MINUTES-REGULAR MEETING
BOONE TOWN COUNCIL
JANUARY 18, 2011

A regular meeting of the Boone Town Council was called to order at 6:30 p.m. on Tuesday, January 18, 2011, in the Council Chambers, 1500 Blowing Rock Road. Mayor Loretta Clawson presided. Council members present were Mayor Pro-Tem Lynne Mason, Stephen Phillips, Jamie Leigh, Andy Ball, and Rennie Brantz. Town Attorney Sam Furgiuele was also present. Staff members present were Town Manager Greg Young, Deputy Town Clerk Kim Brown, Assistant to the Manager Jim Byrne, Finance Director Amy Davis, Police Chief Dana Crawford, Police Captain Andy LeBeau, Fire Chief Jimmy Isaacs, Public Work Director Blake Brown, Public Utilities Director Rick Miller, Human Resources Director Peri Moretz, Planning & Inspections Director Bill Bailey, and Planner Jane Shook.

ANNOUNCEMENTS

Mayor Clawson announced that any persons wishing to address the Council on a non-agenda item should sign in to speak during the Public Comment period.

Mayor Clawson recognized Public Utilities Director Rick Miller who announced that Karen Reece, Lab Supervisor/Pretreatment Coordinator, received the Water Environment Federation Laboratory Analyst Excellence Award for outstanding performance, professionalism and contributions to water quality given by the Water Environment Federation. He noted that Ms. Reece has been employed with the Town of Boone since 2003 and has been instrumental in implementing such programs as fat, oil, and grease reductions for restaurants to help eliminate sanitary sewer overflow. Mr. Miller noted that such programs, as well as other tests performed by Ms. Reece, help to insure the water released back into the river meets standards required by the Town's state permit. Mayor Clawson and the members of the Council thanked Ms. Reece for her hard work and congratulated her on the receipt of this prestigious award.

TENTATIVE AGENDA ADOPTION

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

1. Expansion of Item 6.C. - Scheduling of MSD Special Task Force meetings.
2. Revised Item 6.L. - Announcement of Board Vacancies.
3. Addition of Item 6.Q. - Presentation of DBDA Proposed budget for January 1, 2011-June 30, 2011 (For Information).
4. Addition of Item 6.R. - Planning & Inspections Monthly Report (For Information).
5. Update on Downtown Post Office (For Action).
6. Schedule Quarterly DBDA Update (For Action).

Upon a motion by Council Member Ball, seconded by Council Member Brantz, Council approved the agenda, as amended.

VOTE: Aye - All
Nay - None

CONSENT AGENDA ADOPTION

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

Minutes: December 1, 2010 - Special Meeting.
December 14/16, 2010 - Regular Meetings.

Tax Releases & Refunds: November 2010:

TAX RELEASES
NOVEMBER 2010

Taxpayer	Year	Amount	Description
WATAUGA PSYCHOTHERAPY ASSOC	2010	12.62	BUSINESS CLOSED
RUPP PROPERTIES LLC	2010	354.46	DOUBLE BILLED
HUFFMAN, JUDITH SAUNDERS	2009	46.81	INCORRECT SITUS
CAROLINA INSURANCE AND FINANCIAL SERVICES	2010	.74	INCORRECT SITUS
	2009	14.25	INCORRECT SITUS
	2008	12.21	INCORRECT SITUS
	2007	1.02	INCORRECT SITUS
	2006	8.14	INCORRECT SITUS
	2005	8.80	INCORRECT SITUS
	2004	6.60	INCORRECT SITUS
	2003	4.29	INCORRECT SITUS
	2002	1.17	INCORRECT SITUS
		471.11	

TAX REFUNDS
NOVEMBER 2010

Taxpayer	Year	Amount	Description
JENSEN, GLORIA ANN	2010	1.63	TURN IN TAG
HUFFMAN, JUDITH SAUNDERS	2008	65.45	INCORRECT SITUS
		67.08	

Approval of Contract - Combs, Tennant & Carpenter, P.C. **(EXHIBIT A)**

VOTE: Aye - All
Nay - None

PUBLIC COMMENT

Derek Scism, of 156 Rusty Coat Lane, appeared before the Council to question why his request for water and sewer service was not scheduled for the January meeting. He stated that he is wanting to request water and sewer service to property on White Oak Road in order to build a home for his family. Mr. Miller stated that Mr. Scism did not submit his application in time for it to be processed to be placed on the January agenda. Town Attorney Sam Furgiuele explained that part of the application process includes the creation of reports from various Town departments to be submitted as part of the information packet presented to the Town Council. Furthermore, he advised that since water and sewer requests are considered by the Council in a quasi-judicial hearing, discussion of Mr. Scism's request would be inappropriate at this time. He stated that water and sewer requests are considered on a first-come, first-serve basis and that Mr. Scism's application should be the first application to be considered by the Council on the February agenda.

