

MINUTES
Town of Blowing Rock
Town Council Meeting
August 13, 2019

The Town of Blowing Rock Town Council met in regular session on Tuesday, August 13, 2019, at 6:00 p.m. The meeting took place at Town Hall located at 1036 Main Street, Blowing Rock, N.C. Present were Mayor Charlie Sellers, Mayor Pro-tem Albert Yount and Council Members Jim Steele, Sue Sweeting, Doug Matheson and Virginia Powell. Others in attendance were Town Manager Shane Fox, Town Attorney Allen Moseley, Town Engineer Doug Chapman from McGill Associates, Interim Public Works and Utilities Director Matt Blackburn, Interim Police Chief Aaron Miller, Planning Director Kevin Rothrock, Building Inspector John Warren, and Town Clerk Hilari Hubner who recorded the minutes.

CALL TO ORDER

Mayor Sellers called the meeting to order at 6:00 p.m. and welcomed everyone.

THE PLEDGE OF ALLEGIANCE

REGULAR AGENDA ADOPTION

Council Member Steele made a motion to adopt the agenda, seconded by Council Member Powell. Unanimously approved.

CONSENT AGENDA

Martha J. Sumrell Tax Release **Tax Release #2018-12 – Attachment A**

Council Member Sweeting made a motion to approve consent agenda as presented, seconded by Council Member Matheson. Unanimously approved.

MINUTE APPROVAL

Council Member Matheson made a motion to approve the minutes from the July 9, 2019 Regular Council Meeting, seconded by Council Member Powell. Unanimously approved.

SPEAKERS FROM THE FLOOR

Mr. Greg Tarbutton with Chetola Resort thanked Mayor and Council for allowing him to speak. He explained he wanted to talk about a topic that hasn't been addressed which is the "power grab" the world's largest short rental company is doing. He believes, like many others, that the people who should be making decisions on the rules, regulations and zoning for the Town of Blowing Rock are the Council Members. Mr. Tarbutton advised this has become an issue around the world and the Council was entrusted by the people to make decisions and this power is unjustly been seized. His suggestion is this board get together with the North Carolina Association of Mayors, North Carolina Municipal Association, North Carolina Commissions Association and petition our state

and federal representatives to seek a national consensus that states firmly that the power to regulate cities, towns and villages belongs to the officials the people have elected.

Mayor Sellers thanked Mr. Tarbutton for his input.

PRESENTATION

Maurice Ewing gave a presentation for a benefit event that will be held on September 21st at the Broyhill Equestrian Preserve.

PUBLIC HEARING

Planning Director Kevin Rothrock advised Lisa Harris, Paul Armbruster, Patsy Ebert, Cherry Point Properties, LLC, Dennis Dagenhardt and Andrew Allison are requesting a conditional rezoning of their three properties from R-15, Single-family to CZ-R-6M, Multi-family with a short-term Overlay District. The applicants are requesting the zoning change with the overlay district to allow short-term rental.

The Applicant has provided conditions and stipulations for short-term rentals that would be conditions of the rezoning if approved.

Other specific conditions in the ordinance include:

- Limited property uses to single-family with short-term rental allowed.
- Can use setback standards of R-6M, 25 ft street setback and 8 ft sides and rear.
- All parking spaces must be provided for each bedroom to be rented.
- 911 Addresses posted to meet Town Code.
- Construction authorized through zoning permits.

The Applicant Proposed Conditions:

- A zoning permit must be initially obtained for each dwelling unit that is to be rented for a minimum weekly or 7-night period. The zoning permit for Hybrid medium term (7 night) rental must be renewed annually through the Planning and Inspections office by paying any required fee and requesting an inspection. The permit is not valid until a satisfactory inspection is completed.
- A local contract person and/or management company must be listed and available to respond to complaints or emergencies within two hours.
- Sufficient off-street parking must be provided for each bedroom to be rented. The parking space must meet the minimum dimensional requirements in Section 16-20.6
- Adequate trash and recycling containers must be provided. Collection containers should be kept in a discreet location or in an enclosure bin. The bin must meet minimum design standards defined in the Town code (ex. Placed in opaque screening bins at least four feet high etc. Because of the sensitive nature of the Hybrid Zone which includes residential residences, trash must necessarily be removed after each tenant or on a weekly basis if tenants are staying more than seven (7) days. In addition, it is recommended that guests are aware that they can call for additional trash removal if needed by contracting the owner/property

manager by phone or text. This would be a private trash pick up and not the responsibility of the regular Town trash pickup.

