute provides a minimum period of 2 years up to 5 years for projects such as this. He commented that 5 years seemed like a long time and he hoped the project would not require that length of time. According to Mr. Cassarino, several

approvals would be needed such as with NCDOT, etc. that could take longer than anticipated. He also stated that investors in the project preferred the vesting for 5 years to help ensure that the CUP requirements wouldn't change.

Mr. Cassarino mentioned that Catellus Group has already worked on the project for approximately one year on the architectural design, storm water management, engineering designs, etc. before submitting the request to the Town because they wanted the best project for Blowing Rock.

Commissioner Sweeting inquired if NCDOT had been contacted. Mr. Cassarino advised that it had been 6 to 8 months since NCDOT was contacted; however NCDOT wanted to see the final plans before making a commitment.

Commissioner Yount asked about the average vesting period. Mr. Fields responded that he had been involved in many land development projects and had always asked for 5 years and had received that length of time on the more complicated mixed use projects such as this one. He said that the weather could delay the project for an extended amount of time and most importantly, the reason for asking for a 5-year vesting period was due to the size and complexity of the project.

Civil Engineer, Kevin Vogel presented Council with a packet of detailed storm water information for their review. He also commented that Catellus Group would be working closely with adjacent property owner Kent Tarbutton. Mr. Vogel explained measures that would be taken to control the storm water during construction of the project and stated the downstream properties would be most affected during construction. Mr. Vogel explained proven techniques that had been used previously to manage storm water.

Commissioner Sweeting asked if Town Engineer Doug Chapman had reviewed the plan. Mr. Chapman stated that he had reviewed the plan and that it exceeded what was required by the Town Code.

Mr. Vogel stated a study had been done that showed there had been approximately 2,000 rain events in the past 14 years and 90% of those rain events had been one inch or less.

Mr. Fields then spoke regarding Council's concern of integration of this project with the downtown area. He stated that according to the Town's updated Comprehensive Plan, this parcel was pin-pointed as appropriate for additional development. He also advised that while looking at the GIS system, the parcel fit within the community and downtown area in terms of building size and density.

In reference to Council's request during the July 12<sup>th</sup> public hearing, public restrooms would be needed at Mountainleaf. Mr. Fields advised the project would have two public restrooms. He also commented that this project would help close the gap between the downtown area and Chetola.

Stephen Overcash also spoke regarding the architectural design and how they had looked at existing buildings in Town and some of the exterior materials that would be used and how they would compliment what Blowing Rock currently looked like by using stone, wooden shingles, and other natural products.

Mr. Fields talked about the requested variance pertaining to building height. He explained the hotel is planned in the rear of the property and would not exceed the 40-foot building height requirement at the entrance; however, the spa would be located on the lower level and measured approximately 55 feet to the top of the roof which would exceed the 40 foot requirement; however with the hotel being positioned more than 200 feet from Main Street; it would be visually less obtrusive.

Mr. Fields addressed the request for more flexibility in the parking requirements due to overlapping uses such as the spa being located within the hotel and most of the patrons using the spa would be guests of the hotel. With 13 less parking spaces being requested, more trees within the project could be saved.

According to Mr. Fields, the density scale is consistent with the Central Business district. In comparison with the previous project that had been planned on this property, this project is twenty percent smaller. He also commented the buildings were in harmony scale-wise.

Mr. Fields also advised that Catellus Group plans to contribute \$25,000 to be used for a pedestrian connection to be made by either by NCDOT or the Town to connect Hill Street to the property occupied by the Southern Comforts Restaurant.

Mr. Fields also stated that this project complied with the five (5) Findings of Fact.

Commissioner Phillips had questions regarding the previous project that had been planned on this property. Planning Director Rothrock stated the CUP had been issued to the Chetola Severn group in October of 2008. Mr. Rothrock also explained that the General Assembly had frozen permits throughout the state for a period of time and the CUP had eventually expired in 2012.

Commissioner Phillips then asked if the Town had a copy of the contract with Catellus Group and the bank that was holding the property. Mr. Rothrock explained that he had been in contact with the bank and the Catellus Group did have permission to petition for this CUP and if approved, Catellus Group would then purchase the property.

Commissioner Phillips voiced his concerns with the Catellus Group being allowed to reconfigure their plans and combine the retail space in order to make one large business such as a "Family Dollar" store. Mr. Rothrock explained if a change such as this were to take place, it would have to be approved by Council.

Commissioner Yount asked about the planned Hill Street access to the property. Mr. Fields advised that improvements would be made to Hill Street that would help

everyone. He stated the Hill Street access was needed in order for emergency vehicles to directly access the property. Mr. Fields also stated a “No Right Turn” sign could be placed to divert traffic from driving through the Hill Street neighborhood.