PRESENTATION OF AUDIT REPORT - COMBS, TENNANT & CARPENTER, P.C.

Mr. Jason Carpenter of Combs, Tennant and Carpenter appeared before Council to present the audit report for fiscal year 2009/2010. 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 $13,673,532 in the general fund balance and $31,231,483 in the water/sewer fund balance. Mr. Carpenter reported that the tax collection rate is 98.22% which is above state average.

ADOPTION OF RESOLUTION - SUPPORTING BOONE AREA CYCLISTS SAFE STREET PLEDGE

It was the consensus of the Council to place this item on the February agenda due to a mis-communication between the Town and Melissa Waddell of the Boone Area Cyclists regarding the meeting dates.

SCHEDULE MSD TASK FORCE MEETING(S)

Discussion began regarding the recent action taken by the DBDA Membership meeting. Council Member Mason reported that the DBDA Board of Directors approved the changes to the by-laws. Discussion ensued regarding the continued meeting of the MSD Task Force. Council Member Leigh stated that she was unsure that some of the members of the MSD Task Force would be agreeable to serving, and she noted that the recommendations issued by the Task Force were not approved by the Council. She stated that there are issues for the downtown that need continued discussion and review but feels that the Council should reformulate the goals of the task force if it is continued. Council Member Ball agreed and suggested that it may be appropriate to appoint new members to the task force. Council Member Brantz stated that he feels that there are still some outstanding questions that need to be addressed and that the Council is obligated to continue seeking discussion and solutions to the issues raised. He stated that the meetings of the task force served to educate all involved. Council Member Mason agreed that there are issues that warrant further discussion. The Council discussed scheduling a meeting during which it would develop a list of issues for continued consideration and discussion by the Council, the DBDA Board of Directors and downtown stakeholders. Upon a motion by Council Member Ball, seconded by Council Member Mason, Council moved to set a special meeting for Thursday, February 10, 2011, at 5:30 p.m. to discuss downtown priorities. Council Member Leigh stated that all downtown stakeholders should be included in future discussions regarding downtown issues.

VOTE: Aye - All
Nay - None

REQUEST UPDATE OF MUTUAL AID AGREEMENT - TOB & ASU MUTUAL AID AGREEMENT

Council Member Phillips requested that the Mutual Aid Agreement between the Town of Boone and Appalachian State University be reviewed and updated. He listed jurisdictional questions and instances of emergencies as issues to be addressed. Town Attorney Furgiuele noted that the agreement listed in the meeting packet is not in the format as what was adopted by the Town Council in 2008. Chief Crawford stated he did not know why the more recent format was not implemented. Upon a motion by Council Member Mason, seconded by Council Member Ball, Council moved to direct the Town Attorney, Town Manager, and Chief Crawford to review the Mutual Aid agreement and the approved template as adopted by the Council in 2008 and to bring the updated agreement back before the Council for approval so that it can be properly executed.

VOTE: Aye - All
Nay - None

SCHEDULE FOR WINTER QUARTERLY PUBLIC HEARING - UDO TEXT AMENDMENTS

Case 20090571 Recycling Containers Text Amendment

Planner Jane Shook presented the proposed amendment which reflects changes made to the Town Code.

Case 20100658 Sign Heights Text Amendment

Planner Jane Shook presented the proposed amendment which reflects changes made to regulations regarding canopies and signs in the downtown area.

Case 20110001 Pavement Sealant Standards Text Amendment

Planner Jane Shook presented the proposed amendment which creates standards for the use of pavement sealants including the use of best management practices.

Upon a motion by Council Member Ball, seconded by Council Member Mason, Council moved to place the proposed text amendments on the February 7, 2011, Quarterly Public Hearing agenda.

VOTE: Aye - All
Nay - None

APPROVAL OF ENCROACHMENT AGREEMENT - CASEY & CASEY LAW OFFICES CANOPY SIGN

Planning & Inspections Director Bill Bailey presented a request for an encroachment agreement for Casey & Casey Law Offices for a canopy sign at the office located at 891 West King Street. Mr. Bailey clarified that an encroachment agreement is also needed for the canopies, not just for the signage. He suggested that the application be updated by the applicant to include a request for the actual canopies. Town Manager Greg Young further suggested that the applicant submit information that includes the actual height of the canopies. Council Member Mason stated that she did not want to cause any time delay to the applicant in getting the signage constructed. Upon a motion by Council Member Ball, seconded by Council Member Brantz, Council tabled the request from Casey & Casey Law Offices for an encroachment agreement until the special meeting scheduled for Monday, January 24, 2011, at 5:30 p.m. in the Council Chambers, so that additional information can be obtained.

