

**MINUTES - REGULAR MEETING
BOONE TOWN COUNCIL
JANUARY 19, 2010**

A regular meeting of the Boone Town Council was called to order at 6:30 p.m., Tuesday, January 19, 2010 in the Council Chambers, 1500 Blowing Rock Road. Mayor Loretta Clawson presided. Council members present were Mayor Pro-Tem Lynne Mason, Andy Ball, Rennie Brantz, Jamie Leigh and Stephen Phillips. Town Attorney Sam Furguele was also present. Staff members present were Town Manager Greg Young; Town Clerk Freida Van Allen, Public Utilities Director Rick Miller, Public Services Director Blake Brown, Police Chief Dana Crawford, Fire Chief Reggie Hassler, Finance Director Amy Davis, Human Resources Director Peri Moretz, Planner Jane Shook and Development Coordinator David Graham.

TENTATIVE AGENDA ADOPTION

Town Manager Greg Young presented the following addition to the agenda:

-Legal Advice - Daniel Boone Native Garden Lease.

On a motion by Council member Brantz, seconded by Council member Phillips, Council moved to adopt the agenda as amended.

VOTE:Aye-All
Nay-None

CONSENT AGENDA ADOPTION

On a motion by Council member Ball, seconded by Council member Phillips, Council moved to adopt the following consent agenda items:

MINUTES: December 1, 2009 Special Meeting.
December 7, 2009 Special Meeting.
December 7, 2009 Special Public Hearing.
December 17, 2009 Regular Meeting.

TAX RELEASES AND REFUNDS: November, 2009

**TAX RELEASES
NOVEMBER 2009**

Taxpayer	Year	Amount	Description
NEALY, WALTER BARRY NEALY, DONNA L	2009	49.28	NOT IN TOB
HOWELL, TIMOTHY ALBERT	2009	94.93	TURN IN TAG
WOOD, BUDDY & ELLEN	2009	185.74	SOLD TO DOT 12/12/08
GREENE, JAMES SCOTT	2009	7.83	TURN IN TAG
CANTER, KRISTIN SUSANN	2009	.74	TURN IN TAG
SMITH, TERESA NICOLE	2009	12.30	TURN IN TAG
BROWN, RANDALL ELLIOT	2009	3.48	TURN IN TAG
BELK	2009	7.62	INCORRECT DEPRECIATED VALUE
BLAKE, JAMES ERNEST	2009	14.80	ADJ FOR HIGH MILEAGE
FLYNT, JANE BAKER	2009	13.09	ADJ FOR HIGH MILEAGE & DAMAGE
BRANTZ, RENNIE W & LANA L	2009	15.61	TURN IN TAG
MODERN TOYOTA SCION OF BOONE	2009	208.35	RENTAL
MILLER, JESSE EDWARD	2009	18.47	TURN IN TAG
RESORT AREA MINISTRIES	2008	81.92	EXEMPT
		714.16	

**MSD NOVEMBER
2009**

Taxpayer	Year	Amount	Description
RESORT AREA MINISTRIES	2008	46.49	EXEMPT
		46.49	

**TAX REFUNDS
NOVEMBER 2009**

Taxpayer	Year	Amount	Description
LUTHER, LUCY	2009	4.71	TURN IN TAG
		4.71	

APPROVAL OF ENCROACHMENT AGREEMENT - Ron Jon Tanning Salon

STATE OF NORTH CAROLINA
COUNTY OF WATAUGA
TOWN OF BOONE

ENCROACHMENT AGREEMENT

THIS ENCROACHMENT AGREEMENT is made and entered into this the 19th day of January, 2010, by and between the TOWN OF BOONE, party of the first part; and Karl Smith dba Ron-Jons Tanning Salon, party of the second part.

W-I-T-N-E-S-S-E-T-H

THAT WHEREAS, the party of the second part desires to encroach on public land designated as sidewalk located at 603 West King Street with the following: a projecting sign (hereinafter referred to as “the facilities”); and

WHEREAS, it is to the material advantage of the party of the second part to effect this encroachment, and the party of the first part, in the exercise of authority conferred upon it by statute, is willing to permit the encroachment on public land, subject to the conditions of this agreement;

NOW, THEREFORE, IT IS AGREED that the party of the first part hereby grants to the party of the second part the right and privilege to make this encroachment upon the following conditions, to wit:

That the said party of the second part binds and obligates itself, and its successors and assigns, to install and maintain the encroaching facility in such safe and proper condition that it will not interfere with or endanger travel upon said public land, nor obstruct nor interfere with the proper maintenance thereof, to reimburse the party of the first part for the cost incurred for any repairs or maintenance to its roadways, sidewalks and other structures necessary due to the installation and existence of the facilities of the party of the second part, and if at any time the party of the first part shall require the removal of or changes in the location of the encroaching facilities, that the said party of the second part binds itself, its successors and assigns, to promptly remove or alter the said facilities in order to conform to the said requirements, without any cost to the party of the first part.

That the party of the second part agrees to provide during construction and any subsequent maintenance proper signs, signal lights, flagmen and other warning devices for the protection of the public and in the case of encroachment into a street right of way, in conformance with the latest Manual on Uniform Traffic Control Devices for Streets and Highways and amendments or supplements thereto. Information as to the above rules and regulations may be obtained from the party of the first part.

To the extent permitted by law, the party of the second part shall be responsible for all liability associated with the encroaching facility. The party of the second part agrees to indemnify and hold harmless the party of the first part from and against all claims based upon

actions or omissions occurring during construction and maintenance, damages, losses and expenses, including court costs and attorney fees, arising out of or in any way related to the encroaching facility. The party of the second part shall cause its contractors to name the party of the first part as an additional insured on general liability insurance policies applicable to the project contemplated by this agreement.