Commissioner Sweeting asked Fire Chief Kent Graham about the Hill Street access giving several different scenarios regarding access to the project for emergency vehicles. Mr. Graham stated the access being proposed would be the most feasible.

At this time Mayor Lawrence called for a short break.

Once the meeting resumed, Mayor Lawrence asked for public comments.

Ms. Ginny Stevens a resident of Dogwood Lane stated that she had lived in Blowing Rock for many years and the question was “is bigger better?” She commented this project would have a 112-room hotel, 26,000 square feet of retail space and 20 condominiums which she felt was too excessive for the property. She also thought it would add to the traffic flow problems during the busy periods in Town. Ms. Stevens stated that visitors and residents came to Blowing Rock as fast as they could due to its wonderful charm.

Ms. Stevens expressed the need to continue to support local businesses already in Town; however, she did feel another hotel was needed. Ms. Stevens reiterated that Council was elected by the citizens of Blowing Rock and urged them to think carefully about the citizen’s concerns regarding the project.

Town resident and business owner Keith Tester stated that growth such as this should be managed carefully and that he had reservations regarding the project’s lack of integration with the rest of Town. With this project, the Town would actually double in size and retail would also double what was on Main Street currently. He urged Council to think about what they wanted Blowing Rock to look like in the next 5 or 10 years and the best use for this property.

TDA Chairman Kent Tarbutton, stated that he had reviewed the old plan for the property and that this project was less intense than what was previously planned. Mr. Tarbutton stated that the TDA was in favor of the addition of another hotel in Town. He also mentioned that he did have concerns with the sidewalk being placed within the project and not as a linkage on the outer boundary of the property. Mr. Tarbutton suggested the retail spaces have glass on the back side as well as the front side facing Main Street.

Mr. Tarbutton expressed that he liked that bike racks and public restrooms would be added to the project and felt the generous commitment of \$25,000 to be used toward a pedestrian connection was favorable as well. Mr. Tarbutton also said that he didn’t see any problem with the setbacks for the project or with 13 less parking spaces and the special intensity he would leave to the engineers.



Commissioner Phillips stated that he wanted clarification as to why he should “buy into” the concept of this CUP request, because he had heard about the need for 5-year vesting, NCDOT, weather, financing, etc. when usually developers already had all these aspects in place before coming before Council with a CUP request. Commissioner Phillips stated that he thought Catellus Group was asking Council to “roll the dice” for them and he was having a hard time understanding this.

Mr. Fields responded that he thought Commissioner Phillips presented a good question and talked briefly about the process that Tanger Outlets followed when they came before Council many years before with their large project. He explained with a large and complex project like the one being proposed, it takes time to develop it properly.

Commissioner Phillips stated that he wasn’t just speaking of the 5-year vesting period; he was concerned because Catellus Group didn’t own the property or have all the financing in place and the Town needed to be protected from having yet another blank piece of property. Commissioner Phillips stated these were Catellus Group’s problems to deal with, not the Town’s.

Mr. Fields stated that he understood that Commissioner Phillips comfort level with this project might be less than what he was used to, however, Catellus Group had shown with the storm water concerns that they had tackled those concerns at an even higher level than what the ordinance requires.

Commissioner Phillips stated this project was in reverse of what he expected to see and that concerned him, because Blowing Rock is a village and the right project on this piece of property could greatly benefit the Town.

Mr. Cassarino also addressed Commissioner Phillips’ concerns by stating that Catellus Group is a small family-owned business that wanted to work in partnership with the Town in order to have a project that could be passed down from generation to generation. He stated that development companies are different than they once were and now they don’t build on speculation because of the risks. Mr. Cassarino continued to state that he felt that appropriate documentation had been presented that adhered to the Town’s land use code other than the three waivers that Catellus Group was requesting and they were not asking for the Town to take on their problems, they were asking for the opportunity to continue with their proposed project.

Commissioner Phillips once again reiterated that he was concerned regarding the lack of financing for the project.

Mr. Cassarino stated they were asking for approval only and without approval to build the project it would be difficult to get investors because of the uncertainty involved.

Commissioner Sweeting asked Town Attorney Moseley what Council’s legal duty was in this process. Town Attorney Moseley advised that Council is to listen to the evidence given and apply it to the “Findings of Fact” listed in the Town Ordinance. Mr. Moseley

also stated that Planning Director Rothrock had explained at the beginning of the public hearing that this project met the requirements of the ordinance other than the three (3) waivers being requested. He continued to say that this was a quasi-judicial proceeding where evidence was being presented and based on the analysis of the evidence, Council needed to make a decision regarding the "Findings of Fact" and whether or not to grant the three (3) waivers.

Keith Tester commented this request is in concept only and enough detail wasn't given. The applicant is only promising they would meet the Town Code. Mr. Tester stated that he didn't like the concept idea and felt more detail was needed before approval.

