MINUTES - REGULAR MEETING
BOONE TOWN COUNCIL
FEBRUARY 16, 2010

A regular meeting of the Boone Town Council was called to order at 6:30 p.m., Tuesday, February 16, 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 Furgiuele was also present. Staff members present were Town Manager Greg Young, Deputy Town Clerk Kimberly Brown, Assistant to the Town Manager Jim Byrne, Police Chief Dana Crawford, Fire Chief Reggie Hassler, Public Works Director Blake Brown, Public Utilities Director Rick Miller, Finance Director Amy Davis, Human Resources Director Peri Moretz, Development Services Director Bill Bailey, Planner Jane Shook, and Urban Design Specialist Brian Johnson.

ANNOUNCEMENTS

Mayor Clawson called the meeting to order and welcomed all in attendance. She announced that the Town of Boone had received the "Preserve America Designation" in recognition of the tremendous amount of work invested in recognizing the importance of preserving our history and culture. She informed the audience that the Town had received notification of this designation by letter from First Lady Michelle Obama. Mayor Clawson and members of the Council expressed their appreciation of receiving this prestigious designation.

Mayor Clawson stated that any persons wishing to address the Council should sign in to speak during the Public Comment period.

TENTATIVE AGENDA ADOPTION

Town Manager Greg Young noted the following changes to the agenda:

1. Announcements - Preserve America Community Designation.

2. Addition of Item 4.C. - Adoption of Resolution - Designation of Agent.

3. Addition of Item 4.D. - Approval of Administration of Winter Storm Grants by Boone Housing Authority.

4. Addition of Item 6.P. - Awarding of Bid for Brush-Grinding Services.

Council Member Brantz requested that Items 6.G. and 6.H. be rescheduled to the Thursday, February 18th meeting since the people addressing these issues could not be in attendance due to the inclement weather. Council Member Mason requested that Item 6.E. be the first item for consideration under "Council Matters." She noted that Danny Staley, Director of the Health Department, was traveling to Raleigh . Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to adopt the agenda as amended.

VOTE: Aye - All
Nay - None

CONSENT AGENDA ADOPTION

Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to adopt the following consent agenda items:

Minutes: January 19/21, 2010 - Regular Meetings.

Tax Releases & Refunds: December 2009:

TAX RELEASES
DECEMBER 2009

Taxpayer	Year	Amount	Description
NEWTON DEVELOPERS LLC	2009	317.46	PROPERTY IS RIGHT OF WAY
TIPSY TAXI LLC	2009	9.39	TURN IN TAG
WINKLER, JOHN THOMAS III	2009	66.33	SOLD VEHICLE
BOONE FORD LINCOLN MERCURY	2009	59.17	SOLD VEHICLE
SPIVEY, JAMESON TYLER	2009	5.97	TURN IN TAG
TAR HEEL OIL II INC	2009	16.65	WRONG SITUS
CITI FINANCIAL INC	2009	16.21	INCORRECT SITUS
JONES, JOHN T JONES, NANCY R	2009	52.69	INCORRECT SITUS
FISCHER, THOMAS W OLSON, KATHERINE BUTLER	2009	49.95	SOLD VEHICLE
		593.82	

TAX REFUNDS
DECEMBER 2009

Taxpayer	Year	Amount	Description
WILMOTH, WADE F	2009	39.52	OVERLAPPING REGISTRATION
BLADE CORP	2008	233.84	MADE COMMON AREA IN 2007
		273.36	

Tax Releases & Refunds: January 2010:

TAX RELEASES
JANUARY 2010

Taxpayer	Year	Amount	Description
FANKHAUSER, GABE NEYHOUSE, TERESA J	2009	20.42	ADJ FOR BILL OF SALE
VILLAGE LAUNDRY INC	2009	51.87	LISTED ON TIME
HURLEY, RICKY LEE JR	2009	50.99	DOES NOT LIVE IN TOB
AMOS, JADE ALYSIA	2009	6.77	TURN IN TAG
GRIMES, WILLIAM THOMAS	2009	57.72	INCORRECT SITUS
HARMAN, ELIZABETH LEE	2009	15.85	TURN IN TAG
WATAUGA CO. BOARD OF COMMISSIONERS	2009	72.00	EXEMPT
M.R. ENGLERT ENT INC.	2009	47.43	NOT IN TOB
WATSON, DARA LEE	2009	76.44	INCORRECT BILL
JOHNSON, JENNIFER NICOLE	2005	22.52	VEHICLE SOLD
		422.01	

MSD JANUARY
2010

Taxpayer	Year	Amount	Description
WATSON, DARA LEE	2009	43.39	INCORRECT BILL
		43.39	

TAX REFUNDS

JANUARY 2010

Taxpayer	Year	Amount	Description
BOWEN, JEANETTE M	2009	19.18	TURN IN TAG
TACALA, LLC dba TACO BELL	2009	18.20	PROPERTY SHOULD HAVE BEEN REAL PROPERTY
HONDA LEASE TRUST	2008	5.40	TURN IN TAG
VW CREDIT LEASING LTD	2008	11.29	TURN IN TAG
		54.07	

Adoption of Resolution - Designation of Agent:

RESOLUTION

WHEREAS, the Town of Boone is hereby applying to the North Carolina Division of Emergency Management (NCDEM) for grant funds to reimburse the town for eligible expenses related to the Christmas Winter Storm (FEMA-1871-DR-NC); and

WHEREAS, the Town of Boone designates Jim Byrne of the Town of Boone as the Agent representing the town in all matters regarding FEMA-1871-DR-NC, and Greg Young of the Town of Boone as the Alternate Agent; and

WHEREAS, if the North Carolina Division of Emergency Management and FEMA approve funding of the project as described in the public assistance work sheets, grant documents will be prepared by FEMA and NCDEM; and

WHEREAS, the Grant Agreement will require the town to perform certain functions and obligations in order to carry out the work described in the grant application;

NOW, THEREFORE, BE IT RESOLVED:

That the Town Council of Boone appoint Jim Byrne as its authorized agent and Greg Young as the alternate agent to represent the town in all matters regarding reimbursement of public assistance activities related to the 2009 Winter Storm designated FEMA-1871-DR-NC.

ADOPTED this **16th** day of **February**, **2010**.