- The dwelling unit must be equipped with operable smoke and carbon monoxide detectors consistent with the NC Building Code. Fire extinguishers must be placed in a obvious location near each kitchen, fireplace or wood stove and on each floor of the residence.
- The 911 address must be posted on the front of the house of dwelling unit with 3.5-inch reflective numbers (six (6) inch reflective number if commercial or multi-family) or on the property according to Section 7-17 of the Town Code. The 911 addresses must be clearly posted in the interior of the dwelling unit to notify tenants in case of emergency. Other emergency numbers for the fire department and police.
- Permits may be revoked upon repeated substantiated complaints resulting in violations of the Town Code rented as to noise, trash, pets, parking etc. If the Town receives three (3) complaints within one year that lead to violations of the Town Code, the permit may be revoked for a period of one (1) year.
- Occupancy taxes must be paid in a timely manner on a monthly basis and are due by the 20th of each month after the occupancy by the tenants.
- No parties, excessive noise or events of any kind are allowed.
- In order to maintain property values the new Conditional Hybrid Zone medium term rental has to be kept and maintained to the highest condition in terms of maintenance of the property both inside and out.
- Maximum occupancy will be determined by the amount of bedrooms and is not to exceed the number of tenants that can be housed in beds/sofa beds. No additional temporary bedding including air mattresses etc., are allowed. "Pack and Play's: provided by the guests are permitted for toddlers or infants to provide temporary sleeping arrangements.
- Damage insurance including property and liability insurance must be maintained on the property of the safety of both tenants and landlord.
- A signed lease agreement will be obtained for each tenant, as well as guests background information such as driver's license and current status/ratings as provided by VRBO.
- Minimum rental age is 27 years.

Mayor Sellers asked Mr. Rothrock if the 27 years old stipulation could be enforced. Mr. Rothrock advised it's a condition proposed by the applicant. Council Member Sweeting asked if a parent could rent the property under their name for someone under the age requirement. Mr. Rothrock advised that would be a question for the applicant.

Council Member Matheson asked Town Attorney Alan Moseley if he had reviewed the applicant's conditions. Mr. Moseley advised he had and felt the 27-year-old age requirement might be difficult to enforce, but it's the property owners' condition.

Council Member Matheson asked Mr. Moseley what would happen if the property sold. Mr. Moseley explained the conditions will be recorded at the register of deeds office and

will run with the property. He further advised a new owner would not be required to rent the property, but if they did these conditions would still be in effect.

Mayor Pro-Tem Yount commented if the property owner doesn't like what the rules are, they should not have bought the property.

Mayor Pro-Tem Yount asked Mr. Rothrock if this property was basically a hybrid. Mr. Rothrock advised he would call it that. Conditional zoning you have some lead way with how you define it. He explained this is a zoning district in its own. Mayor Pro-Tem Yount further asked if Council was on solid ground to prove a hybrid. Mr. Rothrock restated this is a zoning district in itself and any conditions the owners impose are enforceable. Mayor Pro-Tem Yount asked if it was legal and Town Attorney Moseley advised it was.

Council discussed hypothetical options for other areas and asked Mr. Rothrock if they could make the same request if they wished too. Mr. Rothrock advised if it were unique enough.

Mr. Rothrock advised this property is unique because it is separated by a US Highway, it's adjacent to other R6 zoning with a restaurant and across the street is a country club/fitness center.

Council further discussed some hypothetical scenarios with other areas requesting similar conditions to their properties.

Town Attorney Moseley reiterated if approved these conditions would be recorded with the register of deeds and anyone doing title work on this property will find this when they search the title for the property.

Council Member Powell advised Council would be giving the property owners something special if they were to give them this. She further advised the property owners knew when they bought the property this wasn't allowed.

Mayor Sellers asked Mr. Rothrock to state again for the record what makes this property unique.