It is clearly understood by the party of the second part that the party of the first part will assume no responsibility for any damage that may be caused to such facilities in carrying out its construction and maintenance operations.

The party of the second part agrees to restore all areas disturbed during installation and maintenance to the satisfaction of the party of the first part. The party of the second part agrees to exercise every reasonable precaution during construction and maintenance to prevent eroding of soil; silting or pollution to the rivers, streams, lakes, reservoirs, other water impoundments; ground surfaces or other property; or pollution of the air. There shall be compliance with applicable all rules and regulations of the North Carolina Sedimentation Control Commission, and all other applicable laws and regulations relating to pollution prevention and control. When any installation or maintenance operation disturbs the ground surface and the existing ground cover, the party of the second part agrees to remove and replace the sod or otherwise reestablish the grass cover to meet the satisfaction of the party of the first part. The party of the second part shall comply with all pertinent ordinances, rule, regulations and laws, and failure to do so shall be a basis for revocation of this encroachment agreement by the party of the first part.

That the party of the second part agrees to assume the actual cost of any inspection of the work considered to be necessary by the party of the first part.

That the party of the second part agrees to have available at the encroaching site, at all times during construction, a copy of this agreement showing evidence of approval by the party of the first part. The party of the first part reserves the right to stop all work unless evidence of approval can be shown.

Provided the work referred to in this agreement is being performed on a completed public street open to traffic; the party of the second part agrees to give written notice of when work will begin to the party of the first part.

That in the case of noncompliance with the terms of this agreement by the party of the second part, the party of the first part reserves the right to stop all work until the facility has been brought into compliance or removed from the right of way at no cost to the party of the first part.

That it is agreed by both parties that this agreement shall become void if actual construction of the work contemplated herein is not begun and completed within 1 (one) year(s) from the date of this agreement unless written waiver is secured by the party of the second part from the party of the first part.

The party of the first part expressly reserves the unrestricted right to require the party of the second part to change the location of the encroachments described herein at no expense to the party of the first part.

IN WITNESS WHEREOF, each of the parties to this agreement has caused the same to be executed as of the day and year first above written.

TOWN OF BOONE

BY: _____

Mayor ATTEST:

Town Clerk

BY: _____
President/Member-Manager/Owner

Printed Name: Party of the Second Part

ATTEST:

Secretary/Witness

**APPROVAL OF CONTRACT - COMBS, TENNANT & CARPENTER, P.C. -
EXHIBIT A.**

VOTE: Aye-All
Nay-None

WATAUGA COUNTY ANNEXATION PUBLIC HEARING

Mayor Clawson opened the public hearing at 6:34 p.m. Planner Jane Shook said this is the final step of the petition annexation process. Council member Phillips asked if the waterline in place is adequate to serve the property. Public Utilities Director Rick Miller said yes. Council member Brantz asked about the effective date of annexation. Ms. Shook responded the effective date will be June 30, 2010. Council member Mason asked staff members if they had a recommendation on zoning for the property. Ms. Shook said the property should be zoned either R-1 or RA, noting that either zone allows recreational facilities by special use. Council member Mason questioned if the flood hazard areas would affect recreational areas. Ms. Shook said the flood hazard areas will have an impact on structures but not recreational fields. County Planner Joe Furman said that there is nothing located within the floodway and that the recreational fields are located within the floodplain. There being no further comments, the public hearing closed at 6:42 p.m.

PUBLIC COMMENT

There were no public comments at this time.

ADOPTION OF ORDINANCE - WATAUGA COUNTY ANNEXATION

On a motion by Council member Brantz, seconded by Council member Ball, Council moved to adopt the following ordinance and to recommend that both R-1 and R-A zoning be examined during the February Quarterly Public Hearing on Zoning Amendments:

Ordinance 10-01

**AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE
TOWN OF BOONE, NORTH CAROLINA
(Watauga County Annexation)**

WHEREAS, the Town Council has been petitioned under G.S. 160A-31 to annex the area described below; and

WHEREAS, the Town Council has by resolution directed the Town Clerk to investigate the sufficiency of the petition; and

WHEREAS, the Town Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at Council Chamber at 1500 Blowing Rock Road at 6:30 p.m. on January 19, 2010, after due notice by Watauga Democrat on January 8, 2010; and

WHEREAS, the Town Council finds that the petition meets the requirements of G.S. 160A-31;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Boone, North Carolina, that:

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described territory is hereby annexed and made part of the Town of Boone as of June 30, 2010:

Beginning at a point in the South Fork of the New River and a corner of the existing Town of Boone limits; thence with the Town of Boone limits for six lines