Loretta Clawson, Mayor

ATTEST:

Kimberly S. Brown, Deputy Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 3 , PAGE(S) 130)

Approval of Administration of Winter Storm Grants by Boone Housing Authority.

PUBLIC COMMENT

There was no one signed up to speak.

POSSIBLE AMENDMENTS TO SMOKING ORDINANCE

Town Attorney Sam Furgiuele stated that a recent meeting of the Town Smoking Committee, with representatives from the Appalachian District Health Department, was held to consider further amendments to the recently adopted smoking ordinance. Additionally, the Council had

directed the Town Attorney to prepare a definition of the term "child" in the ordinance. He noted the first change had been requested by the Health Department to remove the provision in the ordinance which allows a public place to permit smoking if a separate ventilation system is installed. Mr. Danny Staley, Director of the Health Department, appeared before the Council to present scientific information which proves that a separate ventilation system is not a satisfactory protection against second-hand smoke. Mr. Furgiuele presented the proposed changes as follows:

§97.02 DEFINITIONS.

CHILD - For purposes of this Chapter, a child shall be considered any person under the age of eighteen.

§97.04 PROHIBITION OF SMOKING IN PLACES IN ADDITION TO THOSE WHERE SMOKING IS PROHIBITED UNDER NORTH CAROLINA LAW

(B) In addition to those places where smoking is prohibited under North Carolina law, and except for those places exempted under §97.04(A), smoking is prohibited in the following locations:

*(1) Inside all enclosed areas of every public place**.*** ~~*except for an enclosed area of a public place in which :*~~

~~*(a) Signs clearly establish and designate the boundaries for smoking; and*~~

~~*(b) The public has at least two established and designated smoking areas for the public, including at least one in which no smoking is permitted; and*~~

~~*(c) The no-smoking and smoking areas are equipped with separate ventilation systems so that air containing smoke is kept out of all no-smoking areas.*~~

§97.99 PENALTIES AND ENFORCEMENT.

(B) The director of the Appalachian District Health Department may take the following actions and may impose the following administrative penalty on a person who manages, operates, or controls a public place or place of employment and fails to comply with the provisions of this ordinance. ***However, nothing herein shall be construed to in any way limit or negate the powers conferred upon the director of the Appalachian District Health Department under State law, it being the intent of this ordinance to authorize enforcement actions by the director to the full extent permissible:***

Upon a motion by Council Member Mason, seconded by Council Member Phillips, Council moved to adopt the amendments to the Smoking Ordinance, as presented.

VOTE: Aye - All
Nay - None

DISCUSSION OF ARTICLE 18: SIGNS

Development Services Planner Jane Shook appeared before the Council to request that the proposed text amendments to "Article 18: Signs" and the proposed text amendments regarding recycling be removed from the agenda for the March 1, 2010 Special Hearing and be placed on the agenda for the May Quarterly Public Hearing. She explained that while reviewing the proposed amendment with the Town Attorney, there had been some technical and policy issues encountered which need to be resolved before proceeding. Furthermore, Ms. Shook made the following requests:

- To schedule time for Council to discuss policy goals for Article 18 at the Planning Retreat on February 16th.
- To obtain recommendations regarding standards and flexibility for signs for Historic Structures and Historic Districts with the Historic Preservation Commission and to

discuss illumination and three-dimensional signs' flexibility with the Community Appearance Commission.

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to reschedule two proposed text amendments regarding signs and recycling to the May Quarterly Public Hearing agenda, to discuss policy goals for Article 18 at the Planning Retreat, to direct staff to obtain recommendations regarding standards and flexibility for signs for Historic Structures and Historic Districts with the Historic Preservation Commission, and to discuss illumination and three-dimensional signs' flexibility with the Community Appearance Commission.

VOTE: Aye - All
Nay - None

SCHEDULE AGENDA ITEM FOR SPECIAL PUBLIC HEARING - CONDITIONAL-DISTRICT ZONING (JAMES & JANET BATES)

Development Services Planner Jane Shook presented a conditional district rezoning request for placement on the agenda for the Special Hearing on March 1, 2010. The request is from James and Janet Bates for a Conditional-District Rezoning from R-1, Single-Family Residential, to R-2, CD Conditional District Two-Family Residential for property located at 225 Delmar Street. Ms. Shook noted that the applicants are aware that, if the request is not scheduled on the March 1st agenda, then it will be placed on the agenda for the May Quarterly Public Hearing. Upon a motion by Council Member Brantz, seconded by Council Member Leigh, Council moved to place the request for Conditional District Rezoning by James and Janet Bates on the May 2010 Quarterly Public Hearing agenda.

VOTE: Aye - All
Nay - None

APPROVAL OF ZONING DESIGNATION - WATAUGA COUNTY

Case 20100021 Watauga County Zoning - The Town of Boone has initiated a Zoning Map amendment to zone property owned by Watauga County in conjunction with the voluntary annexation of said property. The property is located on Brookshire Road and is further identified as Watauga County PINs 2911-92-5136-000 and 2921-02-9838-000. The zoning districts under consideration for this property are: Special Flood Hazard Area, R-1 Single-Family Residential, and R-A Residential/Agriculture. Development Services Planner Jane Shook presented the following information regarding the Planning Commission action on this request:

First Motion and Vote:
Commission Member Marland made a motion that the proposed amendment to the Town's Zoning Map with RA zoning and Special Flood Hazard is consistent with the Town's comprehensive plan and other applicable adopted plans of the Town which relate to this application because it best relates to existing and surrounding land uses. The motion was seconded by Commission Member Milstead.

VOTE: Aye - 9 (Bolick, Cherry, Marland, McRae, Milstead, Rhyne, Scantlin, Simmons, Spann)
Nay - 1 (Dotson)

Second Motion and Vote:
Commission Member Marland made a recommendation that the Planning Commission recommend zoning of this annexed property as R-A because it is consistent with the existing and surrounding land uses and Special Flood Hazard Area. This motion was seconded by Commission Member McRae.