1. Bordered by a four lane US Highway
2. The rear of the property is bordered by 300 acers of vacant, difficult to develop land
3. The properties are adjacent to existing R6M zoned property with a restaurant
4. Across the street from other R6M zoned property where the country club is located along with some other multi-family uses in that corridor
5. On the west side it is bordered by a piece of property that DOT owns

Mr. Rothrock advised these are some of the major elements that make this property unique.

Council Member Powell asked Mr. Rothrock to remind how many people that were caught renting illegal when the letters went out and how many neighbors were in support. Mr. Rothrock advised six appealed to Board of Adjustment. Applicants Lisa Harris and Paul Armbruster were in violation, appealed to Board of adjustment and lost their appeal. Mr. Rothrock advised the applicant this was the only other step he could think might work.

Mayor Sellers asked for Public comment.

The applicants Mr. Armbruster and Ms. Harris advised when they started the process some of the other homeowners around them wanted to join in and rent their homes. Mr. Armbruster advised their home is a high-end home and is priced for an older, matured renter. He further advised they are very strict on how their rental process is run and that they have a 5-star rating on VRBO.

Ms. Harris advised they are currently renting 28 days and are doing very well. She stated they maintain their property and their property value. Ms. Harris further stated they wanted to be good stewards of the Village and do the right thing. Ms. Harris explained they wanted to allow the opportunity for people to enjoy the Village.

Ms. Neal Orgain 181 The Pines advised she lives right across the street from these properties. She further advised her, and her husband are very much opposed to the rezoning of these properties. Ms. Orgain explained when they bought ten (10) years ago they were trying to be in the Blowing Rock community. She further explained Hwy 321 is the gateway to Blowing Rock and allowing rental properties causes an uncertainty of who may rent those properties.

Ms. Orgain advised the proposed area is not big enough for that many cars, having cars go in and out though out the day etc. She further advised a 28-day renter is going to treat the property more like a home while a short-term renter could bring anything. Ms. Orgain stated she was very concerned allowing short term rental to that area could cause her property value to decrease. She concluded the Town made the decision a while ago for the 28-day rentals and although the state could make a decision to change, she felt it was best to leave it the way it is currently.

Lynda Lasseter 559 Morningside Drive advised she thought Council Member Steele had made some good points. She stated, in her opinion, this could open a huge can of worms if this were to be allowed. Ms. Lasseter further stated she felt this would cause a wave of people to come before Council wanting other areas to be looked at for short term rentals as well. Ms. Lasseter restated she didn't think this should be allowed.

Karen Herterich 1930 Main Street stated in 1986 when she first came to Blowing Rock on vacation she rented one of these five parcels. Ms. Herterich advised she would like to speak in favor of these five (5) properties. She explained these properties, in her opinion, have a different set of rules that wouldn't be found in any other location in Town. These properties have unique features and doesn't feel that allowing these five (5) parcels to

rent short term would start a “revolution” of people wanting short term rentals in their neighborhoods.

Ms. Herterich stated people rent and then they buy. She further stated families don't want to stay in a hotel, they want to be able to have access to a kitchen and the amenities of home. Ms. Herterich explained the average collage kid doesn't want to rent in Blowing Rock. She further explained she lives in Charleston in the winter months and stated “you haven't lived until you have been near the short-term rentals of Charleston” with the hundreds of bachelor/bachelorette parties”. She further stated she has been able to see both sides. Ms. Herterich explained people don't take month long vacations anymore most only have time for a week-long vacation. Ms. Herterich restated she didn't see allowing short term rentals in this area starting a “revolution”.

Ms. Herterich commented that she wasn't sure what exactly the rules were regarding recusal and conflict of interest with voting but knew that Council Member Powell owns a short-term rental. Mayor Sellers explained the law regarding conflict of interest.

Mr. Tyler Bryson 168 Hilltop Way advised he wanted to speak to the comment of people buying these properties and knowing what it was zoned at the time of purchase. He asked Mr. Rothrock what the little white church at the end of Skyland Drive was zoned and what it is currently zoned. Mr. Rothrock advised it was zoned R15 and is now zoned conditional zoning, general business restricted to office use. Mr. Bryson advised this property is adjacent to neighborhoods, he understood the people's concerns, but there is a highway in front and a cliff in the back of the property. Mr. Bryson further advised there will be a different cliental renting these properties. Mr. Bryson advised for these five (5) properties he was in favor, he didn't think it would hurt the neighborhoods or the Town. He concluded by saying “what's it going to hurt”.