Commissioner Sweeting asked Town Attorney Moseley how he felt regarding Mr. Tester's comments. Mr. Moseley stated that he disagreed with Mr. Tester because the applicant had presented enough detail regarding the concept. Mr. Moseley stated that he recognized the reality of spending up to six figures on a project of this magnitude without knowing if it would be approved or not.

Mr. Tester reiterated his thoughts that Council could turn the project down because it was in concept only. Mr. Moseley further stated that Council could deny the waivers regarding the 5-year vesting, building height or parking, but the point was that the plan being presented met the letter of the Code with the exception of the three waivers. Mr. Moseley further stated that he felt if the applicant was denied because Council didn't like the concept idea; the applicant could appeal in Court and would most likely prevail. He advised this process was about hearing from everyone and Council considering the evidence then making a decision based on all the evidence heard.

Town resident Lloyd Smith spoke regarding his concerns with the impact this project would have on existing businesses in Town and the "feeling of Blowing Rock" that had satisfied everyone for the past 125 years. Mr. Smith didn't feel the project was continuing in the same direction that Blowing Rock had been going.

Another audience member said that he was in favor of mixed-use development, his concerns dealt with water shed and fire code regulations and the effect this might have on residents.

Fire Chief Kent Graham stated he was not aware of the concern regarding fire code regulations. Planning Director Rothrock explained the project materials had to meet fire code regulations. He also stated the project meets all water-shed requirements.

Attorney Moseley asked Council what additional detail they would like from the applicant. Commissioner Sweeting stated she thought the applicant had done their homework regarding the questions and concerns mentioned during the July public hearing and it was Council's job to make a decision on the three waiver issues. Commissioner Sweeting stated she was unsure that everyone understood the quasi-judicial process and the "village feel" was not a part of the quasi-judicial process.

Commissioner Matheson stated that he would like to see the sidewalk that was planned within the project placed on the outer boundary in order to join the other sidewalks in that area. Commissioner Yount disagreed with Commissioner Matheson, stating it would ruin the aesthetics of the project.

Mr. Fields stated much more information had been presented tonight than at the previous public hearing. He also expressed his appreciation to Planning Director Rothrock, Town Manager Fogleman and Fire Chief Graham for all their assistance.

Mr. Stephen Barker owner of Catellus Group, LLC commented that he had walked the streets of Blowing Rock a lot trying to figure out what Blowing Rock really is and had figured out it was much more than just architecture, it is the people. He stated whether this project is approved or not, this property would be developed in the future by someone. Mr. Barker said that his vision had begun about three years prior of what he thought would fit well in Blowing Rock. Mr. Barker felt this project would make a difference and add to the history of Blowing Rock. Mr. Barker thanked those who spoke during the meeting because it showed their sincerity and affection they had for their community.

Ginny Stevens stated once again that she felt this project wasn't what the Town needed and asked if Council could just say no to the project. Town Attorney Moseley explained that Council needed to stay within the bounds of the law.

Mayor Lawrence advised that each building within the project would be required to come back before Council for approval. Planning Director Rothrock further explained the process the applicant would have to follow if approval is received.

Mr. Tarbutton asked for further clarification regarding the three variances. Mr. Moseley stated the draft CUP incorporated the requests and concerns and that Council had listened to all the evidence presented and a decision would be needed whether to approve the project and three waiver requests.

Mayor Lawrence thanked everyone for attending the meeting and if there were no further comments, he asked for a motion to close the public hearing. Commissioner Matheson made a motion to close the public hearing, seconded by Commissioner Sweeting. Unanimously approved.

Commissioner Phillips then made a motion to hold another meeting in two (2) weeks to further discuss this request so that he and the other members of Council could absorb all the information that was heard during the public hearings. It was the consensus of Council to hold a special meeting on Wednesday August 27, 2014 at 5:30 p.m. Commissioner Sweeting seconded the motion. Unanimously approved. Mayor Lawrence reiterated that a public hearing would not be held during the special meeting.

Mayor Lawrence also announced that the State of the Town would be held at 5:30 p.m. at the Blowing Rock Art & History Museum (BRAHM) on August 14, 2014.

**ADJOURN**

There being no further business to discuss, the meeting adjourned at 9:00 p.m.

**MAYOR** \_\_\_\_\_ **ATTEST** \_\_\_\_\_  
**J.B. Lawrence** **Sharon Greene, Town Clerk**

**ATTACHMENTS** (08-12-14)

**ABC Store Travel Policy – Exhibit A**

**Resolution Approving the Town of Blowing Rock Local Water Supply Plan – Exhibit B**

**Easement Agreement for Emergency Raw Water Supply with RSK Mountain Resort, LLC – Exhibit C**

**Budget Ordinance Amendment #2014-30 – Exhibit D**

**Noise Ordinance Amendment – Exhibit E**