

**DRAFT**  
**MINUTES**  
**Town of Blowing Rock**  
**Board of Commissioners**  
**Regular Meeting- September 9, 2014**

The Town of Blowing Rock Board of Commissioners met in regular session on Tuesday, September 9, 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 Pickett made a motion to approve the minutes for meetings held on August 12<sup>th</sup>, and 27<sup>th</sup> as written. The motion was seconded by Commissioner Sweeting. Unanimously approved.

**SPECIAL RECOGNITIONS AND REPORTS**

**1. Proclamation Naming September Hunger Action Month in Blowing Rock**

Mayor Lawrence advised the Town had received a request from Debbie Clark, a representative of the Second Harvest Food Bank of Northwest NC to proclaim September Hunger Action Month in Blowing Rock. Mayor Lawrence then read the proclamation and stated that Susan Stutts from Faithbridge United Methodist Church was present to speak.

Ms. Stutts advised that 700 families within an 18 county radius are fed monthly with the help of local food banks and 1,376,100 people are fed annually through the 2,800 partnership agencies in North Carolina.

Ms. Stutts said in recognition of September being Hunger Action Month, a "Ham Biscuit Breakfast" would be held in the overflow parking area at Faithbridge United Methodist Church on September 25, 2014 from 8:00 a.m. to 10:00 am. According to Ms. Stutts, the breakfast would be open to the public and free of charge; however, monetary or food donations would be welcomed.

Mayor Lawrence thanked Ms. Stutts for all the good work that Faithbridge United Methodist Church does for the community. **Proclamation Naming September as Hunger Action Month in Blowing Rock – Exhibit A**

## **2. Highway 321 Valley Boulevard Construction Update**

Mr. Kipp Turner of Maymead Construction Company was present to give the monthly update regarding the Hwy 321 Widening Project. He began by saying the culvert work at United Community Bank was being finished so that repaving of the area could be completed and traffic returned to the usual pattern.

Mr. Turner also stated that work was delayed on Skyland View Drive due to the wet weather; and, hopefully as soon as the weather improved, the road would be repaved and the traffic detour would be removed.

In reference to Wall #24 near Norwood Circle, Mr. Turner commented that he hoped within a couple of weeks, the shoring would be completed and construction could begin on the retaining wall in that area.

Mr. Turner expressed that work continued in the area of Cliff Dwellers Inn which he hoped would be completed in the near future. Also, an 18-inch gravity sewer line is being installed beginning from the Town's WWTP Facility up through Hwy 321 Business and that the right lane closure would remain until that work was completed.

Mr. Turner then extended gratitude to the Town's Police Department and Planning Office for their assistance with traffic in that area during a recent high volume of traffic time. He advised the traffic light had been adjusted to allow for more traffic until the utility work could be completed.

Rock veneering continued on Wall #19 which according to Mr. Turner was approximately 20 percent complete. Utility work was also being done at the intersections of Hwy 321 and Hwy 321 Business and utility poles were being relocated between Norwood Circle and Skyland View Drive.

Mr. Turner advised that members of the Transportation Research Board from California, Minnesota, Texas, etc. had taken a tour of the project recently.

Commissioner Matheson asked about the large amount of water flowing down the rock from the Cliff Dwellers Inn area. Mr. Turner stated with the large rainfall events that had happened recently, he couldn't promise this wouldn't happen in that particular area, however, he hoped once all the work had been completed this would not happen as often.

Mayor Lawrence thanked Mr. Turner for his update.

## **CONSENT AGENDA**

### **1. Resolution Declaring Various Items as Surplus Authorizing Disposal**

Town Manager Fogleman stated there were various surplus items including 118 wooden chairs previously used in the American Legion Building (new chairs have been purchased), Police lockers no longer being used, the previous leaf loader that was damaged by an electrical fire, old weather monitoring equipment no longer being used and an old workout station no longer being used. **Resolution #2014 - 08 – Exhibit B**

### **2. Resolution Approving and Adopting the Town of Blowing Rock Section 125 Cafeteria Plan**

For many years, the Town of Blowing Rock has offered a Section 125 Cafeteria Plan to its employees as an option for participation. The plan offers the ability, through pre-tax deduction, to place employee earnings in a savings account administered by Savers Administrative Services for qualifying healthcare costs incurred by the employee during the year. There is no cost to the Town of Blowing Rock to administer or offer this benefit to employees. The plan year covered was altered in 2013 to coincide with the Town's health insurance benefit year. In order to complete the update to the Town's plan, the resolution has been prepared for Council approval. **Resolution #2014-09 – Exhibit C**

