

Town of Blowing Rock

Request for Council Action

FROM: Nicole Norman, Finance Officer
SUBJECT: Comprehensive Financial Policy Update
TO: Town Council
DATE: March 13, 2018
REQUESTED BY: Town Manager

Public Hearing Yes No Will be required
Properly Advertised Yes No Will be required

BACKGROUND: Currently there is no formal Town policy in place that outlines a guideline for the refund and collection of miss paid occupancy taxes. This revision to the Comprehensive Financial Policy will allow for uniform administration of occupancy tax collections. The statute of limitations for occupancy tax collections allows for a maximum of 10 years collection of unpaid taxes, however leaves it up to the municipality's discretion. The statutes speak similarly for the refund of Occupancy Taxes, leaving it up to each municipality's discretion.

Staff proposes a middle ground of five years to collect Occupancy taxes found to be due that were not paid and the same period of time for taxes that have been paid in error and are eligible for refund.

STATEMENT OF PLAN CONSISTENCY: N/A

ATTACHMENTS:

1. Draft Comprehensive Financial Policy with updates highlighted in yellow on page 9.
2. Email from Christopher B McLaughlin, Associate Professor of Public Law & Government, NC School of Government, with guidance on the issue.

STAFF RECOMMENDATIONS: Staff proposes a middle ground of five years to collect Occupancy taxes found to be due that were not paid and the same period of time for taxes that have been paid in error and are eligible for refund.

COUNCIL ACTION:

Town of Blowing Rock Comprehensive Financial Policy

The Town of Blowing Rock Comprehensive Financial Policy serves as the basis for the overall fiscal management of the Town's resources. These policies guide Town Council and Administration in making sound financial decisions and in maintaining Blowing Rock's fiscal stability. Many of the policies outlined here are derivatives of the Local Government Budget and Fiscal Control Act. Other policies were developed by the Town to address specific financial issues in Blowing Rock.

I. Objectives

- A. To link long-term financial planning with short-term daily operations.
- B. To maintain the Town of Blowing Rock's ("The Town") stable financial position.
- C. To ensure that Council's adopted policies are implemented in an efficient and effective manner.
- D. To protect the Town from emergency fiscal crisis by ensuring the maintenance of service even in the event of an unforeseen occurrence.
- E. To secure the highest possible credit and bond ratings by meeting or exceeding the requirements of bond rating agencies through sound, conservative financial decision making.

II. Operating Budget Policy

It is the Town's policy that the operating budget be prepared in accordance with Generally Accepted Accounting Principles. The Town's annual budget shall be adopted by July 1 and shall cover a fiscal year period beginning July 1 and ending June 30.

A. Revenue Policy

The Town seeks to implement a diversified taxing policy that will ensure reasonable stability for operation at continuous service levels, but that will provide elasticity necessary for responding quickly to increased service demands. Revenue management includes within its focus, an ongoing process for reviewing and analyzing each revenue source to ensure that proceeds from each source are at an optimum level. Revenue estimates shall be set at realistic and attainable levels and shall be updated and revised as needed. Every attempt will be made to project revenues within 5% of final actual results, and the projections will be based on historical trends, growth patterns, and the economy. To meet these objectives the Town observes the following guidelines:

1. Ad Valorem Tax

As provided by the North Carolina Local Budget and Fiscal Control Act, estimated revenue from the Ad Valorem Tax levy will be budgeted as follows:

- a. Assessed valuation will be estimated based on historical trends, growth patterns, and in a conservative manner.
- b. The estimated percentage of collection will not exceed the percentage of the levy actually realized in cash as of June 30 during the preceding fiscal year, in accordance with state law.
- c. The tax rate will be set each year based on the cost of providing general governmental services and paying debt service. Consideration will be given to future net revenue requirements for capital improvement project operational expenditure impacts and planned debt service.

2. User Fees

The Town sets fees that will maximize user charges in lieu of Ad Valorem Taxes for services that can be individually identified and where the costs are directly related to the level of service (i.e., water and sewer, building and zoning, and recreational programs). This objective is in keeping with the Council's goal that growth should pay for itself, and not place a burden on current residents who do not use the service. Emphasis of user charges over Ad Valorem Taxes results in the following benefits:

- a. User charges are paid by all users, including those exempt from property taxes.
- b. User charges avoid subsidization in instances where the service is not being provided to the general public.
- c. User charges are a means of rationing the provision of certain services.
- d. User charges for certain services can be justified on the basis of equity and efficiency, by producing information on the demand level for services and by helping to make the connection between the amount paid and the service received.