VOTE: Aye - All
Nay - None

REQUEST PERMISSION TO APPLY FOR GRANT - ARMY CORPS ENVIRONMENTAL RESTORATION GRANT

Assistant to the Manager Jim Byrne explained that this project for the restoration of the South Fork of the New River was initially begun in 1997 and the first phase of this project began 12 years ago. The first phase included from where the Town’s primary intake on the New River is located to the Town’s property line with ASU near Clawson-Burnley Park. He stated that the Town was awarded a grant approximately ten years ago for the second phase of the project which included the area from the Town/ASU property line to the middle bridge; however, due to economic conditions at that time, the funding was retracted. He stated that the Town now has the opportunity to apply for a 1.6 million dollar grant to continue with the second phase of the project. He explained that the grant requires a local match of approximately $890,000 and that $500,000 of that local match could be realized through property easements and in-kind contributions. Mr. Byrne requested permission to proceed with investigating funding sources for this project. He stated that he is also requesting permission to employ a land appraiser to review the value of the land as determined by the Army Corps, an action which he estimates may cost up to $3,000. Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to grant permission for the Town to apply for an Army Corps Environmental Restoration Grant and to approve up to $3,000 in order to receive an appraiser’s opinion in regard to the land valuation for the project.

VOTE: Aye - All
Nay - None

REQUEST PERMISSION TO APPLY FOR GRANT - GOVERNOR'S CRIME COMMISSION GRANT

Police Chief Dana Crawford appeared before Council to request permission to apply for a $30,000 technology improvement grant to place Mobile Data Terminals in patrol vehicles. He explained that this grant will equip patrol vehicles with lap-top computers for reporting purposes and that the ability to have driver's license information and warrant information will be available to officers in the field. He stated that this action will allow for the officers to spend more time out of the office on patrol and in the service of the citizens. Chief Crawford stated that the local match required is $7,500 and if awarded, the grant will be effective July 1, 2011. Furthermore, he explained that after the grant is terminated, there will be a yearly recurring cost of $16,800 for air cars for the computer lap-tops to synchronize data and for access fees to the software vendor. Upon a motion by Council Member Brantz, seconded by Council Member Ball, Council moved to grant permission to apply for a $30,000 Governor's Crime Commission Grant and to approve a local match of $7,500.

VOTE: Aye - All
Nay - None

ADOPTION OF AMENDMENT TO MUNICIPAL CODE - SIDEWALK OBSTRUCTIONS

Town Attorney Sam Furgiuele presented an amendment to CHAPTER 98: STREETS AND SIDEWALKS of the municipal code in regard to sidewalk obstructions. Discussion ensued concerning the height requirements in the last sentence of §98.02 OVERHANGING OR PROTRUDING TREES, SHRUBS, FENCES, CANOPIES, AWNINGS, SIGNS, AND THE LIKE. Council Member Leigh voiced a concern that the proposed height of ten feet might prohibit the replanting of trees. Upon a motion by Council Member Ball, seconded by Council Member Mason, Council moved to adopt the following amendment to Chapter 98 of the Municipal Code, with a change in the last sentence of Section §98.02 from ten feet to eight feet:

CHAPTER 98: STREETS AND SIDEWALKS

. . .

§ 98.01 OBSTRUCTIONS PROHIBITED.

(A) Except as otherwise authorized by statute**,** ~~**or**~~ ordinance (including §§ 98.08 and 98.09 of this chapter), **and/or encroachment agreement adopted by the Town Council,** and except to the extent required by the performance of some function authorized or mandated by a statute or ordinance, no person(s) may congregate, stand, sit, or lie on a sidewalk in a manner that would intentionally obstruct or cause~~**d**~~ to be obstructed pedestrian traffic, or prevent the free ingress and egress by members of the public to and from private or public buildings, parks, or parking lots adjacent to or accessed by public sidewalks within th e town. Also, no person may **intentionally** obstruct **a** public sidewalk~~**s**~~, or obstruct or impede travel in ~~**the**~~ **a** public street~~s~~ within the town by placing or leaving any object within the traveled portion of the public **street** right-of-way **or public sidewalk, except as authorized by this chapter**.

(1) For purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

. . .

(d) *RESPONSIBLE PERSON*. The person who has intentionally or negligently caused or authorized the action which violates the prohibitions of this Chapter, or the owner of the property from or upon which a violation extends, derives or originates.

(e~~d~~) *UNREASONABLE PERIOD OF TIME.*

. . .

§ 98.02 OVERHANGING OR PROTRUDING TREES, SHRUBS, FENCES, CANOPIES, AWNINGS, SIGNS AND THE LIKE.