### **3. NCDOT Hwy 321 Project – Supplemental Agreement – Fencing**

A supplemental agreement has been prepared by NCDOT for the betterment costs associated with upgrading from black vinyl-coated chain link fence to black aluminum picket fence. The black aluminum fencing will be installed along the top of the retaining walls in the 321 widening corridor. The total estimated cost to the Town is \$199,780.92 based on the bid prices received from the contractor and the estimated length of fencing to be installed in the project. Upon completion of the installation, the Town will have three years to reimburse NCDOT. The funding will be included in the respective year's capital budget which is currently shown in the ten year capital improvement plan beginning in fiscal year 2017. **NCDOT Supplemental TIP Agreement – Exhibit D**

## **PUBLIC HEARINGS**

### **1. Ordinance Amendment to Land Use Code – Conditional Zoning Districts**

Planning Director Kevin Rothrock advised that Council had requested the Planning Board review a draft ordinance to add conditional zoning districts to the Land Use Code. Planning Director Rothrock stated that currently the majority of commercial use authorization is through the conditional use permit (CUP) process, which requires a recommendation from the Planning Board and approval from Council. The CUP process is quasi-judicial and requires a formal public hearing, sworn testimony and factual evidence. The CUP process also prohibits communication among appointed and elected officials outside of a public hearing and specifically focuses on evidence presented during the hearing from experts such as architects, appraisers, and

engineers, and approval is strictly limited to findings of fact based on the evidence and ordinance standards.

The conditional zoning process is legislative and is treated similar to a rezoning. An applicant can apply for conditional zoning of a particular property and can request a list of limited uses and conditions that would apply to that property. Members of the Planning Board and Council have the opportunity to discuss the project with each other. A lot of details and neighborhood concerns can be worked through before the project gets to the floor of the public hearing. Upon specific approval, the Official Zoning Map is amended to reflect the new zoning being applied, and all conditions of approval apply to the rezoning.

Planning Director Rothrock advised that in the spring of 2011, a request had come before Council for a dress shop on Park Avenue where the Blowing Rock Chamber of Commerce is currently located. At that time, there were concerns that other uses could take place at that location should the dress shop close. Conditional zoning was discussed at that time, however the Council chose not to pursue the matter and the dress shop request was turned down.

During the August meeting of the Planning Board, a recommendation for approval of the draft ordinance was made with some modifications to establish conditional zoning districts in the Land Use Ordinance.

Planning Director Rothrock then introduced Jason Epley of Benchmark Planning Consultants to further explain the conditional zoning process. While giving a power point presentation, Mr. Epley explained the conditional use process had been approved in 2005 by the NC Legislature and the biggest difference with this process was that any issues or concerns could be discussed beforehand with citizens, neighbors, etc. With the CUP process, issues and concerns could not be discussed until public hearings were held.

Mr. Epley explained it is the applicant who initiates the proposed amendment process and who suggests additional requirements such as buffers, enhanced building appearances, etc. Council could also request certain requirements as well, but the property owner/applicant had to agree with those requirements.

Mr. Epley summarized by saying the conditional use process was a more open process that allowed for negotiation, discussion among citizens, neighbors, Council, etc. and did not require sworn testimony. He also stated the site-specific conditions helped to retain the character of the area and there was more certainty because Council could limit the uses for that specific property.

Commissioner Phillips asked about the districts within the Town at the present time. Planning Director Rothrock responded the conditional zoning district could be proposed anywhere in Town that was zoned residential R-16 and surrounded by or adjacent to

other zoning districts. He then gave scenarios in which a conditional zoning district request would apply.

Mr. Epley also explained that currently the Town did not have a special zoning district. He said if a property owner/applicant had property in the General Business (GB) District and wanted to place certain restrictions such as allowing retail only, then it would be zoned as GB/CD if approved by Council.

Commissioner Phillips stated that it sounded like this process would give the applicant more control over the Town's zoning districts; however, he was in favor of giving citizens more voice. He asked if the conditional zoning or the CUP process would give the Town more control. Planning Director Rothrock advised it depended on the application. He also replied that ultimately Council had control over what was approved in either process. He further stated that conditional zoning allowed for more conversation among residents, Council, the applicant, etc. before the public hearing was held to work out details or problems.

Commissioner Phillips stated it seemed there would be potential for a bad project to gain momentum with this process and he wanted this change to be considered slowly. Commissioner Phillips wanted to learn more about the conditional zoning process before he made a decision.

Mr. Epley stated Council would actually have more control as a board with a conditional zoning district request.