S 50° 23’ 51” W 335.01’ to a point; thence S 50° 54’ 26” W 197.18’ to a point; thence S 49° 28’ 21” W 63.47’ to a point; thence S 50° 40’ 04” W 46.31’ to point in Brookshire Road; thence with said Brookshire Road for twenty six lines N 58° 34’ 21” W 40.72’ to a point; thence N 19° 19’ 33” W 120.94’ to a point; thence with a curve to the right having a radius of 146.79 and a chord bearing of N 06° 02’ 00” E distance of 102.45’ to a point; thence N 16° 53’ 23” E 27.82’ to a point; thence With a curve to the left having a radius of 237.86’ and chord bearing of N 07° 07’ 56” E distance of 68.44’ to a point; thence N 02° 41’ 07” W 125.01’ to a point; thence With a curve to the left having a radius of 232.41’ and a chord bearing of N 31° 40’ 56” W distance of 199.10’ to a point; thence N 48° 12’ 11” W 29.70’ to a point; thence with a curve to the right having a radius of 110.66’ and chord bearing of N 21° 50’ 31” W distance of 86.85’ to a point; thence N 07° 19’ 15” W 15.45’ to a point; thence with a curve to the left having a radius of 207.95’ and a chord bearing of N 18° 15’ 37” W distance of 50.84’ to a point; thence N 28° 45’ 58” W 56.48’ to a point; thence N 32° 48’ 53” W 85.81’ to a point; thence N 31° 48’ 01” W 55.82’ to a point; thence with a curve to the right having a radius of 278.26’ and a chord bearing of N 18° 20’ 41” W distance of 97.26’ to a point; thence N 07° 17’ 52” W 79.16’ to a point; thence with a curve to the right having a radius of 190.75’ and a chord bearing of N 22° 22’ 15” E distance of 169.22’ to a point; thence N 42° 34’ 19” E 43.02’ to a point; thence with a curve to the left having a radius of 244.80’ and a chord bearing of N 29° 49’ 54” E distance of 85.49’ to a point; thence N 21° 46’ 42” E 30.65’ to a point; thence with a curve to the left having a radius of 237.04’ and a chord bearing of N 29° 35’ 38” E distance of 49.51’ to a point; thence N 13° 46’ 07” E 10.92’ to a point; thence N 39° 59’ 13” E 41.42’ to a point; thence N 06° 29’ 53” E 160.84’ to a point; thence N 06° 22’ 15” E 115.25’ to a point; thence N 03° 54’ 05” E 62.30’ to a point; thence leaving said Brookshire Road for seven lines N 84° 18’ 22” E 187.61’ to a point; thence S 49° 02’ 56” E 10.22’ to a point; thence S 59° 52’ 14” E 162.53’ to a point; thence N 75° 54’ 21” E 99.89’ to a point; thence S 78° 00’ 16” E 118.00’ to a point; thence N 89° 43’ 54” E 559.15’ to a point; thence S 46° 35’ 37” E 134.32’ to a point in the South Fork of the New River; thence with said South Fork of the New River for nineteen lines S 66° 53’ 02” W 84.08’ to a point; thence S 70° 14’ 27” W 99.32’ to a point; thence S 73° 49’ 46” W 45.41’ to a point; thence S 74° 51’ 28” W 124.64’ to a point; thence S 51° 06’ 03” W 167.00’ to a point; thence S 33° 59’ 16” W 106.79’ to a point; thence S 36° 22’ 52” W 176.99’ to a point; thence S 41° 40’ 59” W 123.18’ to a point; thence S 50° 43’ 08” W 102.31’ to a point; thence S 21° 07’ 10” W 80.78’ to a point; thence S 12° 34’ 20” W 78.91’ to a point; thence S 05° 07’ 33” E 65.13’ to a point; thence S 13° 45’ 56” E 98.12’ to a point; thence S 22° 38’ 39” E 92.16’ to a point; thence S 28° 52’ 55” E 96.21’ to a point; thence S 30° 19’ 30” E 190.24’ to a point; thence S 16° 03’ 44” E 59.63’ to a point; thence S 14° 49’ 10” W 87.66’ to a point; thence S 19° 51’ 48’ W 86.37’ to the point of beginning containing 31.037 √ Acres.

- Section 2.

Upon and after June 30, 2010, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the Town of Boone and shall be entitled to the same privileges and benefits as other parts of the Town of Boone. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.
- Section 3.

The Mayor of the Town of Boone shall cause to be recorded in the office of Register of Deeds of Watauga County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Watauga County Board of Elections, as required by G.S. 163-288.1.

ATTEST:	
	Mayor
Town Clerk	

(ORDINANCE TO BE TYPED IN BOOK 3, PAGES 395-396)

VOTE:Aye-All
Nay-None

SCHEDULE SPECIAL PUBLIC HEARING - REVISIONS TO ARTICLE 18 SIGNS

Development Coordinator David Graham said staff is finalizing the revisions to Article 18 of the UDO which relates to signs. Mr. Graham said the revisions will not be ready for the February Quarterly Public Hearing and requested that Council consider a special public hearing in March to hear this text amendment. On a motion by Council member Leigh, seconded by Council member Brantz, Council moved to schedule a special public hearing on zoning text amendments for March 1, 2010 at 6:00 p.m. in the Council Chambers.

VOTE:Aye-All
Nay-None

PRESENTATION OF PROPOSED TEXT AMENDMENT

Development Coordinator David Graham presented the proposed text amendment to the UDO which establishes definitions and guidelines regarding recycling requirements. Council member Mason asked why recycling space will be considered as recreation space. Council member Phillips said by defining the space as recreational space, developers will not lose density space on projects. Council member Leigh said she felt that solid waste and recycling should be in the same area. Council member Mason asked why plastic bottle recycling is not included in the definition of items that can be recycled. Public Works Director Blake Brown said that GDS can not accommodate plastic recycling at this time. Council member Mason felt that since the State of NC mandates that plastic bottles be recycled, the Town of Boone should require that plastic bottles be recycled, also. Town Attorney Sam Furguele pointed out that this text amendment just provides definitions and guidelines for new developments to provide recycling areas. Mr. Furguele said if the Town wants to mandate recycling, that a municipal code amendment is necessary. Mr. Furguele also explained that if Council is not interested in having the recycling area considered as recreational space, this definition be deleted from the proposed text amendment and can be added to the text at a later date. Council member Mason felt there is broad base support for recycling in the Town of Boone. Town Attorney Furguele suggested revising the text separating the screening requirements for recycling and solid water. Mr. Furguele said the revised text amendment could be heard at the March 1st public hearing. On a motion by Council member Mason, seconded by Council member Leigh, Council moved to have staff revise the text and present it at the March 1, 2010, Special Public Hearing and directed the Town Attorney, Town Manager and Public Works Director prepare a code amendment mandating recycling.