3. Grant Funding

Grant funding may be used for a variety of purposes including 1) current Town operations, 2) a departmental long-range plan, 3) a capital project identified in the Capital Improvement Plan, 4) regulatory requirements, or 5) opportunities to address the mission and goals of the Town. Staff will pursue opportunities for grant funding. Application will be made after a grant is evaluated for consistency with Council goals and compatibility with Town programs and objectives. Generally, all grants over \$1,000 pursued by the staff of the Town of Blowing Rock will be presented to Council for consideration before application is made. Any deviation from this policy must be authorized in advanced by the Town Manager. However, if any deviation is authorized, any awarded funds will be accepted only after Council review and action.

4. Utility rates

Utility rates will be reviewed annually considering net revenue requirements, realistic sales forecasts, contractual obligations including bond covenants, and utility conservation goals. Revenue requirements may include funds programmed for rate stabilization, utility capital projects, and reimbursement of indirect costs to the General Fund. Rates will be structured to meet conservation program goals with consideration for customer acceptance and reasonable efficiency in utility billing and collection administration.

The Town will strive to ensure that the water/sewer enterprise fund is financially self-sufficient.

5. Other Revenue

All other revenue will be programmed through the annual budget process to meet Town Council's goals and objectives.

B. Expenditure Policy

1. Budget Management:

Expenditure budgets are reviewed by staff, the Town Manager, and Town Council prior to adoption and are continually monitored throughout the budget year. Budgeted

funds will only be spent for categorical purposes for which they were intended. The annual operating budget ordinance defines staff authorization for operating budget adjustments. No appropriations of the proceeds of a debt instrument will be made except for the purpose for which such debt instrument was issued. Donations will be spent only toward the intent for which they were given.

2. Fiscal Management:

Current operating expenditures will not exceed current operating revenues.

3. Continuing Contracts:

For continuing contracts, funds will be appropriated in the annual budget ordinance to meet current year obligations arising under the contract, in accordance with G.S. 160A-17.

4. Payroll:

Payroll will be in accordance with the requirements of the Fair Labor Standards Act. Overtime and benefit payments will be made in accordance with the Town's Personnel Policy.

5. Nonprofit Funding:

It is the Town's policy not to fund requests from outside organizations which provide social services or services which are County-wide in scope. The Town will review the financial position of nonprofit corporations or organizations receiving funding to determine the entity's ability to carry out the intended purpose for which Town funding was granted. For organizations receiving \$1,000 or more in any fiscal year, the Town may require the nonprofit to have an audit performed for the fiscal year in which the funds are received and to file a copy of the audit with the Town.

C. Reserve Policy

1. Reserve for State Statute:

The Town will comply with current state statute requirements for maintaining appropriate levels of fund balance.

2. Unassigned Fund Balance:

The Town recognizes the importance of maintaining an appropriate level of unassigned fund balance. A healthy fund balance can be utilized to avoid cash-flow interruptions, generate interest income, eliminate the need for short-term borrowing, assist in maintaining an investment-grade bond rating, provide funding flexibility for unanticipated needs and opportunities and sustain operations during unanticipated emergencies and disasters.

After evaluating the Town's operating characteristics and historical trends, diversity of tax base, reliability of non-property tax revenue sources, State and local economic outlooks, growth patterns and future funding needs, the Town establishes the following goals regarding the unassigned fund balance of the General Fund. The Town will work to achieve an unassigned fund balance in an amount equal to 50% of the Town's General Fund Budget, i.e., an amount equal to 6 months operating expenses from the then current operating budget. Once the Town achieves its goal an unassigned fund balance, equal to 50% of the Town's General Fund Budget, any excess funds shall be earmarked for capital reserve purposes. For example, by utilizing excess fund balance for capital improvements, the Town will reduce the need

to incur long-term debt and will avoid creating an operating funding gap for subsequent fiscal years.

This policy recognizes the financial importance of a stable and sufficient level of the unassigned fund balance. However, the Town reserves the right to appropriate funds from the unassigned fund balance for emergencies and other requirements the Town believes to be in the best interest of the Town.

3. Contingency Reserve

The Town may establish a contingency operating reserve to provide for unanticipated expenditures of a nonrecurring nature or to meet unexpected increases in service delivery costs. This contingency reserve in any of the Town's operating funds shall be limited to less than 5% of that fund.