VOTE: Aye - 9 (Bolick, Cherry, Marland, McRae, Milstead, Rhyne, Scantlin, Simmons, Spann)
Nay - 1 (Dotson)

Council Member Leigh asked about the discussion concerning this request at the Planning Commission meeting. Ms. Shook stated the discussion centered around the differences between the R-1 and R-A zoning designations. She stated that the R-A zoning designation allows for more uses for the property; the R-1 zoning designation does not allow as many uses but does allow for greater density. Upon a motion by Council Member Mason, seconded by Council Member Phillips, Council moved that the proposed map amendment for R-A, Residential/Agriculture, and Special Flood Hazard is consistent with the Town's comprehensive plan and other applicable adopted plans of the Town which relate to this application because it best relates to existing and surrounding land uses and is more restrictive regarding density.

VOTE: Aye - All
Nay - None

Upon a motion by Council Member Mason, seconded by Council Member Phillips, Council moved to approve the proposed map amendment of R-A, Residential/Agriculture zoning and Special Flood Hazard to the Town's Zoning Map and believe approval is reasonable and in the pubic interest because it best relates to the existing and surrounding land uses and is consistent with the Land Use Master Plan.

VOTE: Aye - All
Nay - None

DISCUSSION OF SIDEWALK IMPROVEMENTS - MAST GENERAL STORE

Council Member Mason stated that John Cooper, owner of the Mast General Store, asked to place the request before Council to approve a plan to install a brick sidewalk in front of the business. Public Works Director Blake Brown explained that the plan includes a brick inlay for the entire length of the sidewalk in front of the Mast General Store. He pointed out that this design is different from the design adopted by the Council for the Howard Street project and is different from the design recommended by the Community Appearance Commission. Mr. Brown also noted that a drainage pipe runs beneath the sidewalk in that area. He suggested that should the Council grant this request, a hold-harmless agreement be required regarding any damage resulting from snow removal. Council Members Brantz and Leigh voiced concern with allowing this deviation of design in one area and the aesthetic effects of allowing such deviations if requested by other property owners throughout the downtown area. Town Manager Greg Young pointed out that the sidewalk is owned by the NC DOT but that the Town does have an encroachment agreement for the maintenance of the sidewalk. He suggested that the Council should consider the liability issue if this request is granted. Jeff Meadows, representing Mast General Store, stated that brick sidewalks are now the trend in many municipalities. He suggested a possible cost-share option with the Town whereby the Mast Store would buy the materials and the Town supply the labor. He also stated that the owner is agreeable to discussing different options for color and size of brick with the Town. Council Member Mason moved to send this request to the Community Appearance Commission for review and recommendation, with input from the Public Works Department, including cost estimates and examples of this type of sidewalk design from other communities. Council Member Brantz seconded the motion. Council Member Leigh reiterated her concern that this design contradicts the design already recommended by the CAC and adopted by the Town. She also requested clarification regarding whether the Council is asking the CAC to consider the effect of a different sidewalk design for this proposal or the effect on the entire downtown area. Council Member Mason agreed that the CAC should consider the issue to include the entire downtown area.

VOTE: Aye - All
Nay - None

APPROVAL OF BUDGET - PROPOSED DOWNTOWN BOONE SITE FURNISHINGS

Council Member Mason presented the following proposed budget for downtown Boone site furnishings:

PHASE I BUDGET JANUARY 12, 2010

	Item #	Description	Cost	Amount	Total
	1	Wausau Tile Trash Receptacles in Black and Green Recycled Glass	$649.00	15	$9,735.00 + $741.00 freight $10,476.00
	2	Petersen Mfg. Co. Inc. Recycling Kiosk	$3,269.75	3	$9,809.25
	3	Pedestrian Street Sign Map Inserts 12x18 in aluminum .040	$22.50	16	$360.00
	4	Plasa Cut Finials for the Pedestrian Street Signs	$75.00	8	$600.00
	5	Light Pole Banners-Full Color Print: Double-sided, hemmed w/Pole Pockets	$125.00	22	$2,750.00
	6	Kiosk Signage w/Framing and Backer	$425.00	1	$425.00
	7	Kiosk Framing-6x6 PT Posts w/4x4 PT Cross members; Cedar Roof; Augured Holes w/Concrete	$1,750.00	1	$1,750.00
	8	Bike Racks	$200.00	2	$400.00
Donations?	9	Dumar 8' Benches w/3 arms “Gullwings Black”	$1,033.00	4	$4,132.00 +$306.00 freight $4,438.00
Donations?	10	Cultural Historical Bench Enhancements			
	11	Big Belly Solar Compactor	$3,995.00	3	$11,985.00 +$300.00 freight $12,285.00
				Total	$43,293.25

Council Member Brantz asked about a time frame. Council Member Mason stated that the project should be completed by late spring or by the end of the fiscal year. Council Member Leigh suggested that the Council should coordinate with the Howard Street plan before considering this plan. She pointed out three memos recently sent to the Council for information regarding the street amenities recommended by the Community Appearance Commission and adopted by the Council. Furthermore, she indicated that these memos relate the changes that these amenities could have on the Howard Street project and the costs of such changes. Council Member Brantz stated that he envisions some action taken on this project. Upon a motion by Council Member Leigh, seconded by Council Member Mason, Council moved to send this request to the Community Appearance Commission for review at its regular meeting in February for a recommendation to present to Council in March and to include a copy of the following:

1. Memo from Brian Tripp, P.E. to Greg Young dated December 17, 2009 regarding the streetscape amenities and its relation to the proposed Howard Street Project streetscape plan.
2. Memo and Excel spreadsheet from Brian Tripp, P.E. to Greg Young dated February 15, 2010 regarding the streetscape amenities and its relation to the proposed Howard Street Project streetscape plan.

VOTE: Aye - All
Nay - None

Mayor Clawson declared a break at 7:43 p.m. Council reconvened at 7:53 p.m.