VOTE:Aye-All
Nay-None

PRESENTATION OF REZONING REQUEST

Development Coordinator David Graham presented a request for property rezoning from James and Janet Bates at 225 Delmar Street. Mr. Graham said they are requesting the property be rezoned from R-1 to R-2. Council member Mason asked if conditional-use zoning could have been requested instead of R-2. Mr. Graham said the applicants did not have time to hire an engineer. Planner Jane Shook presented the history of the property citing that the Bates purchased the property thinking they could use the accessory apartment that is located on the property. On a motion by Council member Brantz, seconded by Council member Ball, Council moved to send the Bates' rezoning request to the February Quarterly Public Hearing. Before voting, Council member Mason said she wished the Bateses would have pursued conditional use zoning.

VOTE:Aye-All
Nay-None

APPOINTMENT OF COUNCIL REPRESENTATIVE TO EDC

On a motion by Council member Leigh, seconded by Council member Mason, Council moved to appoint Andy Ball as the Town Council representative on the Watauga County Economic Development Commission. Before voting, Watauga County Planner Joe Furman explained the purpose and makeup of the Economic Development Commission.

VOTE: Aye-All

Nay-None

FORMATION OF SUSTAINABLE DEVELOPMENT TASK FORCE

Council member Leigh said this idea is a joint effort by her, Mayor Clawson and Council member Ball. Council member Leigh presented the following information in support of forming a sustainable development task force:

General Purpose/Goals:

- *To assist the Town of Boone in assuming a lead role in promoting responsible resource use and conservation practices throughout the community, both by information and by example.*
- *To advance the principles and objectives of sustainable development through partnerships, collaboration and outreach.*
- *To advise and assist the Town Council on sustainable development initiatives and issues.*
- *To foster community dialogue and awareness of sustainable development and to develop methods of integrating economic and environmental planning at the local level.*
- *To coordinate with other Town of Boone committees on topics of mutual/overlapping interest including, but not limited to, Recycling, Transportation, Trees, etc.*

Definitions of Sustainable Development:

“Sustainable Development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs.” (Brundtland Commission Report, World Commission on Environment and Development, 1987)

“Sustainable development implies economic growth together with the protections of environmental quality, each reinforcing the other. The essence of this form of development is a stable relationship between human activities and the natural world, which does not diminish the prospects for the future generations to enjoy a quality of life at least as good as our own.” (Mintzer, 1992)

Sample task force topics/objectives would include, but not be limited to, research, analysis and promotion of:

- *Alternative/renewable energy options*
- *Water efficiency and conservation*
- *Green building principles*
- *Energy and fuel conservation*
- *Recycling and waste reduction*
- *Low impact transportation options*
- *Local foods and environmentally sensitive growing methods*

Suggested task force members would include:

- *2 Town Council representatives*
- *1 community at-large position: ASU Faculty/Staff specializing in sustainable*

development

- *1 community at-large position: ASU Student with interest in sustainable development*
- *1 community at-large position: Contractor/builder or other individual with experience in green building/remodeling*
- *5 community at-large positions with expertise and/or interest in sustainable development*

(Various town staff would be asked to attend as needed, depending on the topic at hand.)

Council member Mason asked about the time frame of the task force. Council member Leigh said she was unsure but that she envisioned the task force “on-going.” Council member Brantz felt the task force could be refined more and pared down in size. Council member Leigh agreed to reduce the community-at-large positions to three and said this task force, along with other committees, could use more focus from Council. Council member Mason said this task force needs to address not only what the citizens can do but also what the Town government can accomplish in regards to sustainability. On a motion by Council member Leigh, seconded by Council member Mason, Council moved to establish the Sustainable Development Task Force advertising for the following positions:

- *2 Town Council representatives - **Council members Ball and Leigh agreed to serve.***
- *1 community at-large position: ASU Faculty/Staff specializing in sustainable development*
- *1 community at-large position: ASU Student with interest in sustainable development*
- *1 community at-large position: Contractor/builder or other individual with experience in green building/remodeling*
- *3 community at-large positions with expertise and/or interest in sustainable development*

VOTE:Aye-All

Nay-None

SCHEDULING OF SPECIAL MEETING

Council member Phillips requested that Council schedule a special meeting with the Watauga County Commissioners to discuss funding of the Watauga County Parks and Recreation Department. After little discussion, on a motion by Council member Phillips, seconded by Council member Brantz, Council moved to delay action on this request until the Thursday, January 21, 2010 meeting.

VOTE:Aye-All

Nay-None

REQUEST FOR ADDITIONAL MEMBERS TO AFFORDABLE HOUSING TASK FORCE

Council member Leigh requested that the Affordable Housing Task Force be expanded by three members in order to create a more balanced and diverse board. Council member Leigh explained that creating the new positions will offer community members who may be affected by affordable housing the opportunity to serve. On a motion by Council member Leigh, seconded by Council member Mason, Council moved to expand the affordable housing task force by three-at-large members and to advertise for same. The criteria is for two positions to be filled by residents, or advocate for established single-family neighborhoods, and the other position is for an individual who works in Boone and qualifies for and currently seeks affordable-housing options.

VOTE:Aye-All

Nay-None

Mayor Clawson declared a break at 8:10 p.m. Council reconvened at 8:22 p.m.