D. Interfund Transfers

1. The Town may transfer cash from enterprise funds to general government funds only after operating expenses, capital outlay and debt service obligations of the enterprise have been met.
2. Interfund transfers are allowed for the allocation of direct or indirect costs of services rendered by one fund to another.

III. Capital Improvement Policy

A. Capital Improvement Plan

1. The Town will update and re-adopt annually a five-year capital improvement plan ("CIP"), including a five year projection of capital needs and expenditures which details the estimated cost, description and anticipated funding sources for capital projects. The plan will include costs that have been estimated including consideration for inflation. The inflation rate will be determined annually in the budget process.
2. The first year of the five-year CIP will be the basis of formal fiscal year appropriations during the annual budget process. If new project needs arise during the year, a budget amendment identifying both the funding sources and project appropriations will be utilized to provide formal budgetary authority for the subject projects. The Capital Improvement Plan will generally address those capital assets with a value of more than \$5,000 and a useful life of over three (3) years.
3. The CIP will be tied to the Town's Comprehensive Plan, to ensure that the capital items requested meet the future growth needs for the City.
4. The Town will emphasize preventive maintenance as a cost-effective approach to infrastructure maintenance. Exhausted capital goods will be replaced as necessary.
5. Restricted revenue sources will be utilized whenever possible before unrestricted sources.

B. Capital Formation

1. Financing Sources:

The Town acknowledges pay-as-you-go financing as a significant capital financing source, but will ultimately determine the most appropriate financing structure for each capital project on an individual basis after examining all relevant factors of the project. Fund balances in excess of aforementioned guidelines may be used as a capital source for pay-as-you-go financing.

2. Capital Reserve Funds:

Capital Reserve Funds will be utilized whenever possible as one of the capital sources for pay-as-you-go financing in meeting the Capital Improvement Plan.

3. Transfers:

Capital funding provided by transfers from another fund will be programmed to specific capital projects or programs.

C. Debt Management

1. Use of Debt:

Debt will be used to finance large projects that provide value to future citizens and will not be used to finance current expenditures. Generally, only construction and equipment acquisition costs will be debt funded. In most cases, land acquisition and design costs will not be funded by debt.

2. Term:

Capital projects financed through the issuance of bonds will be financed for a period not to exceed the expected useful life of the project.

3. Statutory Limits:

In compliance with North Carolina General Statutes, the general obligation debt of the Town will not exceed eight percent of the assessed valuation of the taxable property of the Town.

4. Debt Capacity:

The Town will strive to maintain debt funding flexibility to maximize capacity for both identified and unanticipated capital needs and opportunities.

5. Capitalized Interest:

Interest expense will be capitalized only for facilities of enterprise activities and will be strictly limited to those expenses incurred during construction of the facilities.

6. Debt Issuance:

The Town will seek the best financing type, debt structure and timeframe for each financing need based on the flexibility to meet the project needs, timing, tax or rate payer equity and most favorable interest cost.

7. Bond Ratings:

The Town will continue to strive for the highest possible bond rating to minimize the Town's interest expenses.

IV. Accounting/Financial Reporting Policy

- A. The Town will establish and maintain its accounting systems according to the North Carolina Local Budget and Fiscal Control Act. Financial systems will be maintained to monitor expenditures and revenues on a monthly basis.
- B. The data on the computerized financial accounting system, including utility billing, shall be backed up to an offsite data base or archive tape on a daily basis. Upon completion of the month-end close, an archive tape shall be made and stored in a secure location, or back-up may be done through an offsite database.
- C. All records and reporting will be in accordance with Generally Accepted Accounting Principles.

The basis of accounting within governmental funds types is modified accrual. Under this method of accounting, revenue is recorded when measurable and available. All Enterprise Funds follow the accrual basis of accounting. Under this method of accounting, revenues are recognized when earned and expenditures are recorded when incurred.