DISCUSSION OF DBDA SURVEY PROPOSAL

Town Manager Greg Young explained that at the regular meeting in December, the Council granted permission to the ASU Communications Department's Research Methods class to conduct a survey for input from the members of the Municipal Service District as it relates to contract renewal with the Downtown Boone Development Association. Since that time, Ms. Janice Pope, who teaches the class, has contacted the Town to say that the class can no longer perform the survey. She indicated that this project does not fit the intent of the class. Mr. Young stated that Ms. Pope did agree to provide assistance with the creation of the questions for the survey. As a result, Mr. Young stated that he had obtained another proposal from the ASU College of Business which lists two options with a cost of $11,500 for Option 1 and $9,500 for Option 2. Furthermore, he reminded the Council of two proposals previously by Clark & Chase Research in the amount of $4,760-$9,725 and Insight Research Inc. in the amount of $5,560-$5,860. Mr. Young also offered that the survey could be performed "in-house" by Town employees. Council Member Brantz voiced a concern that the Town may not achieve the same results by performing the survey "in-house" rather than using a professional company. Council Member Phillips expressed his concern regarding the amount of funds required in order to have a professional company perform the survey. Council Member Mason stated that a history of the downtown Municipal Service District tax and the Main Street Program should be included in the survey. Furthermore, she stated that she feels the results of the survey should provide a clear idea of what the MSD taxpayers would like to see happening in the downtown. Council Member Leigh suggested that the DBDA provide information regarding the goals of the Main Street Program and if those goals are being met. Town Manager Greg Young stated he is also needing input regarding the questions to be included in the survey. Upon a motion by Council Member Mason, seconded by Council Member Ball, Council moved to appropriate $7,000 for the conduction of the survey, to direct the Town Manager to coordinate the conduction of the survey, and to further evaluate the DBDA and the Main Street Program by using such tools as a listserve and other appropriate evaluations tools. Council Member Mason, seconded by Council Member Ball, also moved that the survey results and a written report be completed by May 1, 2010.

VOTE: Aye - All
Nay - None

TRANSPORTATION COMMITTEE RECOMMENDATION - PROPOSED THREE-WAY STOP ON OLD BRISTOL ROAD

Public Works Director Blake Brown presented a recommendation by the Transportation Committee for the installation of a three-way stop on Old Bristol Road near the proposed expansion of the Boone Exchange Apartment Complex. He stated that this recommendation is the result of an expectation of increased traffic in the area upon completion of the expansion. He explained that the three-way stop will be installed at the intersection of Old Bristol Road and Green Street. Mr. Brown stated that a traffic study is proposed for the area for later in the spring of this year and also when the project is completed. He indicated that if further traffic-calming devices are deemed necessary, the developer will incur the cost of material for up to three devices. Upon a motion by Council Member Phillips, seconded by Council Member Ball, Council moved to approve the installation of a three-way stop at the intersection of Old Bristol Road and Green Street.

VOTE: Aye - All
Nay - None

ANNOUNCEMENT OF BOARD VACANCY

Mayor Clawson announced a vacant position on the Greenway, Parks & Garden Committee due to the resignation of Tom Normand. She also announced a vacant position on the Boone ABC Board and the Outside Agency Funding Committee due to the resignation of Deborah Ragsdale.

BOARD APPOINTMENT - AFFORDABLE HOUSING TASK FORCE

Mayor Clawson announced that three community-member, at-large positions and one Planning Commission representative position exist on the Affordable Housing Task Force. She noted that applications have been received from Lynwood Brown, Jayme Glover, and Pam Williamson and that an application for the Planning Commission position has been received from Terrence Milstead. Council Member Phillips nominated Terrence Milstead to fill the position of Planning Commission representative. With no other nominations, Mayor Clawson called for a vote on the nomination of Terrence Milstead to the Affordable Housing Task Force as the Planning Commission representative:

VOTE: Aye - All
Nay - None

Discussion ensued concerning the specific requirements concerning the three at-large community member positions for the Affordable Housing Task Force. Upon a motion by Council Member Mason, seconded by Council Member Ball, Council moved to table this matter until the Thursday, February 18, 2010 meeting of the Council so that clarification can be provided regarding the position requirements.

VOTE: Aye - All
Nay - None

BOARD APPOINTMENT - BOARD OF ADJUSTMENT

Mayor Clawson announced that no applications for the alternate ETJ position on the Board of Adjustment have been received. She noted that the Clerk will continue to advertise this vacancy.

BOARD APPOINTMENT - COMMUNITY APPEARANCE COMMISSION

Mayor Clawson announced that no applications for the two vacant positions on the Community Appearance Commission have been received. She noted that the Clerk will continue to advertise this vacancy.

BOARD APPOINTMENT - JONES HOUSE ADVISORY BOARD

Mayor Clawson pointed out that there are three vacant positions on the Jones House Advisory Board. She noted that applications from Tuesdae Rice and Trent Margrif have been received. Council Member Brantz requested to postpone consideration of Mr. Margrif's application so that he could contact Mr. Margrif to further discuss this position. Council Member Ball stated that he feels that the Council should consider Mr. Margrif's application without delay in order to fill this position. Council Member Brantz nominated Tuesdae Rice to serve on the Affordable Housing Task Force. Council Member Ball nominated Trent Margrif to serve on the Affordable Housing Task Force. With no other nominations, Mayor Clawson called for a vote on the nominations:

Tuesdae Rice: Aye - All
Nay - None

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

BOARD APPOINTMENT - PARKING TASK FORCE

Mayor Clawson announced that an application was received from Barry Sauls for the ASU Administration/Parking position on the Parking Task Force. She also noted that an application from Brian Newell was received for the Tourism Development Authority representative on the Parking Task Force. Council Member Ball nominated Barry Sauls to serve as the ASU Administration/Parking representative. Council Member Mason nominated Brian Newell to serve as the TDA representative. With no other nominations, Mayor Clawson called for a vote on the nominations:

Barry Sauls: Aye - All

Nay - None

Brian Newell: Aye - All
Nay - None

BOARD APPOINTMENT - PLANNING COMMISSION

Planner Jane Shook informed Council that an ETJ position vacancy exists on the Planning Commission and that an application from Thomas Purpur has been received. She noted that the nomination from the Council will be forwarded to the Watauga County Commissioners for appointment. Council Member Ball nominated Thomas Purpur for the ETJ position. With no other nominations, Mayor Clawson called for a vote to forward the nomination of Thomas Purpur to serve in the ETJ position to the Watauga County Board of Commissioners.