Council Member Powell advised her, and her family just returned from a trip to Yellow Stone. She explained they drove into the park through Jackson Hole, Wyoming and drove out into West Yellow Stone, Montana. With this they had two very different experiences, and explained her feeling was that like Blowing Rock it's due to planning. Blowing Rock is keeping its small town, village feel because of the zoning and planning rules. She stated Blowing Rock does have new short-term rental properties and she does own one of them. Her property is zoned for short term rentals, that is allowed and always has been, they knew when they purchased the property and therefore, they will never have to come before Council and make the request. She advised there are other properties that have been renovated and have become short term rental properties recently but are in areas where short term rentals are allowed. Council Member Powell advised the Town has “new inventory” where short term rentals are allowed, and the Town is not hurting for short term rentals in her opinion. She further advised the town has plenty of short-term rentals and named off all the hotels located in town. She restated the town is not hurting for inventory. Council Member Powell explained the applicant's stated they are having no issues renting for 28 days or more. In her opinion this is not needed and didn't feel it was fair to other property owners as it would take away from properties that are currently allowed to rent their properties short term legally.

Mayor Pro-Tem Yount asked Mr. Rothrock if the Planning Board had been presented all the information. Mr. Rothrock advised they had received everything Council received in their packet. Mayor Pro-Tem Yount further advised currently there are between 130 to 140 short term rental properties in town.

Council Member Matheson made a motion to close the Public Hearing, seconded by Council Member Sweeting. Unanimously approved.

Council Member Sweeting made a motion to deny the request for short term rentals on the five (5) parcels, seconded by Council Member Powell.

Discussion:

Council Member Steele stated a lot of things have changed in ten (10) years. The road use to be two (2) lanes and now is four (4) lanes. When the owners purchased their houses that wasn't an issue of whether or not they were going to rent or not, but over the past four or five years this is what the town has given them. He stated he concurred with others that this area has changed, and these property owners would like to have more flexibility to do what they wish with their property, but also they don't want to hurt anyone. Council Member Steele further stated he has not heard anyone say or demonstrate how these property owners having flexibility will hurt anyone. He hasn't heard any negative, but the positive he has heard is that if these properties can rent short term that is a source of revenue for the town. Council Member Steele reiterated this area is changing and if Council denies this he didn't understand what grounds they would be doing so because even if it's said that the Council will be setting a precedence he isn't sure where else on 321 where R15 could be.

Council Member Sweeting answered across the street and that she felt it would be setting a precedence and that others from there all the way down near Green Park Inn could decide to make the same request and that she felt it would be opening a huge can of worms to allow.

Council Member Steele advised he didn't understand how Council Member Sweeting could say that, she advised she was just stating her opinion as he did.

Council Member Steele and Sweeting discussed further.

Mr. Rothrock advised this is a unique and that Planning Board had stated the same thing in their recommendation.

Council Member Steele advised every time he makes a decision like this he the looks at the four stake holders of this town (people that live here full time, people that are seasonal residences, people who are visitors and business owners) and what impact the decision is going to have on them.

Council Member Sweeting advised these property owners can currently rent for a week at a time now, but they just can't rent again for 28 days if they were to do that. She explained in her opinion making this change would cause more trash, recycling, signage etc.

Council Member Matheson advised he felt the applicants had some great ideas on the proposed conditions. He explained the issue he had with the whole thing is he worried that allowing this would set a precedent. He further explained the negative impact he sees is hurting the property owners who are already renting their properties where it is allowed.

Mayor Sellers thanked Planning Board for their hard work and advised he would like to see more people go to the Planning Board meetings and speak.

Mayor Pro-Tem Yount asked Town Clerk Hilari Hubner to repeat the motion. Ms. Hubner repeated: Council Member Sweeting made a motion to deny the request for short term rentals on the five (5) parcels, seconded by Council Member Powell. Mayor Pro-Tem Yount asked for the Council to be polled. For the motion: Council Members Sweeting, Powell, Matheson and Mayor Pro-Tem Yount. Against the motion Council Member Steele. Motion passed.