(A) No person may cause or allow (from property under his control) any tree limb, bush, shrub, or other growth ~~**or any trellis, fence**~~ or ~~**other**~~ **similar** obstruction to overhang a public street at a distance of less than 12 feet above the traveled portion of such street or **to overhang** a public sidewalk at a distance of less than ~~**seven**~~ **eight** feet above such sidewalk.

(B) **Unless authorized and permitted by the Unified Development Ordinance and all other pertinent laws, regulations and ordinances, and specifically authorized by an encroachment agreement approved by the Town Council, no person may cause, authorize, or allow (from property under his control) any canopy, awning, sign or similar obstruction to overhang a public street or public sidewalk.**

(C~~B~~) . . .

(D~~C~~) . . .

(E~~D~~) Any violation of ~~**divisions (A), (B), or ©)**~~ **this section** is declared to be a public nuisance, and if **it is** not corrected by ~~**the**~~ **any** responsible person within three days after being notified of the violation by the Administrator, the town may summarily abate such nuisance. Penalty, see § 10.99.

. . .

§ 98.10 TOWN INDEMNIFIED, PROTECTED AND HELD HARMLESS.

Any person obtaining a permit authorized by § 98.08 (Driveways) and §98.09 (Excavations) agrees as a condition of the permit to indemnify the town for and hold the town harmless from any expense (including but not limited to attorneys' fees, litigation costs and judgements) incurred as a result of claims made for damages arising out of operations conducted by the permit recipient pursuant to the permit. **No encroachment agreement authorizing any encroachment into a public street, public sidewalk or other public property, whether the encroachment is below the surface, on the surface or above the surface, shall be approved unless the person or other entity whose encroachment or encroaching facility is authorized by the encroachment agreement (encroaching party) executes an indemnification agreement which at a minimum provides that to the extent permitted by law, the person shall be responsible for all liability associated with the encroachment or encroaching facility, agrees to indemnify and hold harmless the Town from and against any claim by any third party based upon any action or omission occurring during construction and maintenance of the encroachment or encroaching facility, as well as from and against any and all claims, demands, suits, causes of action, or other assertion of responsibility, however denominated, for personal injury, damage to property, losses and expenses, including court costs and attorney's fees, arising out of or in any way related to the encroachment or encroaching facility, and where pertinent, agrees to name the Town as an additional insured on its and/or its contractors' general liability insurance policies applicable to the encroachment or encroaching facility, and unless such encroaching party waives all claims of liability or responsibility against the Town for any damage that may be caused to such encroachment or encroaching facility as the result of the Town carrying out any construction and maintenance operations, and unless the encroaching party agrees to be bound by such other and additional conditions as the Town Council may impose.**

VOTE: Aye - All
Nay - None

PRESENTATION OF REPORT - FACADE AND SIGN GRANTS WITH MSD FUNDS

Town Attorney Sam Furgiuele stated that at the last Council meeting, he was directed to confer with the School of Government to solicit another opinion regarding the use of MSD tax funds for private grants to individuals for signs or facades. He stated that he had rendered the opinion that this use of tax funds was that there was not a basis in state law to make those types of grants under the circumstances that the grants are issued. Furthermore, he stated that his opinion was

that facade grants could be created, with certain controls and that findings would have to be made that the facade
changes were improvements to dilapidated buildings downtown. Mr. Furgiuele stated that he received a contrary opinion from one of the faculty members from the School of Government and that he did not agree with the opinion given by the School of Government. He explained that the SOG faculty member could not give him reference to a legal basis for the opinion except for language contained in the municipal service district tax enabling section. He stated that the SOG staff cited a recent court of appeals ruling from Durham County in which the court found that a tax-payer's attack on some economic development incentives was invalid. Mr. Furgiuele stated that another case has been argued in the court of appeals regarding the involvement of economic development incentives in Charlotte. He stated that the argument is being made that giving public funds to private entities for the improvement of one person's situation is unconstitutional under the N.C. Constitution. Mr. Furgiuele cited the following language contained in the MSD tax enabling section of the state statue: "...the actions for downtown revitalization have to be designed to improve the economic well-being of the downtown area and further the public health, safety, welfare and convenience..." He stated that his opinion, based on that language, is the expenditure of any MSD tax funds must meet that criteria and that as explained to him, the way the sign and facade grants must be created, do not fit into that category. He further stated that there have not been findings to show that replacing a sign or getting a new sign necessarily constitutes an improvement to downtown or that it improves the health, safety, welfare, and convenience of the public. He indicated that MSD tax funds can be used for downtown directional signs. In regard to facade grants, Mr. Furgiuele stated that if there is a dilapidated building, the Council does have the authority, under state law, to make grants and that a case can be made for the use of MSD funds for grants to bring dilapidated buildings, located in the downtown, up to a non-dilapidated standard which does benefit the general community. However, he further indicated that without standards that relate to community goals formulated by Council for the benefit of the community, not individual owners, then the issuance of facade grants may be problematic. Council Member Phillips questioned how much money was used for sign and facade grants. Council Member Leigh pointed out that the DBDA budget for the time period of July 2010 through December 2010 contained $2,000 for sign incentive grants and $5,000 for facade incentive grants. Council Member Mason suggested further discussion of this issue during the consideration of other downtown issues. Mayor Clawson thanked Mr. Furgiuele for the report.