VOTE: Aye - All
Nay - None

BOARD APPOINTMENT - SUSTAINABLE DEVELOPMENT TASK FORCE

Mayor Clawson noted that six positions are open on the newly-created Sustainable Development Task Force. The following positions were advertised: one ASU faculty/staff specializing in sustainable development; one ASU student specializing in sustainable development; one contractor/builder or other individual with experience in green building/remodeling; and three positions with expertise and/or interest in sustainable development. She noted that applications from Matt Long and Patrick Beville have been received. Council Member Leigh nominated Matt Long to serve as the builder/contractor with experience in green building/remodeling on the task force. With no other nominations for this position, Mayor Clawson called for a vote on the nomination of Matt Long for the builder/contractor position:

VOTE: Aye - All
Nay - None

Council Member Brantz nominated Patrick Beville to serve on the task force as a community member with expertise and/or interest in sustainable development positions. With no other nominations, Mayor Clawson called for a vote on the nomination of Patrick Beville for the at-large community member with expertise and/or interest in sustainable development:

VOTE: Aye - All
Nay - None

BOARD APPOINTMENT - TREE BOARD

Mayor Clawson announced that no applications for the two vacant positions on the Tree Board have been received. She noted that the Clerk will continue to advertise this vacancy.

SCHEDULE SPECIAL MEETING - WATER STUDY COMMITTEE

Public Utilities Director Rick Miller stated that the Water Sub-Committee has recommended scheduling a meeting of the Water Study Committee to receive information concerning water availability fee deposits and possible rebate programs. Town Attorney Sam Furgiuele also noted that he has amended the Ordinance to reflect changes requested by the committee. Upon a motion by Council Member Leigh, seconded by Council Member Brantz, Council moved to schedule a Special Meeting of the Boone Town Council and the Water Study Committee for Monday, March 1, 2010, at 5:30 p.m. in the Council Chambers, to consider the aforementioned items.

VOTE: Aye - All
Nay - None

MONTHLY WATER STATUS REPORT

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

APPROVAL OF BUDGET AMENDMENTS

Upon a motion by Council Member Brantz, seconded by Council Member Leigh, Council moved to approve the following budget amendments:

DESCRIPTION	ACCOUNT #	TO:	FROM:
MAINTENANCE OF VEHICLES-POLICE DEPT	010-500-300-525301	$676.00	
MISCELLANEOUS REVENUE-GENERAL FUND	010-000-000-489900		($676.00)
MAINTENANCE & REPAIR OF EQUIP-FIRE DEPT	010-500-350-525201	$2,500.00	
MISCELLANEOUS REVENUE-GENERAL FUND	010-000-000-489900		($2,500.00)
SNOW & ICE REMOVAL SUPPLIES-STREET DEPT	010-600-401-514304	$58,000.00	
APPROPRIATED FUND BALANCE-GENERAL FUND	010-000-000-499900		($58,000.00)
COUNTY LANDFILL CHARGES	010-600-405-525901	$252,000.00	
APPROPRIATED FUND BALANCE-GENERAL FUND	010-000-000-499900		($252,000.00)
CONTRACTED SERVICES-FACILITIES MAINTENANCE	010-600-405-577000	$20,500.00	
APPROPRIATED FUND BALANCE-GENERAL FUND	010-000-000-499900		($20,500.00)
MISCELLANEOUS SUPPLIES-NARCOTICS	012-500-303-519900	$1,800.00	
FEDERAL ASSET-JUSTICE	012-500-303-472001		($1,800.00)
UNDERCOVER OPERATIONS-NARCOTICS	012-500-303-529902	$4,500.00	
APPROPRIATED FUND BALANCE-NARCOTICS	012-500-303-499900		($4,500.00)
CONTRACTED SERVICES-PUBLIC UTILITIES	030-700-801-577000	$16,600.00	
APPROPRIATED FUND BALANCE-W&S FUND	030-000-000-499900		($16,000.00)

VOTE: Aye - All
Nay - None

AWARDING OF BID - BRUSH-GRINDING SERVICES

Public Works Director Blake Brown appeared before the Council to request approval to grant the award for brush-grinding services. He noted that the lowest bid was submitted by Steve J. Whitley in the amount of $33,000.00. Upon a motion by Council Member Brantz, seconded by Council Member Phillips, Council moved to accept the bid from Steve J. Whitley in the amount of $33,000.00 to provide brush-grinding services.

VOTE: Aye - All
Nay - None

REQUESTED APPEARANCE - MIKE CURCIO

Mike Curcio, Chair of the Greenway, Parks & Gardens Committee, appeared before the Council to present a request to pursue with Watauga County the feasibility of a greenway connector for the end of the Greenway Trail at the Watauga Humane Society to the Watauga Hunger Coalition. He explained that this connection will serve some affordable housing communities, the Watauga Hunger Coalition, the Community Care Clinic, Caldwell Community College, and the future Hospitality House location. Mr. Curcio noted that an undeveloped footpath currently exists at this location. Upon a motion by Council Member Ball, seconded by Council Member Phillips, Council moved to add this item for discussion to the agenda for the Joint Meeting of the Council, the Watauga County Board of Commissioners, and the Watauga Recreation Commission on February 22, 2010, at 6:30 p.m. in the Commissioners'Board Room.

VOTE: Aye - All
Nay - None

CLOSED SESSION

Upon a motion by Council Member Brantz, seconded by Council Member Ball, Council moved to enter Closed Session at 8:55 p.m. pursuant to NCGS 143-318.11a)3) in order to discuss the following matters:

- Legal Advice - Amendments to UDO relating to stormwater, incursions into street setbacks, conversion of commercial to residential in B-1, and text amendment regarding certain shelters
- Legal Advice - Possible legal action by the Town

$ Legal Advice - Threatened legal action against the Town
$ Legal Advice - Howard Street right-of-way

VOTE: Aye - All
Nay - None

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to exit Closed Session at 10:21 p.m.

VOTE: Aye - All
Nay - None

ACTION FOLLOWING CLOSED SESSION

Upon a motion by Council Member Mason, seconded by Council Member Leigh, Council moved to direct the Town Attorney and the Development Services staff to draft language for the following proposed text amendments: stormwater, incursions into street setbacks, conversion of commercial to residential in B-1, and text amendment regarding certain shelters.

VOTE: Aye - All
Nay - None

Upon a motion by Council Member Mason, seconded by Council Member Leigh, Council moved to enter into the following Memorandum of Understanding with Crae Morton and authorized the Town Attorney and Town Manager to negotiate minor changes:

MEMORANDUM OF UNDERSTANDING

Prepared by Samuel F. Furgiuele, Jr.
Return to Samuel F. Furgiuele, Jr.