- D. The Town will place emphasis on maintenance of an accounting system, which provides strong internal budgetary and accounting controls. The system will be designed to provide - reasonable assurance regarding both the safeguarding of assets against loss from unauthorized use or disposition, reliability of financial records for preparing financial statement and reports, and maintenance of accountability of assets.
- E. An annual audit will be performed by an independent public accounting firm, which will issue an opinion on the annual financial statements, with a management letter detailing areas that need improvement if required. Auditing services will be evaluated and selected through a competitive proposal process. The Council will review the auditor relationship at least every five years.
- F. Full disclosure will be provided in all regulatory reports, financial statements, and bond representations.
- G. The Town will establish and maintain an inventory of fixed assets to account for the Town's property. Reports of these inventories and depreciation of all fixed assets will be made in accordance with current governmental accounting standards.
- H. The Town will maintain sub-funds, in addition to legally mandated funds, for accounting and management purposes only.

V. Cash Management Policy

The purpose of the Town's Cash Management Policy is to provide guidelines to maximize the use of public moneys in the best interest of the public.

- A. Receipts
 - 1. Cash receipts will be collected as expediently as reasonably possible to provide secure handling of incoming cash and to move these moneys into interest earning accounts and investments.
 - 2. All incoming funds will be deposited daily as required by law. Deposits will be made in such a manner as to receive credit for that day's interest.

B. Cash Disbursements

The Town's objective is to retain moneys for investment for the longest appropriate period of time.

1. Disbursements will be made shortly in advance of or on the agreed-upon contractual date of payment unless earlier payment provides a greater economic benefit to the Town.
2. For Town checks, two (2) signatures will be required. Checks may be signed by two (2) of the following: Finance Director, Town Manager, Town Clerk, Mayor or Mayor Pro-tem.

C. Banking Relations

1. Banking service providers will be evaluated and selected through a competitive proposal process.
2. Council will review the banking relationship at least every five years.
3. The Town will maintain a minimum number of bank accounts to facilitate the movement and investment of funds.
4. Collateralization for deposits will be in accordance with Title 20, Chapter 7 of the North Carolina Administrative Code.

D. Investment Policy

1. It is the policy of the Town to preserve capital and invest public funds in a manner which provide the highest investment return with the maximum security while meeting the daily cash flow demands of the Town and conforming to all state and local statutes governing the investment of public funds.
2. This investment policy applies to all financial assets in the Town's investment portfolio including debt proceeds.
3. The primary objectives, in priority order, of the Town's investment activities will be safety, liquidity, and yield.
 - a. Safety of principal is the foremost objective of the investment program. Investments of the Town will be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. To attain this objective, diversification is required in order that potential losses on individual securities do not exceed the income generated from the remainder of the portfolio.
 - b. The Town's investment portfolio will remain sufficiently liquid to enable the Town to meet all operating requirements which might be reasonably anticipated through the use of structured maturities and marketable securities.
 - c. The Town's investment portfolio will be designed with the objective of attaining a market rate of return while minimizing risk and retaining liquidity.
4. North Carolina G.S. 159-25(a)6 delegates management responsibility for the investment program to the Finance Director. The Finance Director will establish and maintain written procedures for the operation of the investment program consistent with this investment policy. Such procedures will include explicit delegation of authority to persons responsible for investment transactions. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the Finance Director and approved by the Town Manager.

The Finance Director will be responsible for all transactions undertaken and will establish a system of controls to regulate the activities of subordinates.

5. Officers and employees involved in the investment process will refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions. Employees and investment officials will disclose to the Town Manager any material financial interests in financial institutions that conduct business within this jurisdiction, and they will further disclose any large personal financial/investment positions that could be related to the performance of the Town's portfolio.
6. North Carolina G.S. 159-30 (b) and (c) lists the types of investments permitted by local governments. The Town of Blowing Rock shall conform to the statute.

The Town's preferred method of investment is through the North Carolina Capital Management Trust (NCCMT) pool. The NCCMT is a mutual fund arrangement, which pools the resources of its shareholders for reinvestment in a diversified portfolio of securities. This type of investment is typically liquid, while offering a rate of return comparable to longer-term investments. The NCCMT has been certified by the Local Government Commission.

The Town will seek to maintain at least 50% of the investment portfolio in the NCCMT pool.

7. It is the Town's full intent, at the time of purchase, to hold all investments until maturity to ensure the return of all invested principal dollars. However, economic or market conditions may change, making it in the Town's best interest to sell or trade a security prior to maturity.
8. All moneys earned and collected from investments other than bond proceed earnings will be allocated monthly to various fund amounts based on the month's average cash balance in each fund as a percentage of the entire pooled portfolio. Earnings on bond proceeds will be directly allocated in accordance with bond legal and contractual restrictions.
9. The Finance Director is charged with the responsibility of preparing a monthly investment inventory report for the Town Manager which includes investment types, cost, market value, maturity date, yield and average portfolio yield.