Commissioners Matheson and Pickett asked for clarification as to whether a property rezoned under a conditional zoning request as retail that closed would it revert back to the zoning originally in place. Planning Director Rothrock explained if a change in use request was received, the entire process would have to be followed once again.

Commissioner Yount expressed that he had been involved with this process before and felt it was good for small towns like Blowing Rock. He also inquired about the need for neighborhood/community meetings. Planning Director Rothrock stated that Council could choose to require a meeting or perhaps suggest that one be held specific to the request. Council agreed that a neighborhood/community meeting should not be required; however, it could be suggested.

David Rogers asked if conditional zoning had been in place during the recent Mountainleaf request, would the conditional zoning process have saved time and been more efficient. Mr. Epley stated a project as large as the Mountainleaf request would have taken a large amount of time either way.

Ms. Laurie Mulhern asked if there would be more potential for "big box" development with conditional zoning. Planning Director Rothrock advised that Council could always add the restriction that no "big box" development be allowed.

With no further comments, Commissioner Pickett made a motion to close the public hearing, seconded by Commissioner Matheson. Unanimously approved.

Commissioner Pickett then made a motion to approve the draft amendment to the land use ordinance and instructed staff to include language to reflect that staff was to develop a criteria under which a neighborhood meeting would be required.

Commissioner Yount asked that the record state that conditional zoning would be better for Town property owners.

Commissioner Phillips stated he would have a hard time voting in favor of conditional zoning without learning more about the process.

Commissioner Yount commented that he understood Commissioner Phillips' caution due to this being a big change, but he had seen it work and felt it would be good for the Town.

Commissioner Sweeting also commented that she liked the fact that discussion could be more open and that feedback could be received from neighbors, etc.

Commissioner Yount stated he would like to see a unanimous vote from Council on this item and asked Commissioner Phillips what would make him feel more comfortable with this matter.

Commissioner Phillips stated that he thought there would be room for "back-room" deals and with this being such a huge change, he felt more time was needed to learn about conditional zoning.

Commissioner Matheson commented that Council would have more control and the public would have more input with conditional zoning.

Mayor Lawrence called for a vote on Commissioner Pickett's motion. In favor: Yount, Sweeting, Matheson & Pickett. Against: Phillips. Motion passed. **Ordinance #2014- 31 Establishing Conditional Zoning Districts in the Land Use Ordinance- Amending Article 9, Chapter 16, of the Code of the Town of Blowing Rock – Exhibit E**

## **2. Ordinance Amendment to Land Use Code Sign Ordinance – Sandwich Boards**

Planning Director Rothrock stated during Council's June meeting, a draft ordinance to consider allowing sandwich boards for downtown businesses had been presented. Council referred the draft ordinance back to the Planning Board for more consideration and review. The Planning Board subcommittee met with some downtown merchants prior to the July Planning Board meeting to discuss their perspectives. At the July Planning Board meeting, they voted to recommend allowing non-illuminated board signs in downtown with several additional stipulations including:

1. Require a black chalkboard background;
2. The background shall not exceed 4 square feet per side;
3. The sign frame must be wood, painted in a Town approved color;
4. The sign height cannot exceed 42 inches from grade;
5. If the sign is on a public sidewalk it cannot be displayed more than 3 feet from the building and must maintain a 5' clearance; and
6. The sign can only be displayed during business hours.

Planning Director Rothrock then showed a power-point presentation showing how sandwich boards might look along Main Street. Commissioner Phillips expressed if many of the businesses on Main Street were allowed sandwich boards and had adequate room according to the ordinance, there could potentially be a large number of sandwich boards on Main Street. He also expressed concerns with people tripping and falling because of the sandwich boards and who would be responsible should that happen. Town Attorney Moseley stated if the amendment was approved, Town staff would enforce the code to see there were no violators and the sandwich boards remained placed within the required distance.

Commissioner Pickett stated he didn't feel sandwich boards were different than someone tripping over a trash can, bench, lamp post, etc.

Planning Director Rothrock stated it was his department's responsibility to enforce the code, and possibly the Police Department's on weekends.

Audience member Ginny Stevens commented that she didn't like the idea of chalkboards because they could look messy.

Town resident Marsha Quinn agreed with Ms. Stevens regarding chalkboards looking messy. She suggested another uniform surface so that businesses could have print outs and attach them to that surface.

David Rogers commented that he thought the appearance of chalkboards would reflect on the business and they would like for them to look as attractive as possible.

One audience member asked if sandwich boards would really have an effect on how much business someone received, especially on weekends because it was hard to maneuver on the sidewalks downtown already.