STATE OF NORTH CAROLINA

COUNTY OF WATAUGA

THIS MEMORANDUM OF UNDERSTANDING is entered into this _____ day of _____, 2010, by and between the **Town of Boone**, a North Carolina municipal corporation (hereinafter, "the Town"), and **Craymie, LLC**, a North Carolina limited liability company (hereinafter, "Craymie"), referred to collectively as "the Parties," in order to confirm the agreements which they have made between them regarding the subject matter of this memorandum:

WHEREAS, Craymie is the owner of that certain property obtained by conveyance recorded in Book 1438, page 167 of the Watauga County, North Carolina registry (hereinafter "Craymie's Property") located at the intersection of Depot Street and Howard Street in the town of Boone, North Carolina; and

WHEREAS, Town is the owner of property adjoining Craymie's Property comprising and bordering that certain street known as "Howard Street" in the Town of Boone, North Carolina (hereinafter, "Howard Street"); and

WHEREAS, the parties disagree as to the exact location of the boundary line between Craymie's Property and Howard Street, creating a disputed area approximately five (5) feet in width and extending parallel to and the entire length of the side of Craymie's property adjoining Howard Street (hereinafter, "the disputed area"); and

WHEREAS, Craymie wishes to make certain improvements in the disputed area, including the construction of a sidewalk and placement of outdoor furniture to serve the business expected to be located on Craymie's Property (hereinafter referred to as "Craymie's outside improvements"); and

WHEREAS, the Town has developed and adopted plans for the redesign, reconstruction, and beautification of Howard Street, which include the construction of sidewalks, installation of underground utilities, creation of a streetscape, placement of street furniture and other improvements to Howard Street (hereinafter collectively referred to as "the Howard Street Project"); and

WHEREAS, when the Town proceeds with construction of the Howard Street Project Craymie's outside improvements will conflict and interfere with that construction; and

WHEREAS, Craymie wishes to immediately undertake Craymie's outside improvements while the date of the onset of construction activities in connection with the Howard Street Project by the Town is uncertain; and

WHEREAS, the parties have reached an agreement which addresses the concerns, needs, and wishes of each party, and they now wish to confirm their agreement regarding these issues in writing;

The Parties have agreed as follows:

1. Without regard to its claim to the disputed property, the Town grants Craymie the right to proceed, as Craymie sees fit, with Craymie's outside improvements in the disputed area, including but not limited to construction of a sidewalk and placement of outdoor furniture, whether or not the sidewalk or outdoor furniture is consistent or compliant with the Howard Street Project;

2. At such time as construction by the Town of the Howard Street Project is undertaken and the disputed area must be disrupted for construction to take place in accordance with the adopted plans for the Howard Street Project, Craymie, its successors or assigns, shall convey, by quitclaim deed, all rights, interests and claims to the disputed area, and it shall remove all outdoor furniture which it has placed in the disputed area. Upon delivery of said quitclaim deed, the Town may proceed, without further contest or claim by Craymie, its successors or assigns, to demolish any sidewalk or other such improvement constructed or installed by Craymie in the disputed area, to excavate the disputed area as needed, to remove any materials from the disputed area, and in general to take whatever

steps within the disputed area which may be needed or desirable, in the sole discretion of the Town, to construct and complete the Howard Street Project.

3. Until such time as Craymie conveys its rights, interests and claims to the disputed area, it shall be solely responsible, as between the parties, for any injury or property damage which occurs within the disputed area, to itself, its officers, employees, agents, contractors, or any third party, and it will indemnify, defend and hold Town harmless for and against all suits or claims arising out of or in any way related to Craymie's use of or construction in the disputed area, or arising in connection with the disputed area during the period from the date of this Memorandum of Understanding until delivery of the aforesaid quitclaim deed to the Town. After Craymie conveys its rights, interests and claims to the disputed area to the Town, the Town shall be solely responsible, as between the parties, for any injury or property damage which occurs within the disputed area, to itself, its officers, employees, agents, contractors, or any third party, and it will indemnify, defend and hold Craymie harmless for and against all suits or claims arising out of or in any way related to Town's use of or construction in the disputed area.

IN WITNESS WHEREOF, the Parties have hereunto set their hands and seals, the day and year first above written.

VOTE: Aye - All
Nay - None

RECESS

Upon a motion by Council Member Leigh, seconded by Council Member Phillips, Council moved to recess the meeting at 10:23 p.m. until Thursday, February 18, 2010 at 6:30 p.m. in the Council Chambers, 1500 Blowing Rock Road.

VOTE: Aye - All
Nay - None

CALL TO ORDER

A recessed meeting from Tuesday, February 16, 2010 was called to order at 6:30 p.m., Thursday, February 18, 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 Furgiuele was also present. Staff members present were Town Manager Greg Young, Deputy Town Clerk Kimberly Brown, Assistant to the Town Manager Jim Byrne, Police Chief Dana Crawford, Fire Chief Reggie Hassler, Public Works Director Blake Brown, Public Utilities Director Rick Miller, Finance Director Amy Davis, Human Resources Director Peri Moretz, Development Services Director Bill Bailey, and Development Coordinator David Graham.

Mayor Clawson stated that any persons wishing to address the Council should sign in to speak during the Public Comment period.

TENTATIVE AGENDA ADOPTION

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

1. Addition of Item 6.G. - Update on Sister-City Project & Creation of Citizen Interest Group (moved from Feb. 16th agenda).

2. Addition of Item 6.H. - Request for Funding & Intern Report - Historic Structures Inventory (moved from Feb. 16th agenda).

3. Addition of Item 6.L.(1.) - Board Appointments - Affordable Housing Task Force (tabled from Feb. 16th meeting).

4. Addition of Item - Water Committee Meeting Summary.

5. Addition of Item - Review of Ordinance #05-01 and Development of a Water Allocation Plan.

6. Deletion of Item 17.A. - Douglas McGuire - Water & Sewer Request.

Council Member Leigh questioned the intent of the addition of Items 4 and 5 and stated that she did not receive information in a timely manner to make a decision on these items. Council Member Mason stated that Item 4 is for information and Item 5 has been added in order to schedule a special meeting of the Water Study Committee for further study of specific issues. Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to adopt the agenda as amended.

VOTE: Aye - All
Nay - None

PUBLIC COMMENT

Mac Forehand stated that he would like to speak to the issue of the resolution presented by the TDA.