Mayor Clawson declared a break at 8:32 p.m. Council reconvened at 8:39 p.m.

ADOPTION OF RESOLUTION - ENDORSEMENT OF CHESTNUT STREET CONNECTOR

Public Works Director Blake Brown presented a resolution for the endorsement of the Chestnut Street Connector project by the Council. He explained that the resolution was requested by the NC DOT in order to investigate funding options to help with the project. He stated that the project is estimated to cost $605,000 and that the Town had previously budgeted $170,000 for this project. Council expressed concern about where the remaining funds needed for the project will be found. Mr. Brown explained that the request is for discretionary funds available to the NC DOT for projects such as this and that TIP funds will not be used. Town Manager Greg Young advised that in most instances, the project must be paid in full by the entity and that then the NC DOT reimburses the entity for a portion of the project. Council Member Leigh expressed reservations about adopting a resolution which states the Town will fund 50% of the project when the Council is uncertain of how the Town will obtain the remaining money needed for the project. Council Member Mason reminded the Council that the citizens of the Chestnut and Farthing Street neighborhoods have requested this project due to the changes imposed on them by the U-4020 project. Mr. Brown stated to the Council that he had met with Transportation Secretary Gene Conti to discuss possible solutions to the concerns voiced by the residents of these neighborhoods. He informed the Council that Mr. Conti had advised him to have the Town Council submit a resolution endorsing the project and requesting funding assistance as well. In regard to the amount previously budgeted by the Council for the project, Mr. Brown explained that the project was originally estimated to cost around $340,000 but that the need for property acquisition was the reason for the increase in the cost estimate. Discussion ensued regarding amending the resolution to request 70% of the funding amount from the NC DOT with the Town agreeing to fund 30% of the project if the acquisition of property is required to go forward with the connector. Otherwise, Council agreed to commit to 50% of the cost of the project if no property acquisition is needed to proceed with the project. Upon a motion by Council Member Mason, seconded by Council Member Ball, Council moved to adopt the following resolution:

RESOLUTION ENDORSING THE
CHESTNUT STREET CONNECTOR

WHEREAS, the safety of the citizens of Boone is of the utmost importance to the members of the Boone Town Council; and

WHEREAS, it is the desire of the citizens of the Chestnut and Farthing Street neighborhoods to safely and conveniently access Highway 421/King Street; and

WHEREAS, the U-4020 Project has resulted in the prohibition of executing a left-turn from both Chestnut and Farthing Street onto Highway421/King Street; and

WHEREAS, it is the decision of the Boone Town Council to undertake the construction of a connector street from Chestnut Street to New Market Boulevard to provide the citizens of the adjoining neighborhoods with a safe and practical means in which to access Highway 421/King Street; and

WHEREAS, it is the intention of the Town of Boone to request financial support from the North Carolina Department of Transportation for the construction of a connector street from Chestnut Street to New Market Boulevard;

NOW, THEREFORE BE IT RESOLVED by the Boone Town Council that the Town of Boone fully endorses the construction of a connector street from Chestnut Street to New Market Boulevard in order to provide a safe and practical means of ingress and egress to citizens of the adjoining neighborhoods.

BE IT FURTHER RESOLVED by the Boone Town Council to officially request financial support from the North Carolina Department of Transportation in the amount of 70% of the total costs associated with the project, including property acquisition, design and construction. In the event that no property acquisition is required for the construction of the project, the Town of Boone intends to request financial support from the North Carolina Department of Transportation in the amount of 50% of the total costs associated with the project, including design and construction.

ADOPTED the **18th** day of **January**, **2011**.

ATTEST: Mayor

Deputy Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 3 , PAGE(S)155)

VOTE: Aye - All
Nay - None

ANNOUNCEMENT OF BOARD VACANCIES

Mayor Clawson announced the following board vacancies:

Sustainable Development Task Force - ASU Student Representative

Jones House Advisory Board - three vacant positions

DBDA Board of Directors - Six at-large positions, all of which are either Downtown Residents of MSD, MSD Property Owners, or MSD Business Owners and none of which have previously held positions on the DBDA Board *since 2005*. After discussion, it was the consensus of the Council to include a time qualification regarding the six at-large positions for the DBDA Board of Directors (change is noted in italics.)