REQUEST FOR ADDITIONAL BOARD/COMMITTEE INFORMATION

Council member Leigh requested that all boards, committees, and subcommittees appointed by the Town Council begin sending their draft minutes to the Town Council in order to keep

Council updated on the status and progress of committee projects and assignments. On a motion by Council member Leigh, seconded by Council member Ball, Council moved to request that all boards, committees, and subcommittees appointed by the Town Council begin sending their draft minutes to the Town Council.

VOTE: Aye-All
Nay-None

SCHEDULING OF SPECIAL MEETING - PLANNING RETREAT

On a motion by Council member Mason, seconded by Council member Leigh, Council moved to schedule the Planning Retreat for February 26, 2010 at 8:30 a.m. in the Council Chambers.

VOTE: Aye-All
Nay-None

SCHEDULING OF ANNUAL MEETING - COUNCIL RETREAT

On a motion by Council member Leigh, seconded by Council member Mason, Council moved to schedule its Annual Retreat for March 31, 2010 at 8:30 a.m. in the Council Chambers.

VOTE: Aye-All
Nay-None

ANNOUNCEMENT OF BOARD VACANCIES

Mayor Clawson announced that Tom Jamison has resigned his position on the Community Appearance Commission and that Kimberly Marland has resigned her position on the Planning Commission thereby opening vacancies. Mayor Clawson also noted that three positions on the Jones House Advisory Board will expire in February.

AFFORDABLE HOUSING TASK FORCE APPOINTMENTS

Council member Leigh pointed out that the Town Clerk advertised for a community-at-large member, when in fact it is the Planning Commission position on the task force that is vacant. Council agreed to advertise for the new three at large positions and ask the Planning Commission to appoint a new representative.

BOARD OF ADJUSTMENT APPOINTMENTS

Council accepted the applications of James Buchanan and James Milner for an open position on the Board of Adjustment. The following votes were cast:

James Buchanan - 3 (Brantz, Leigh, Mason)
James Milner - 2 (Ball, Phillips)

Mr. Buchanan's term will expire 6/30/10.

COMMUNITY APPEARANCE COMMISSION APPOINTMENTS

There were no applications presented for the open position.

PARKING TASK FORCE APPOINTMENTS

On a motion by Council member Ball, seconded by Council member Leigh, Council moved to table action on this matter until the Thursday, January 21, 2010 meeting.

VOTE: Aye-All

Nay-None

PLANNING COMMISSION APPOINTMENTS

Council accepted the applications of Bob Cherry and Kimberly Marland for the open position on the Planning Commission. Council member Brantz nominated Bob Cherry while Council member Mason nominated Kimberly Marland. Council member Mason said Kimberly Marland has been an active and reliable ETJ member of the Planning Commission and had to resign from that position because she moved into the Town limits. The following votes were cast:

Bob Cherry - 3 (Ball, Brantz, Leigh)
Marland - 2 (Mason, Phillips)

Mr. Cherry’s term will expire 6/30/10.

TREE BOARD APPOINTMENTS

There were no applications received for the open positions.

MONTHLY WATER USE STATUS REPORT

Public Utilities Director Rick Miller presented the monthly water use status report **(copy permanently on file in the January 2010 Town Council meeting packet.)**

APPROVAL OF BUDGET AMENDMENTS

On a motion by Council member Brantz, seconded by Council member Phillips, Council adopted the following budget amendments:

DESCRIPTION	ACCOUNT #	TO:	FROM:
MISCELLANEOUS EXPENSE- GOVERNING BODY	010-400-000-539901	\$5,000.00	
APPROPRIATED FUND BALANCE- GENERAL FUND	010-000-000-499900		(\$5,000.00)
CAPITAL OUTLAY-LAND	010-411-000-575021	\$94,390.00	
TRANSFER FROM RAW WATER LAND ACQUISITION CAPITAL RESERVE	010-000-000-498018		(\$69,390.00)
NC RURAL CENTER FOR ECONOMIC DEVELOPMENT GRANT	010-000-000-448029		(\$25,000.00)
PROFESSIONAL SERVICES- DEVELOPMENT SERVICES	010-500-360-509100	\$8,500.00	
APPROPRIATED FUND BALANCE- GENERAL FUND	010-000-000499900		(\$8,500.00)
CONTRACTED SERVICES- FACILITIES MAINTENANCE	010-600-405-577000	\$24,470.00	
APPROPRIATED FUND BALANCE- GENERAL FUND	010-000-000-499900		(\$24,470.00)
RECYCLING CONTRACT	010-600-407-551000	\$5,670.00	
APPROPRIATED FUND BALANCE	010-000-000-499900		(\$5,670.00)
MISCELLANEOUS SUPPLIES- NARCOTICS	012-500-303-519900	\$1,800.00	
FEDERAL ASSET-JUSTICE	012-500-303-472001		(\$1,800.00)

PROPERTY TAX ALLOCATION-MSD	050-450-000-553101	\$58,431.00	
TAX INTEREST-MSD	050-450-000-553102		(\$318.00)
APPROPRIATED FUND BALANCE-MSD	050-450-000-499900		(\$58,749.00)

VOTE:Aye-All
Nay-None

CLOSED SESSION

On a motion by Council member Ball, seconded by Council member Brantz, Council moved to enter Closed Session at 9:10 p.m., pursuant to NCGS 143-318.11a)3) in order to hear legal advice on the Go Postal settlement, the water intake, and the Daniel Boone Native Garden lease.

VOTE:Aye-All
Nay-None

On a motion by Council member Mason, seconded by Council member Ball, Council moved to exit Closed Session at 10:17 p.m.