Ms. Stevens asked if public events were exempt from enforcement. Planning Director Rothrock stated that public events would remain exempt.

Business owner Sherrie Furman spoke in favor of the sandwich boards because of the lack of visibility for some of the businesses in Town and their livelihood.

Ms. Tammy Jolly, another business owner in Town, stated she had discussed this issue with other business owners and there was a need for something to draw customers in to

businesses located in less visible areas. She agreed that every business should not have one due to the lack of space.

Commissioner Phillips commented that he empathized with other business owners and thought some exceptions were needed; however he was curious as to where the line should be drawn.

At this time, a motion was made to close the public hearing by Commissioner Sweeting, seconded by Commissioner Phillips. Unanimously approved.

Commissioner Phillips made a motion to deny Ordinance Amendment #2014-32 as presented. He asked Planning Director Rothrock to review this ordinance amendment further and take into consideration the businesses without adequate exposure and if necessary, formulate an amendment that would help those businesses, seconded by Commissioner Matheson. Unanimously approved.

### **3. Ordinance Amendment to Land Use Code – Outside Display**

During the June Council meeting, a draft ordinance to consider allowing sandwich boards for downtown businesses was reviewed. The draft ordinance was then referred back to the Planning Board for more consideration. Council also requested the Planning Board review and recommend standards for outdoor display on public sidewalks in Town Center and Central Business in conjunction with sandwich boards.

At the July meeting, the Planning Board recommended adopting ordinance standards to regulate outdoor display of merchandise on public sidewalks downtown. Planning Director Rothrock read the following standards:

1. The subcommittee recommended allowing outdoor display confined within three (3) feet of the face of the building on the public sidewalk.
2. Maintain a minimum five (5) feet of unobstructed public sidewalk.
3. The outdoor display would also be limited to five (5) feet high and confined to the width of the building frontage.
4. No display would be allowed to block any code-required exits or curb access.
5. No display would be allowed across the public sidewalk from the building.

Planning Director Rothrock stated that staff had recommended allowing two (2) feet and the Planning Board recommended three (3) feet within the face of the building and depending on what was approved, five (5) feet of clearance needed to be maintained on the public sidewalk. He also mentioned the draft ordinance included that all merchandise should be displayed outside only during store business hours.

Planning Director Rothrock showed an example of outside display at Final Touches located at 1077 Main Street. After a brief discussion, Commissioner Phillips stated he knew that outside display was important, however, he had seen people trying to walk by who went into the street which created a liability. He stressed the need to abide by the ordinance.



Commissioner Yount stated he had seen this item come before Council several times in the past. Mayor Lawrence agreed, as did Mr. Vrikkas the owner of Final Touches.

Town Manager Fogleman explained this particular episode of discussing outdoor display was directed by Council in order to link sandwich boards and outside display together to see if an ordinance amendment was needed to better regulate the two. He said due to Council's previous decision regarding sandwich boards, he questioned if that decision would affect outside display as well.

Ms. Paige Griffin of The Guided Lilly said that it was difficult to place outside display within a two (2) foot area; she felt three (3) feet should be allowed. She also stated that outdoor display was vital to businesses in Town and that businesses would want to keep their displays neat and tidy due to the reflection it would have on their business and that outside display softened the look of Main Street during the winter months.

Town resident Alice Roess agreed with Ms. Griffin's comments and was in favor of allowing three (3) feet for outside display.

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

Commissioner Matheson then made a motion to approve the ordinance amendment regarding outside display as presented, seconded by Commissioner Pickett. Unanimously approved. **Ordinance Amendment – Outside Display Ordinance #2014-33 – Exhibit E**

## **DISCUSSION AGENDA**

### **1. Consideration of CUP #2010-03 Minor Amendment for Foggy Rock Restaurant**

Planning Director Rothrock stated a request had been received from Mr. Burt Myers owner of Foggy Rock restaurant for a minor amendment to the conditional use permit to replace the existing shingle roof with a metal roof. Also, Mr. Myers planned to remove the existing siding and replace it with weathered oak barn siding.

According to Planning Director Rothrock, the Land Use Ordinance was changed in June 2014 to allow metal roofing, but the ordinance limited metal roofing to 25% of the roof structure on commercial buildings unless approved by Council. Mr. Myers is proposing to replace the entire roof structure with metal standing seam style roofing in a dark gray color which would complement the replaced siding color.

After a brief discussion, Commissioner Yount commented he thought the proposed changes would enhance the building's appearance and made a motion to approve the minor amendment as presented, seconded by Commissioner Pickett. Unanimously approved. **CUP #2010-03 Foggy Rock Restaurant - Minor Amendment – Exhibit F**

Commissioner Matheson also suggested to Mr. Myers that snow guards be placed on the metal roof.