UPDATE ON SISTER-CITY PROJECT - CREATION OF CITIZEN INTEREST GROUP

Council Member Brantz updated the Council on the status of this project. He informed the Council that a letter from Mayor Clawson has been sent to the ambassador for Azerbaijan and that more information regarding the sister-city program is being gathered. He also stated that preparations are being made to create a citizen-interest group which will include, among others, Mayor Clawson and a representative from the Chamber of Commerce. Galib Abbaszade stated that he would appear before the Council to provide an update once he receives a response from the ambassador.

REQUEST FOR FUNDING AND INTERN REPORT - HISTORIC STRUCTURES INVENTORY

Council Member Brantz stated that the Historic Preservation Commission has begun developing an Historic Structures Inventory of homes, buildings, and neighborhoods in Boone. He introduced ASU Intern Jules Oroukin, who has completed the majority of work on this task. Ms. Oroukin presented information regarding the history of Boone, including two surveys of the area dating back to the 1920's. Following Ms. Oroukin's presentation, Council Member Brantz, on behalf of the Historic Preservation Commission, requested a $1,000.00 budget transfer to enable Ms. Oroukin to complete this project. He stated that the internship is also being funded in part by ASU and that the Town already has an agreement with ASU regarding this internship. Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to appropriate $1,000.00 to the Historic Preservation Commission in order to allow ASU Intern Jules Oroukin to complete an Historic Structures Inventory.

VOTE: Aye - All
Nay - None

BOARD APPOINTMENT - AFFORDABLE HOUSING TASK FORCE

Mayor Clawson stated that this item had been tabled at the February 16th meeting so that Council could receive information regarding how these positions had been advertised. Council Member Leigh stated that since the last meeting the clerk had sent a copy of the newspaper ad for these positions. The ad was presented in the local media as follows:

Affordable Housing Task Force
Three community member positions: Two positions requiring residents of, or who 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.

Council Member Leigh nominated Pam Williamson for a neighborhood position on the Affordable Housing Task Force. Council Member Mason nominated Jayme Glover to also serve in the neighborhood position on this task force. Council Member Leigh stated that she feels that

Ms. Glover would be better suited to serve as an at-large community representative as she does not live in the Town limits. After brief discussion, it was determined that the community at-large position has not yet been advertised. Council Member Mason stated she would contact Ms. Glover in order obtain more information to determine in which position would she would best fit. With no other nominations, Mayor Clawson called for a vote on the nomination of Pam Williamson to serve as a neighborhood representative on the Affordable Housing Task Force.

VOTE: Aye - All
Nay - None

WATER STUDY COMMITTEE REPORT

Public Utilities Director Rick Miller presented the following meeting summary from the February 11th meeting of the Council and Water Study Committee:

PUBLIC UTILITIES DEPARTMENT
UTILITIES AND ENGINEERING DIVISION

To: Mayor Clawson, Town Council Members, and Town Manager

From: Ricky L. Miller, Public Utilities Director

Date: February 16, 2010

Subject: Water Committee Meeting Summary

This memorandum is to serve as a summary of our Water Committee activities at the February 11, 2010, meeting.

The first item on the agenda was to discuss water and sewer rates. Mr. David Bixby, Village Laundry, had appeared at our last council meeting expressing concern that our water rates were excessive. Mr. Bixby was in attendance at the water committee meeting and presented some information concerning other utility rates. Several committee members explained why we adopted an inkling rate structure and the benefits to him, although he still felt our rates were too high. Upon the conclusion of this discussion, no action was taken by the committee, so no recommendations are forwarded.

The second item on the agenda was to discuss adding additional water amounts to the allocation pool. A spirited and lengthy discussion took place among staff and committee members alike. The eventual outcome was the following motion which was seconded: ***Verbatim:*** *"Recognizing that there is some available additional gallons but in light of the fact that there are still 23,000 plus additional gallons remaining for this year and 25,000 additional gallons for 2011 and due to uncertainties with vesting of past approvals that we have already granted, and in recognition of the fact that we are looking at 4-5 more years before we can get online with a new water source; I move that we stay where we are at this point and then come back and reevaluate any additional water availability later in the year." A vote was called for and this motion passed with eight aye votes and five nay votes.*

The final item on the agenda was to discuss modification to Ordinance #05-01 and allow for extensions of water mains into secondary pressure zones outside the corporate limits. After a short amount of discussion the decision was made to not make any modifications to Ordinance #05-01 concerning extension into the secondary pressure zone.

Thank you for your consideration and if you have any questions, or require any additional information feel free to contact me.

Mayor Clawson and the Council thanked Mr. Miller for the summary.

REVIEW OF ORDINANCE #05-01 AND DEVELOPMENT OF A WATER ALLOCATION PLAN

Council Member Mason began by making the following points regarding Ordinance #05-01:

$ Ordinance #05-01 was developed to assist the Town in allocating water until a new water source was brought on-line. It was estimated at the time that this would take 5-6 years.

$ Over the past five years, the Town has
-Acquired a site for the new intake and is in the permitting process that will take at least 2 years.
-Entered into an agreement with ASU for a water interconnection that is now operational and though it is primarily designed as an emergency backup system for both the Town and ASU, it could help ease the water situation while Boone continues to acquire a new water supply.
-Developed and implemented a water conservation program.
-Adopted voluntary and mandatory drought condition regulations.
-Yearly Average/Maximum Daily Demand has been between 1.93 and 2.13, most recently at 1.93.

$ The Town is now in year five of Ordinance #05-01, and we know it will be another 4-5 years before a new water source is on-line.

$ Responsible continued allocation of water benefits the Town in the following ways:
-Allows development that addresses community needs.
-Continues to grow the number of water/sewer users which is critical to financing the water intake project.
-Increases the Town's tax base.
-Supports development as recommended in the Land Use Master Plan instead of encouraging development in the County and our more rural areas where there is no water/sewer infrastructure.

Council Member Mason moved to direct the Water Committee to review and update Ordinance #05-01 and the Town's water allocation plan for the next five years based on objective information to determine how the Town can responsibly allocate water until the new water source is on-line recognizing the following:

1. Water use is down.
2. ASU/Town Interconnect is available to shave peak days.
3. The Town has a Land Use Master Plan in place to guide responsible growth.
4. The Town has a water conservation program in place.
5. The Town has drought regulations in place.