VOTE:Aye-All
Nay-None

RECESS

On a motion by Council member Mason, seconded by Council member Ball, Council moved to recess the meeting at 10:18 p.m. until Thursday, January 21, 2010 at 6:30 p.m.

VOTE:Aye-All
Nay-None

A recessed meeting from Tuesday, January 19, 2010 was called to order on Thursday, January 21, 2010 at 6:30 p.m. in the Council Chambers. Mayor Pro-Tem Lynne Mason presided. Council members present were Andy Ball, Rennie Brantz, Jamie Leigh and Stephen Phillips. Town Attorney Sam Furguele was also present. Staff members present were Town Manager Greg Young, Town Clerk Freida Van Allen, Public Utilities Director Rick Miller, Public Services Director Blake Brown, Police Chief Dana Crawford, Fire Chief Reggie Hassler, Assistant to the Manager Jim Byrne, Finance Director Amy Davis, Human Resources Director Peri Moretz, Planner Jane Shook and Development Coordinator David Graham.

TENTATIVE AGENDA ADOPTION

There were no additions or deletions to the agenda. On a motion by Council member Brantz, seconded by Council member Ball, Council moved to adopt the agenda as presented.

VOTE:Aye-All
Nay-None

PUBLIC COMMENT

Mr. Greg Simmons of 310 Delmar Street appeared before Council and expressed his disappointment that Kimberly Marland was not appointed to the open resident position on the Planning Commission. Mr. Simmons said his sentiments were his alone, as a resident and a current member of the Planning Commission.

SCHEDULING OF SPECIAL MEETING

On a motion by Council member Phillips, seconded by Council member Brantz, Council moved to schedule a special meeting with the Watauga County Commissioners and the Recreation

Commission for Wednesday, February 10, 2010 at 7:00 p.m. at the Optimist Club house.

VOTE:Aye-All
Nay-None

PARKING TASK FORCE APPOINTMENTS

On a motion by Council member Brantz, seconded by Council member Ball, Council moved to establish the parking task force, appoint the following members, and allow the task force to choose its own chair and vice-chair. Before voting Council member Leigh pointed out that Bunk Spann currently serves on four other committees and that the Town Code specifies that Council “shall generally avoid appointment of any one person to more than two bodies.” The roster includes:

Council Member - Stephen Phillips	Downtown Merchant - Richard Jacobs
ASU Student - Thomas Brigman	Community Member - Scotty Prevost
Downtown Property Owner - John Cooper	Planning Commission - Bunk Spann
DBDA - Jason Berry	Watauga County - Joe Furman
McLaurin Parkin - Steve McLaurin	Chamber of Commerce - Chris Turner
ASU Administration - No application yet	TDA - No application yet

VOTE:Aye-All
Nay-None

Council member Mason said Council should give clear direction to the Parking Task Force and suggested that Council meet to discuss strategic framework for the task force. Council members Ball and Phillips agreed and said they would meet to glean ideas to present to Council. On a motion by Council member Phillips, seconded by Council member Ball, Council moved to schedule a special meeting for February 1, 2010 at 6:30 p.m. in the Council Chambers.

VOTE:Aye-All
Nay-None

REQUESTED APPEARANCE - COMBS, TENNANT & CARPENTER, P.C.

Mr. Jason Carpenter of Combs, Tennant and Carpenter appeared before Council to present the audit report for fiscal year 2008/2009. Mr. Carpenter said Town staff does an excellent job in managing the Town’s funds and that no issues need to be reported. Mr. Carpenter said the Town has \$12,876,965 in the general fund balance and \$30,113,518 in the water/sewer fund balance. Mr. Carpenter said both fund balances are very healthy and that it is wise to be conservative during these difficult economic times. Mr. Carpenter reported that the tax collection rate is 98.72% which is above state average.

REQUESTED APPEARANCE - DAVE BIXBY

Mr. Dave Bixby, owner of the Village Laundry, appeared before Council to request a water-rate adjustment for his business. Mr. Bixby explained that Village Laundry is the only full-service laundry in Boone and that water rates have tripled over the past two years. Mr. Bixby said the laundry uses about 200,000 gallons of water per month and that water is the core of his business. Mr. Bixby said he felt that the Town of Boone is “singling out” laundromats and felt that his business should be in a different category. Mr. Bixby said unless a rate adjustment is made, he must “lay-off” a full-time employee and force another employee to work part-time. Council member Brantz asked Mr. Bixby if the laundry uses “energy star” appliances. Mr. Bixby said that commercial, front-loading machines do not use much water. Council member Mason suggested having the Water Study Committee investigate this issue. On a motion by Council member Phillips, seconded by Council member Ball, Council voted to amend the agenda to schedule a Water Study Committee meeting.

VOTE:Aye-All
Nay-None

SCHEDULE OF WATER COMMITTEE MEETING

On a motion by Council member Brantz, seconded by Council member Phillips, Council moved to schedule a Water Study Committee meeting for Thursday, February 11 at 5:30 p.m. in the Council Chambers.

VOTE:Aye-All

Nay-None

REQUESTED APPEARANCE - GALIB ABBASZADE

Mr. Galib Abbaszade appeared before Council to request that the Town of Boone establish a sister city connection with Guba, Azerbaijan. Council member Brantz asked Mr. Abbaszade if he knows how to begin the sister city process. Mr. Abbaszade said the first step is for the Boone Town Council to agree to become a sister city with Guba and then officials in Azerbaijan will start the process. Council member Mason asked Council member Brantz if he would be willing to meet with Mr. Abbaszade to review the entire process. Council member Brantz agreed but asked that Council move forward by endorsing the concept. Council member Leigh said she was unsure the Town could make the financial commitment and attract enough active community support, both of which are necessary to ensure a successful sister city program, and that if the Town does commit to the program, it not be superficial. On a motion by Council member Brantz, seconded by Council member Phillips, Council moved to endorse the concept of becoming a sister city with Guba, Azerbaijan.