AGENDA ITEMS:

1. Budget Amendment - #2019-08

Interim Public Works Director Matt Blackburn presented a proposed budget amendment to appropriate fund balance to complete drainage improvements associated with the Laurel Lane Drainage Improvement project proposed by the Public Works Department. Mr. Blackburn advised he suggested Council accept the bid from the lowest bidder, Tri-County paving in the amount of \$13,679.88.

Council Member Matheson stated in the near future he would like Mr. Blackburn to consider putting a guard rail in that location. Mr. Blackburn advised he was ready to order materials but backed off to wait and fix the drainage issue first.

Council Member Steele made a motion to approve the budget amendment, seconded by Council Member Matheson. Unanimously approved. **Budget Amendment #2019-08 – Attachment B**

2. South Side of Park Avenue Three Hour Parking – Discussion

Manager Fox advised there have been past discussions regarding Park Avenue on the North and South side. He further advised a side walk was constructed recently on the South side. The discussion to be had is whether to limit parking to three (3) hours, which is currently only on the North side, to also be on the South side.

Council Member Matheson stated he liked leaving it the way it currently is. For several reasons; it's a catch all place, a lot of schools and churches use it to park and access the

picnic area & park, staging area for tour buses, overflow for employees. He reiterated he liked it to be a catch all.

Council Member Sweeting advised employees are parking there and blocking it for businesses. She was thinking more for businesses to have access for the customers. She explained when she drives by in the morning the back-parking lot is empty and employees are parked on the street and felt they could be encouraged to use the back-parking lot as well as behind the old fire department. Council Member Sweeting advised she didn't know about the buses.

Council Member Steele advised the whole parking issue needs to be addressed at a meeting and not continue to be piece milled. He further advised he agreed with Doug about leaving that parking area for the buses.

After brief discussion it was the consensus of Council to table the discussion until the January Town Council Retreat.

3. Financial Report

Manager Fox gave the Financial report for July 2019. Council had no questions or concern.

OTHER BUSINESS

- Mayor Sellers – Thanked Public Works for their hard work repairing the numerous broken pipes they have had to endure. He further thanked all Town staff for all their hard work they demonstrate on a daily basis.
- Mayor Pro-Tem Yount – This short-term rental thing is trying to spin out of control nationally. The way he looks at it is it's a quality of life issue.
- Council Member Steele – The Town has to keep the ambiance and the culture intact because that is what people come to Blowing Rock for. Important to stay on top of the legislators.
- Council Member Sweeting - Currently a group in North Carolina Real Estate and online companies that are trying to have language that would allow short term rentals everywhere. Continued efforts to fight it and asked if anyone who would like to oppose it continue to call and email local Representatives. They have already pulled the bill twice but continue to let them know if you are opposed to it.
- Council Member Matheson – the shuttle has had 220 riders the month of July.
- Council Member Powell – Thanked Manger Fox for the weekly updates, they are very informative and very much appreciated. Thanked the Town for their

assistance with getting the drain cover fixed at the school. Should hopefully fix the issue they have been having.

Manager Fox briefed Council on the following:

- Announced promoting Police Captain Aaron Miller to Police Chief and promoting Interim Public Works Director Matt Blackburn to Public Works Director.

Council took a ten-minute recess.

EXECUTIVE SESSION

At 8:00 p.m. Council Member Steele made a motion to go into closed session under NCGS 143-318.11(a)(5) – discussion of potential property acquisition and NCGS 143-318.11. (a)(3) – attorney-client privilege, seconded by Council Member Matheson. At 9:00 p.m. Council Member Sweeting made a motion to return to open session, seconded by Council Member Powell.

ADJOURNMENT

There being no further business to discuss, Council Member Sweeting made a motion to adjourn at 9:00 p.m., seconded by Council Member Powell. Unanimously approved.

MAYOR _____
Charlie Sellers

ATTEST _____
Hilari Hubner, Town Clerk

ATTACHMENTS

Tax Release #2018-12 – Attachment A

Budget Amendment #2019-08 – Attachment B