BOARD APPOINTMENTS - AFFORDABLE HOUSING TASK FORCE

There were no applications submitted for consideration for the one vacant position.

BOARD APPOINTMENTS - BOARD OF ADJUSTMENT

There were no applications submitted for consideration for the three vacant positions.

BOARD APPOINTMENTS - OUTSIDE AGENCY FUNDING COMMITTEE

Mayor Clawson noted that an application was submitted by Dr. Susan D. McCracken for one of the two vacant resident positions. Upon a motion by Council Member Leigh, seconded by Council Member Mason, Council moved to appoint Dr. Susan D. McCracken to serve on the Outside Agency Funding Committee as a resident position.

VOTE: Aye - All
Nay - None

BOARD APPOINTMENTS - PEDESTRIAN PLAN STEERING COMMITTEE

Mayor Clawson noted that the following positions are open on the recently established Pedestrian Plan Steering Committee:

Five - Members of the Alternative Transportation Subcommittee
One - Downtown Property or Business Owner
One - Senior Citizen that resides in the Town of Boone
One - ASU Student that resides in the Town of Boone
One - Neighborhood representative that resides in the Town of Boone
One - Watauga County Schools representative that resides in the Town of Boone.

She noted that applications were received from Joseph Cazier, Jill Reeves, Jennifer Greene, and Craig Scheffler. Upon a motion by Council Member Ball, seconded by Council Member Mason, Joseph Cazier was appointed to serve on the Pedestrian Plan Steering Committee as a neighborhood representative that resides in the Town of Boone.

VOTE: Aye - All
Nay - None

Upon a motion by Council Member Ball, seconded by Council Member Mason, Council moved to appoint Jill Reeves to serve on the Pedestrian Plan Steering Committee as a downtown property or business owner.

VOTE: Aye - All
Nay - None

Upon a motion by Council Member Mason, seconded by Council Member Phillips, Council moved to appoint Jennifer Greene and Craig Scheffler to serve on the Pedestrian Plan Steering Committee as representatives from the Alternative Transportation Subcommittee.

VOTE: Aye - All

Nay - None

BOARD APPOINTMENTS - PLANNING COMMISSION

There were no applications submitted for consideration for the one vacant position.

BOARD APPOINTMENTS - WATAUGA COUNTY RECREATION COMMISSION

There were no applications submitted for consideration for the one vacant position.

BOARD APPOINTMENTS - WATER STUDY COMMITTEE

There were no applications submitted for consideration for the two vacant positions.

PRESENT RECOMMENDATION FOR BID AWARD

Public Utilities Director Rick Miller appeared before Council to present bids received for the purchase of a new dump truck that was included in the 2010/2011 Capital Outlay budget. He reminded the Council that $30,000 was previously appropriated for the purchase of this truck with plans to finance the remaining balance. Mr. Miller reported that two bids were received: one from West Carolina Freightliner Inc. in the amount of $89,200.00 and one from Piedmont International in the amount of $85,251.66. Mr. Miller stated that he is recommending the bid be awarded to West Carolina Freightliner based on service records from the Town's Fleet Maintenance Department, and because the bid from West Carolina Freightliner was a bit more comprehensive which indicates that it includes higher quality materials and more equipment for slightly less monies. Upon a motion by Council Member Ball, seconded by Council Member Mason, Council moved to award the bid for a new dump truck to West Carolina Freightliners in the amount of $89,200.00

VOTE: Aye - All
Nay - None

MONTHLY WATER USE STATUS REPORT

Public Utilities Director Rick Miller presented the monthly water use status report. **(Permanently on file in the January 2011 Boone Town Council meeting packet.)**

APPROVAL OF BUDGET AMENDMENTS

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

DESCRIPTION:	ACCOUNT #	TO:	FROM:
MAINTENANCE-VEHICLES (POLICE DEPARTMENT)	010-500-300-525301	$2,351	
MISCELLANEOUS REVENUE-(GENERAL FUND)	010-000-000-489900		($2,351)
CAPITAL OUTLAY-AUTOMOBILES (POLICE DEPARTMENT)	010-500-300-573100	$15,277	
PUBLIC SAFETY VEHICLE EQUIPMENT (POLICE DEPARTMENT)	010-500-300-516400	$4,000	