## **2. Bid Consideration and Appropriation for Road Repairs on Quail Hollow**

Town Engineer Doug Chapman stated that on August 29, 2014, two (2) informal proposals were received for repairs to roadway issues on Quail Hollow and Laurel Park Road. Waters Brothers Construction Company of Boone, Inc. was the lowest responsive, responsible bidder with a lump sum of \$52,130.00 and \$20,426.75 respectively. Bids from J.D. Hampton Company of Boone were \$89,960.00 and \$33,593.00 respectively. The project on Quail Hollow includes the repair of the failing roadway with placement of imported soil materials, drainage pipe extension, surface stabilization, pavement patching, addition of asphalt curbing down to the existing sewer pump station, and all related appurtenances. The project on Laurel Lane includes installation of gabion baskets, placement of imported soil materials, replacement of catch basin and drainage cross culvert, surface stabilization pavement patching, and all related appurtenances.

Mr. Chapman advised the work would begin in approximately two months on Quail Hollow, but there were new homes being built on Laurel Park Road and it would be best to wait to start the repairs in that area.

Commissioner Sweeting questioned the last time Quail Hollow had been repaired. Mr. Chapman stated there was an area that had failed due to storm damage that was repaired earlier in the year; however, this slide was not due to storm damage and no grant funding would be available.

Commissioner Yount mentioned the slide on Laurel Park needed to be watched closely until the repairs were made.

Commissioner Sweeting made a motion to approve the Quail Hollow Road repair as presented and to postpone the Laurel Park Road repair until a later date, seconded by Commissioner Yount. Unanimously approved. **Budget Amendment Ordinance #2014-34 – Exhibit F**

## **3. Bid Consideration & Appropriation for Tennis Court Stabilization Project**

Town Engineer Doug Chapman advised that on August 29, 2014, three (3) informal proposals were received for installation of retaining walls at the rear of Memorial Park near the tennis courts and the existing parking area. Bids received were from Mountain Crest, LLC., Brushy Mountain Builders, and Country Boy Landscaping, in lump sum base bid amounts of \$68,205, \$74,500, and \$151,995 respectively. The project includes replacement of the existing wood retaining wall by the parking area, removal of the existing dumpster, installation of new retaining walls at the corner of the tennis courts, drainage piping, and related appurtenances. According to Mr. Chapman, the prices for these repairs are above budget for the project and staff had worked with Mountain Crest, LLC. to cut items in order to reduce the overall costs.

Mr. Chapman recommended that Council postpone this project until further discussion with Mountain Crest, LLC. Town Manager Fogleman also mentioned that existing Town resources could be utilized to keep the situation from worsening until this item could be revisited next spring.

**4. Consideration of the Approval of Preliminary Plans for the Public Works Shop Capital Improvement Project**

Town Engineer Doug Chapman stated that during their annual retreat, Council discussed the need for an improved Public Works facility. During the budget process for FY 2014-2015, Council approved moving forward with this process. Since receiving approval, McGill Associates, Icard Architects and Town Staff had been working to develop plans for the proposed improvements according to Mr. Chapman. The improvements include a 5,000 square foot addition to the existing maintenance building, construction of a 2,400 covered vehicle/equipment storage area, as well as demolition and site improvements.

Mr. Chapman then reviewed the planning process in more depth and showed a power point presentation of the proposed improvements. After the presentation, Mayor Lawrence and members of Council agreed the plans looked good and the improvements were greatly needed.

Town Manager Fogleman asked for Council's feedback regarding the roof for the new Public Works facility being metal. It was the consensus of Council that a metal roof would be the most cost effective.

**SPEAKERS FROM THE FLOOR**

None

Commissioner Yount made a motion to enter into Closed Session pursuant to NC General Statutes 143. 318.11(6) and 143.318.11(a)(5) seconded by Commissioner Sweeting. Unanimously approved.

At this time, a short recess was taken and Closed Session was entered into at 8:05 p.m.

**ADJOURN**

Council reentered their regular meeting at 8:45 and with no further business to discuss, the meeting was adjourned.

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

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

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

Proclamation Naming September as Hunger Action Month in Blowing Rock – Exhibit A

Resolution #2014-08 – Exhibit B

Resolution #2014-09 – Exhibit C

NCDOT Supplemental TIP Agreement – Exhibit D

Ordinance Amendment – Outside Display – Ordinance #2014-33 – Exhibit E

Budget Amendment Ordinance #2014-34 – Exhibit F