VI. Purchasing and Contracting Policy

- A. A preaudit certificate, signed by the Finance Director, will appear on any contract, agreement, or purchase order before it becomes an obligation of the Town, in accordance with G.S. 159-28(a).
- B. All purchasing will be in accordance with general statutes. The purchasing process will be a hybrid system of responsibility shared by the requesting department and the Finance Department.
- C. The Town will participate in a program that allows for the opportunity to purchase under state contracts and in cooperative agreements with other governmental units.
- D. Encumbrance accounting will be used to the extent necessary to assure effective budgetary control and accountability and to facilitate effective cash planning and control.
- E. The Town's cost estimates for construction and repair and procurement of goods and services will be confidential prior to bidding and are subject to all of the provisions contained in G.S. 133-33.

- F. Surplus property will be disposed of in accordance with State Statute. Before any final disposition is made, the Town Manager will notify other departments of the availability of any excess items considered fit for possible re-utilization.
- G. Expenditures of capital outlay funds for the purchase of budget approved equipment, furniture and vehicles will be approved by the Town Manager.
- H. Procurement of services contracts with architectural, engineering and surveying services will be in accordance with general statutes.
- I. Contracts authorized by Council, either through direct award or budget authorization may be executed by the Mayor or Town Manager. Subsequent orders changing the original contract which do not exceed the approved cost of the contract will be executed by the Mayor or Town Manager.
- J. The Town will make a good faith effort to solicit minority business participation in accordance with G.S. 143-128
- K. Inventory will be maintained at a level which ensures that essential items are immediately available and that non-essential items are available immediately or within a timely basis. Inventories and supplies will be maintained at minimally appropriate levels for operations to increase cash availability for investment purposes. Inventory levels will be audited through physical counts at least once per year.

VII. Utility Billing and Collections

This item is addressed and regulated pursuant to Chapter 14 – Utilities of the Blowing Rock Town Code.

X. Maintenance of Fiscal Policy

- A. The Town of Blowing Rock Financial Policy will be updated and submitted for Council approval at least every five (5) years.
- B. All policy statements contained in this document supersede any existing or former financial Town financial policies.

XI. References

Other financially related Town Policies include: TBA

XII. Occupancy Tax Refunds and Retro Collections

- A. The Town of Blowing Rock will refund excess occupancy taxes paid in error by remitters for the period of time the error occurred, not to exceed five (5) consecutive years. Any occupancy taxes not paid that were found due would be collected retroactively for the period of time the error was being made, not to exceed five (5) consecutive years.

Adopted on February 8, 2005
 Amended on June 12, 2007
 Amended on November 21, 2011
 Amended on March 13, 2017

Nicole Norman

From: Mclaughlin, Christopher B <mclaughlin@sog.unc.edu>
Sent: Wednesday, January 24, 2018 5:03 PM
To: Nicole Norman
Subject: RE: Blowing Rock Occupancy Tax Questions

Nicole, state law does not answer that question. It is up to the town to decide how many years it will pursue back taxes. The maximum number of years a town could choose to pursue back taxes is 10, given the 10-year statute of limitations that applies to the attachment & garnishment and levy & sale enforced collection remedies under 105-378.

The town also needs to decide how many years of refunds (if any) it will provide if a taxpayer proves that it overpaid the tax in prior years.

Chris



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From: Nicole Norman [mailto:Finance@townofblowingrocknc.gov]
Sent: Wednesday, January 24, 2018 3:30 PM
To: Mclaughlin, Christopher B <mclaughlin@sog.unc.edu>
Subject: RE: Blowing Rock Occupancy Tax Questions

Hi Chris, thanks for the info. below regarding Occupancy Tax. Can you answer another question for me that is related? If it is discovered that an entity owes additional occupancy tax to the Town (such as in the case that an entity has been paying 3% of sales instead of 6%), how far back would they pay the difference that should have been paid?

Thank you for your help!

Nicole

From: Mclaughlin, Christopher B [mailto:mclaughlin@sog.unc.edu]
Sent: Thursday, January 11, 2018 10:07 AM
To: Nicole Norman <Finance@townofblowingrocknc.gov>
Subject: RE: Blowing Rock Occupancy Tax Questions

Please see below.

Christopher B. McLaughlin