Council Member Ball seconded the motion. As a point of discussion, Council Member Leigh objected to the prefacing comments made by Council Member Mason prior to the motion. She stated that she feels that Council Member Mason's comments are opinion-based. Furthermore, Council Member Leigh stated that she did not have sufficient time to prepare for this issue as it was added to the agenda, and she did not receive notification of the item until about one hour prior to the meeting. Council Member Mason explained that her comments were made to provide some history of this issue since several members of the Water Committee are new and do not have the full history of the water situation and Ordinance #05-01. She stated that she feels this information will help new members of the committee to make an informed decision regarding water issues. Town Attorney Sam Furgiuele stated that he would like to meet with Public Utilities Director Rick Miller and members of the Development Services Staff to make a complete inventory of projects with water allocations and vested rights that may have expired. It was the consensus of the Council to schedule a date for the Water Study Committee to consider the items in Council Member Mason's motion at the meeting on March 1, 2010. With no other discussion, Mayor Clawson called for a vote on the motion.

VOTE: Aye - All
Nay - None

REQUESTED APPEARANCE - JIM WOOTEN

Mac Forehand, on behalf of the Boone Tourism Development Authority, appeared before the Council to request support of a resolution drafted and approved by the TDA. He explained that when the occupancy tax was increased from 3% to 6%, language was stricken from the bill that allowed a 3% discount to lodging owners to cover the cost of collecting and processing the tax. Mr. Forehand stated that the resolution is in support of reinserting the language during the May session of the General Assembly. He stated that Representative Cullie Tarleton is in support of

this request and will introduce the amendment before the legislature. Jim Wooten agreed by stating that the loss of the discount is a burden on the lodging establishments in the area. Upon a motion by Council Member Phillips, seconded by Council Member Brantz, Council moved to adopt the following resolution:

RESOLUTION

WHEREAS, the Boone TDA, the Town of Boone, and the Boone-Blowing Rock Lodging Association all supported the recent increase in occupancy tax; and

WHEREAS, agreements were entered into to maintain the status quo in other areas of TDA operations and;

WHEREAS, it was expected by supporting parties that all would be held harmless;

NOW, THEREFORE, BE IT RESOLVED that the administrative discount allowed to the lodging businesses collecting the tax since it was begun in 1987, and struck from the language in the 2009 legislation, be restored.

ADOPTED this the **18th** day of **February**, **2010**.

Loretta Clawson, Mayor

ATTEST:

Kimberly S. Brown, Deputy Town Clerk

(RESOLUTION TO BY TYPED IN BOOK 3 , PAGE(S) 131)

VOTE: Aye - All
Nay - None

REQUESTED APPEARANCE - DAVE BIXBY

Dave Bixby stated that although his concern had already been addressed at the Special Meeting on February 11th, his concerns regarding the water rates have not changed.

Before deliberating on the water and sewer requests, Town Attorney Sam Furgiuele questioned the members of the Council on whether or not they have had contact with any of the applicants requesting water and sewer service. All Council members stated that they had not had any significant contact with any of the applicants submitting requests for water and sewer service.

WATER & SEWER REQUEST - AMBLING DEVELOPMENT

Town Attorney Sam Furgiuele re-opened a public hearing at 7:37 p.m. to hear sworn testimony on a request for water and sewer service to property located on Shadowline Drive. Tony di Santi, an attorney representing the applicant, asked the Council to table consideration of this case until after the Water Committee meets to address the issue of water allocations. With no testimony offered, Mr. Furgiuele closed the public hearing at 7:40 p.m. Council Member Brantz stated that he is supportive of the request to table this case until the Water Committee can meet to discuss the amount of water available for allocations. He stated that this is a positive project that is limited by the amount of water available at this time for allocation. Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to table the consideration of this case until the regular meeting of the Town Council in April 2010.

VOTE: Aye - All
Nay - None

WATER & SEWER REQUEST - WATAUGA COUNTY

Town Attorney Sam Furgiuele opened a public hearing at 7:46 p.m. to hear sworn testimony from Eric Woolridge, Public Utilities Director Rick Miller, and Development Coordinator David Graham on a request for water service to property located off Highway 421, adjacent to the Watauga Landfill, known as Rocky Knob Park. Eric Woolridge, Director of the Watauga County TDA, explained that if a condition of annexation is required with the granting of the water request, the request would be withdrawn. He pointed out that the property is owned by Watauga County but that the project is being managed by Watauga Co. TDA. He further explained that grant funding has been received that prohibits the funding from being spent in areas that are incorporated by townships. Mr. Woolridge also requested clarification regarding the zoning restrictions of the very small portion of the property that is located in the ETJ. He explained that the project is a mountain bike/hiking facility and that restrooms are not being proposed at this time. Council Member Brantz asked about future plans for expansion of the park. Mr. Woolridge stated that the project is anticipated to become a 170-acre regional park with an "adventure playground" and a stacked-loop mountain-bike trail system. He stated that the park will contain no enclosed structures, only open picnic shelters. Development Coordinator David Graham stated that the portion of the property located in the ETJ is zoned B-3, General Business, and since no structures are proposed to be located in that area, he saw no restrictions regarding the zoning designation. Public Utilities Director Rick Miller responded to a question by Council Member Mason regarding the installation of a line to the project. Mr. Miller responded that the tap will be made behind the forestry building located near the landfill and that the meter will be located there. He stated that the property owner will be responsible for the lines from the meter. He stated that the property is located in the primary pressure zone. Mr. Miller recommended that the project usage be monitored for a one-year period and that availability fees be based on the average use. Council Member Leigh asked if Ordinance #05-01 allows the Council to grant water to property located outside the Town limits without the requirement of annexation. Mr. Fugiuele stated that Ordinance 05-01 does contain provisions for granting water outside the Town limits without annexation in certain situations as addressed in paragraph 4 of the ordinance. With no other testimony, Mr. Furgiuele closed the public hearing at 8:07 p.m. Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to approve the request for water service since the surrounding area has a history of contamination of the ground water and since this provides an economic opportunity for the area, with the condition that the applicant bears all of the cost associated the granting of water service and without the requirement of annexation.

VOTE: Aye - All
Nay - None

ADJOURNMENT

On a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to adjourn the meeting at 8:10 p.m.

VOTE: Aye - All
Nay - None

_____ _____

Deputy Town Clerk Mayor