VOTE:Aye-All

Nay-None

REQUESTED APPEARANCE - CANDY WINEBARGER

Ms. Candy Winebarger, Chairman of the Boone ABC Board, appeared before Council to report second-quarter revenue figures. Ms. Winebarger said total sales for the quarter ending are \$1,348,331 with the Town of Boone receiving \$116,574 in revenue from those sales. Ms. Winebarger reported that the ABC Board voted to allocate 2% of profits for distribution to grant programs for non-profit agencies to conduct underage drinking, drunk driving and other alcohol education projects. Ms. Winebarger reported that the Boone store is fourth in the state in total sales.

WATER AND SEWER REQUEST - ALBERT GERSING

Town Attorney Sam Furguele opened a public hearing at 7:25 p.m. to hear sworn testimony from David Ramsey, Albert Gersing, Planner Jane Shook and Public Utilities Director Rick Miller regarding a request for water and sewer service to property located off Ralph Wilson Road in Vilas. Mr. David Ramsey, engineer for the project, presented plans for University Park, a student housing project. Mr. Ramsey said the project will be developed on 105 acres with 86 acres of property to remain in its natural state. Mr. Ramsey said the Town would gain over \$750,000 in both impact fees and annual revenue from this project. Mr. Ramsey presented a letter from Greg Lovins at ASU and a site plan of the property. Mr. Ramsey said the property is located 2.5 miles from the town limits and that AppalCART will have a route to serve the development. Mr. Ramsey further testified that the project will provide 150 construction jobs, and once completed, provide a total of 15 full-time jobs. Mr. Ramsey said Mr. Gersing can construct the development without Town of Boone's approval or services; however, a sewer treatment plant must be utilized. Council member Mason asked if AppalCART has confirmed the proposed route. Mr. Ramsey said no, not yet. Council member Brantz asked if the property owner is willing to annex. Mr. Ramsey said yes. Council member Brantz asked if the property is part of a subdivision. Mr. Ramsey said no, that it is a large parcel of land. Mr. Albert Gersing, owner of the property, testified that a student housing campus is long overdue for the community and hoped that one day ASU can provide some educational facilities on campus. Council member Brantz asked how much it would cost to extend water and sewer service to the project. Public Utilities Director Rick Miller said it would be very expensive since it must be designed as a public water system. Council member Phillips asked if wells were drilled, could the Town utilize that water. Mr. Miller said no, because the drilling of wells is considered an interbasin transfer and must be approved by the State of North Carolina. Mr. Ramsey commented that if the Town does not want to grant water at this time, it would be acceptable

since the property owner desires Town sewer services. Council member Mason asked if the project has been presented to Watauga County officials. Mr. Ramsey said yes, that the County will not approve the project until a water and/or sewer commitment is made by either the Town or State of North Carolina. There being no further comments, the public hearing closed at 7:49 p.m. Council member Leigh pointed out that the project does not comply with the Town's Land-Use Master Plan. Council member Mason agreed and said it does not comply with the Comprehensive Plan either. After little discussion, on a motion by Council member Phillips, seconded by Council member Ball, Council moved to deny the water and sewer request.

VOTE:Aye-All
Nay-None

WATER AND SEWER REQUEST - MARGARET ANAGNOS

Town Attorney Sam Furguele opened a public hearing at 7:53 p.m. to hear sworn testimony from Margaret Anagnos and Public Utilities Director Rick Miller on a request for an extension of water and sewer service to property located off University Hall Drive. Ms. Anagnos requested an extension of a previous water allocation of 9,000 gallons per day granted in February 2009. Ms. Anagnos said she now needs only 7,200 gallons per day water and that she has already paid the availability fees and has a foundation permit. Council member Brantz asked when the project will be completed. Ms. Anagnos said the project should be finished by May. Public Utilities Director Rick Miller testified that the availability fee was paid on January 15, 2010. There being no further comments, the public hearing closed at 7:56 p.m. On a motion by Council member Brantz, seconded by Council member Leigh, Council moved to grant the water allocation extension in the amount of 7,200 gallons per day and put the remaining 1,800 gallons per day in the 2010 allocation.

VOTE:Aye-All
Nay-None

WATER AND SEWER REQUEST - WILLIAMS GENERAL CONTRACTING

Town Attorney Sam Furguele opened a public hearing at 7:57 p.m. to hear sworn testimony from Drew Taylor, Planner Jane Shook and Public Utilities Director Rick Miller on a request for water and sewer service to property located off Bamboo Road at Candy Lane. Mr. Taylor testified that he is assisting the property owner in obtaining the necessary permits. Mr. Taylor said the property owner plans to construct a 12-unit, 2-bedroom, 2-bath apartment complex. Mr. Taylor said the property is zoned B-3 and is in a flood hazard area. Council member Mason asked about the size of the property. Mr. Taylor said four acres but that only a small portion of the property can be used since it is in a flood hazard area. Council member Brantz asked about FAA regulations regarding building in a flight path. Mr. Taylor said he was unsure but would contact the FAA. Council member Phillips asked about buffering since there is an adjacent nursing home. Mr. Taylor said the apartment complex will not disturb any neighborhoods. Council member Leigh questioned how the apartments will be marketed. Mr. Taylor said he was unsure. Council member Brantz asked how much of the property is buildable. Planner Jane Shook responded that there is only 2.5 acres of property and which are located within the Town's watershed and a flood hazard area. Since the property is located within the Town's watershed, there will be a higher density regulation. Council member Mason asked about clarification regarding O-2 sectors as defined by the Land-Use Master Plan. Planner Shook said O-2 sector lands are mostly conservation areas and not recommended for commercial development. There being no further comments, the public hearing closed at 8:13 p.m. After little discussion, on a motion by Council member Brantz, seconded by Council member Leigh, Council moved to deny the request for water and sewer.