CAPITAL OUTLAY-AUTOMOBILES (NARCOTICS FUND)	012-500-303-573100	$14,000	
INSURANCE REIMBURSEMENT (GENERAL FUND)	010-000-000-499900		($9,677)
CAPITAL OUTLAY-OTHER EQUIPMENT (COMMUNICATIONS)	010-500-301-574000		($9,600)
APPROPRIATED FUND BALANCE (NARCOTICS FUND)	012-500-303-499900		($14,000)
TRANSFER TO RURAL FIRE-FIRE STATION CAPITAL RESERVE FUND	051-451-000-598052	$400,000	
APPROPRIATED FUND BALANCE (RURAL FIRE)	051-451-000-499900		($400,000)
CAPITAL OUTLAY-LARGE TRUCKS (SEWER OPERATIONS)	030-700-803-573300	$61,000	
LOAN PROCEEDS (WATER & SEWER)	030-000-000-492000		($61,000)

VOTE: Aye - All
Nay - None

PRESENTATION OF DBDA PROPOSED BUDGET - JANUARY 1, 2011-JUNE 30, 2011

Mary Baker, Executive Director of the Downtown Boone Development Association, appeared before the Council to present the following proposed DBDA budget for the period of January 1, 2011-June 30, 2011:

Downtown Boone Development Association
Proposed Budget 1/1/2011 - 6/30/2011
GENERAL FUND **Budget**
Income
Membership Dues0.00
Art Crawl Sponsorship7,000.00
Interest Income500.00
1/2 MSD Tax Collected 2010-1155,255.00
Appropriated Fund Balance0.00
Doc Watson Downtown Project10,000.00
TOTALS:72,755.00
Expenses

Office Expenses
Bank Charges0.00
Office Supplies/Equipment500.00
Copier250.00
Rent2,400.00
Telephone/Internet1,000.00
Storage Unit480.00
Parking Space145.00
Accounting Fees/Audit0.00
Subtotal - Office Expenses4,775.00
Personnel Expenses
Education450.00
Health Insurance Benefit300.00
Salaries19,000.00
Payroll Taxes1,540.00
Retirement Benefits0.00
Travel & Training495.00
Subtotal - Personnel Expenses21,785.00

She noted a change to the proposed budget from what was presented in October 2010 as removing the funding amounts for sign incentive grants and facade grants listed under Economic Restructuring and appropriating the combined amount of $8,000 to the Streetscape Plan/Infrastructure line item under the Design category. Ms. Baker then presented the recommendations from the DBDA Board for the spending of funds for streetscape and infrastructure uses:

1. Purchasing the four (4) benches in the plan and (Town Council) selecting their locations.
2. Purchasing benches in addition to the Phase 1 Budget and (TC) selecting their locations.
3. Reviewing the Phase 1 Budget to determine if additional funding is needed to purchase items.
4. Reviewing the Phase 1 Budget to determine a second budget phase.
5. Selecting a banner design and to consider purchasing banners in addition to the Phase 1 Budget.
6. Selecting a final bench embellishment design to be placed on the benches.
7. Adding landscape projects within the Phase 1 Budget or a second budget phase.

She also stated that upon the Council's approval of the components of the Streetscape plane, the DBDA would like to use the $14,000 it has budgeted for Streetscape Plan/Infrastructure Improvements towards the purchase of items listed in the Streetscape Plan and the completion of the Phase I Budget which was approved by Council on January 12, 2010:

Downtown Boone Development Association
Proposed Budget 1/1/2011 - 6/30/2011
Programming Expenses
General
Annual Mtg & Membership Mtgs300.00
Work Study Student Salary900.00
Programming Insurance5,050.00
Dues and Subscriptions0.00
Contract Labor160.00
Design
Streetscape Plan/Infrastructure14,000.00
Pedestrian & Kiosk Sign Updates1,300.00
Sculpture Program500.00
Doc Watson Downtown Project10,000.00
Economic Restructuring
Sign Incentive Grants0.00
Façade Grants0.00
Community Development Sponsorship1,500.00
Market Analysis3,500.00
Organization
Master Planning0.00
Email/Internet Posting80.00
Promotion
Advertising700.00
Art Crawl7,000.00
Promotional Holiday Events250.00
Printed Materials710.00
Web Page/Hosting245.00
Subtotal - Program Expenses46,195.00
Other Expenses

Miscellaneous - 0.00
Subtotal - Other ExpensesMiscellaneous0.00
EXPENSE TOTAL $72,755.00