VOTE:Aye-3 (Brantz, Leigh, Mason)
Nay-2 (Ball, Phillips)

WATER AND SEWER REQUEST - DOUGLAS McGUIRE

Town Attorney Sam Furguele opened a public hearing at 8:17 p.m. to hear sworn testimony from Jason Gaston, Douglas McGuire and Public Utilities Director Rick Miller to hear a request for water and sewer service to property located off Highland Hall Road. Mr. Jason Gaston, engineer for Mr. McGuire, testified that Mr. McGuire plans to construct a 48-unit apartment complex,

each apartment containing two-bedrooms and two-baths. The property is located in a B-3 zone and is redevelopment of an old nursing home. Mr. Gaston testified that there are numerous multi-family units in the vicinity and that the project is close to the Caldwell Community College campus. Council member Mason commented that a portion of the property is located in an R-1 zone. Mr. Gaston said no portion of the development will be located in R-1. Council member Brantz asked if the property owner is willing to annex. Mr. Gaston said yes and that the developer is willing to extend the watermain to the property. Mr. Gaston said there is a 6" clay sewer line which is adequate to serve the property. Council member Brantz asked how much it would cost to extend the waterline. Public Utilities Director Rick Miller said it will cost about \$150,000 to extend the waterline and that the sewerline must be upgraded since it is a 4" line. Mr. Miller also pointed out that Ordinance #05-01 does not allow extensions into the secondary pressure zone. Mr. Miller said the property is probably located below the secondary pressure zone elevation but that he was not sure at this time. Mr. McGuire agreed to all costs to extend both lines and that renovating an eyesore would create local jobs and increase tax revenues. Mr. McGuire estimated the project to cost approximately \$4,000,000. Council member Mason asked if water could be obtained from wells on site. Mr. McGuire said there are two wells located on the property but that he must explore if they can be utilized. Council member Mason reiterated that Ordinance #05-01 does not allow extensions into the secondary pressure zone. There being no further comments, the public hearing closed at 8:38 p.m. Council member Leigh pointed out that Council does not have much choice in the matter. Town Attorney Furguele agreed but pointed out that Council could deny the water request and grant the sewer request. Town Attorney Furguele asked Mr. McGuire if he were interested in a sewer only connection. Mr. Gaston, after conferring with Mr. McGuire, said no. After little discussion, on a motion by Council member Leigh, seconded by Council member Ball, Council moved to deny the request for water and sewer service. Before voting, Council member Mason suggested review of Ordinance #05-01 at the February Water Study Committee meeting.

VOTE:Aye-All

Nay-None

WATER AND SEWER REQUEST - AMBLING DEVELOPMENT

Town Attorney Sam Furguele opened a public hearing at 8:50 p.m. to hear sworn testimony from Tony DiSanti, Wes Tauble, Mike Trew and Public Utilities Director Rick Miller on a request for water and sewer service to property located at 421 Shadowline Drive. Mr. Tony DiSanti, attorney for the project, said Ambling Development is proposing a 205-unit upscale apartment complex on the old Shadowline manufacturing property. Mr. DiSanti pointed out that the building is not conducive to rehabilitation; therefore, a new complex will be constructed. Mr. DiSanti said the new complex will use approximately 69,600 gallons of water per day, an amount which is more than the Town of Boone has to allocate for 2010. Council member Brantz asked if the complex will be constructed in phases. Mr. Wes Tauble of Ambling Development said no. Council member Brantz asked about a time frame for construction to begin. Mr. Tauble said Ambling hopes to break ground in August 2010 and open in August 2011. Council member Brantz asked if there are steep slopes on the property. Mr. Michael Trew, engineer for the project, said yes but that all development will be closer to Shadowline Road. Council member Brantz asked about the long-term management of the property. Mr. Tauble said Ambling intends to hold onto these assets for at least seven to ten years. Council member Phillips asked if the property will be accessed from both State Farm and Shadowline roads. Mr. Tauble said yes. Council member Brantz asked if there were any other problems with the project or site, other than the fact that the Town does not have enough water to allocate. Public Utilities Director Rick Miller said the project may need a small sewer extension and a private pump station but that depends upon what the site plan reflects. Mr. DiSanti asked if the Water Study Committee could investigate actual usage to determine if there is additional water to be allocated. Mr. Miller responded that the Water Study Committee could review actual usage and re-prioritize water allocations. Mr. DiSanti requested that Council table this request until the Water Study Committee has reviewed actual usage numbers. There being no further comment, the public hearing closed at 9:10 p.m. Council member Mason said both the Land-Use Master Plan and Comprehensive Plan favor this project but that the ability to allocate water is negligible. Council agreed. On a motion by Council member Leigh, seconded by Council member Brantz, Council moved to table this request until the Thursday, February 18, 2010 Council meeting.

VOTE:Aye-All

Nay-None

ADJOURNMENT

On a motion by Council member Brantz, seconded by Council member Leigh, Council moved to adjourn at 9:15 p.m.

VOTE: Aye-All
Nay-None

Town Clerk

Mayor