Council Member Mason inquired as to the status of the bike racks and streetlights. Public Works Director Blake Brown answered that the bike racks have been received, and the department is awaiting a break in the weather in order to install them. Regarding the street lighting, Mr. Brown stated that the request for bids was recently published in the newspaper and that bidding opens in February. He added that he hopes to be able to begin installation this spring. Regarding the Phase I Budget approved in January 2010, Ms. Baker stated that the trashcans, recycling kiosks, and big belly solar compactors have been purchased and installed. She indicated that the street signs, which include the plasma-cuts for the tops and the downtown kiosk, signage and framing are in process. She indicated that item #5 light pole banners can be an item for consideration. Council Member Leigh asked about the idea of donations for the benches. Ms. Baker indicated that advertisement for donations for the benches has not occurred. She stated that it was her understanding that four benches were to be purchased and that donations would be applied to purchase additional benches. She also indicated that the locations for the benches has not been determined. Council Member Leigh inquired as to the status of the way-finding signs and the anticipated costs. Ms. Baker answered that the DBDA has appropriated funds for the costs difference from the last period budget July 2010-December 2010. She stated that the Council had approved in November 2010, that the DBDA will cover the difference in costs for the signs. She added that the DBDA is awaiting a break in the weather in order to determine the best location for the signs so that a final design can be determined and be brought before the Council for approval. Town Manager Greg Young stated that he is not aware of what the final costs of the signs will be and that there are still copyright issues, including the cost of releasing the copyright and who is going to pay it. It was the consensus of the Council to direct the Town Manager to discuss with the graphics company issues regarding what is copyrighted and the costs associated with releasing copyrights and to present that information to the Council at the next regular meeting. It was the consensus of the Council to request that the DBDA present follow-up information on the following issues at the February meeting:

1. Budget for copyright releases.
2. Re-allocation of funds for the pedestrian signs from the last 6-month budget (July-December 2010) to the current budget (January-June 2011).
3. Light pole banners (design and location).
4. Additional information regarding the benches: revised cost estimates, status of donations for the benches, and bench enhancements.
5. Information regarding costs and placement of pedestrian signs.

Council Member Leigh requested that a list of priorities be presented in addition to further information regarding costs. Council Member Mason requested an updated list of seasonal designs for the banners to be presented at the February meeting. Regarding the placement of the banners and trash/recycling receptacles, Council Member Leigh suggested a more geographically diverse placement of the items since MSD tax is used to fund them.

PLANNING & INSPECTIONS MONTHLY REPORT

Planning & Inspections Director Bill Bailey presented the P&I Monthly Report **(permanently on file in the January 2011 Boone Town Council Packet.)** Mr. Bailey noted that Priority #4 has now been completed. It was the consensus of the Council to re-prioritize the tasks at the annual planning retreat and for the Planning Staff to concentrate on the remaining priorities.

UPDATE ON DOWNTOWN POST OFFICE

Assistant to the Manager Jim Byrne stated that he had contacted the NC State Historic Preservation office and informed the Council that the Historic Preservation office could not provide an architect to review the plans for the renovation to the post office. Council Member Brantz noted that Dr. Chuck Watkins, a member of the Town's Historic Preservation Commission, had contacted a historic preservation architect from Pennsylvania who could review the post office renovation plans for a fee of $1,500. Council Member Leigh stated that she was comfortable with the work of the project architect, Randy Jones, and the comments issued from the state historic review. She stated that the project does not need to be delayed any further. Discussion ensued regarding the location of the new entrance proposed on the renovation plans. Upon a motion by Council Member Leigh, seconded by Council Member Mason, Council amended the agenda to discuss and take action on a review of the post office renovation plans by a historic preservation architect.

VOTE: Aye - All
Nay - None

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to authorize $1,500 in order to have an independent historic preservation architect review the proposed plans for the post office renovation and to make recommendations to be presented to the Council at the February meeting.

VOTE: Aye - 4 (Phillips, Mason, Ball, Brantz)
Nay - 1 (Leigh)

SCHEDULE QUARTERLY DBDA UPDATE

Council Member Leigh requested to have the DBDA present its next quarterly update in February and that a schedule be set for the presentation of the DBDA quarterly updates to the Council. Upon a motion by Council Member Leigh, seconded by Council Member Mason, Council moved to schedule the presentation of the DBDA quarterly updates for the regular Town Council meetings in January, April, July, and October.

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 10:25 p.m. pursuant to NCGS 143-318.11(a)(3) in order to discuss the following matters:

A. Daniel Boone Native Garden Lease.
B. Legal Advice - UDO Text Issue.
C. Legal Advice - Raw Water Intake.
D. Possible Lease of Town Property.

VOTE: Aye - All
Nay - None

Upon a motion by Council Member Brantz, seconded by Council Member Ball, Council moved to exit Closed Session at 11:44 p.m.

VOTE: Aye - All
Nay - None

ADJOURNMENT

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to adjourn at 11:45 p.m.

VOTE: Aye - All
Nay - None

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Deputy Town Clerk Mayor