MINUTES - REGULAR MEETING
BOONE TOWN COUNCIL
MARCH 17, 2005

A regular meeting of the Boone Town Council was called to order at 6:34 p.m., Thursday, March 17, 2005 in the Council Chambers, 1500 Blowing Rock Road. Mayor Velma C. Burnley presided. Council members present were Mayor Pro-Tem Loretta Clawson, Graydon Eggers, Lynne Mason, Bunk Spann, and Dempsey Wilcox. Town Attorney Sam Furgiuele was also present. Staff present were Town Manager Greg Young, Town Clerk Freida Van Allen, Deputy Town Clerk Kim Tester, Fire Chief Reggie Hassler, Police Chief Bill Post, Public Services Director Blake Brown, Public Utilities Director Rick Miller, Finance Director Amy Davis, and Development Services Director John Spear.

ANNOUNCEMENTS

Mayor Burnley observed a moment of silence for U. S. troops serving throughout the world and for wisdom for our national, state, and local leaders.

Mayor Burnley announced that the annual Boone Spring Clean Up will take place on Saturday, April 16, 2005 from 10:00 a.m. until 2:00 p.m.

TENTATIVE AGENDA ADOPTION

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

Item 4.C. - Deletion of Code Amendment to Weight Limits - Section 71.05.

Upon a motion by Council member Clawson, seconded by Council member Mason, Council moved to adopt the agenda as amended.

VOTE: Aye - All
Nay - None

CONSENT AGENDA ADOPTION

Council member Wilcox noted a correction to the February 17, 2005 regular meeting minutes. He asked that the minutes reflect a dissension vote on the Bostic case. Upon a motion by Council member Mason, seconded by Council member Clawson, the Council moved to adopt the following consent agenda items:

Minutes: February 10, 2005 - Quarterly Public Hearing
February 16, 2005 - Special Meeting
February 17, 2005 - Regular Meeting
February 25, 2005 - Special Meeting

Tax Releases: February 2005

Taxpayer	Year	Amount	Description

Randy A. & Mary P. Keplar	2004	$3.86	Turned in tag
Stephanie M. & Frank N. Laughlin	2004	37.52	Turned in tag
Robert E. Agle, Jr.	2004	2.52	Turned in tag
Gary L. Sturgill	2004	3.12	Turned in tag
Mary W. Tester	2003	7.06	Lives in Wilkes Co.
Derek J. Mohr	2003	5.79	Turned in tag
TOTAL		**$59.87**	

Tax Refunds: February 2005

Taxpayer	**Year**	**Amount**	**Description**
AMY KATHLEEN HATHCOCK	2004	$16.41	SOLD VEHICLE TURNED IN TAG
TOTAL		**$16.41**	

Authorized a letter of support be written on behalf of Town of Boone for Watauga County's CDBG application.

VOTE: Aye - All
Nay - None

PUBLIC HEARING ON EDMISTEN ANNEXATION

Mayor Burnley opened a public hearing at 6:36 p.m. to receive any public comment concerning the Edmisten annexation. Development Services Director John Spear noted the entire property contains 3.174 acres and 1.195 of this falls outside of the corporate limits. The property is located at 282 Daniel Boone Drive. He noted the next step in the process would be the adoption of an ordinance to make this annexation effective on July 1, 2005. With no public comment, Mayor Burnley declared the public hearing closed at 6:39 p.m.

ADOPTION OF ORDINANCE - EDMISTEN ANNEXATION

Upon a motion by Council member Clawson, seconded by Council member Mason, Council moved to adopt the following annexation ordinance:

ORDINANCE #05-04

AN ORDINANCE TO EXTEND THE CORPORATE LIMTS OF THE TOWN OF BOONE, NORTH CAROLINA
(Edmisten Annexation)

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

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

WHEREAS, the Town Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at Council Chamber at 1500 Blowing Rock Road at 6:30 p.m., March 17, 2005, after due notice by Watauga Democrat on March 4, 2005; and

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

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

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described territory is hereby annexed and made part of the Town of Boone as of July 1, 2005:

A parcel of land being a portion of the lands described in deed recorded in Book of Records 1001 at page 180 as conveyed to Walter Baker Edmisten and bounded on the east and southeast by Board of Trustees of the Endowment Fund of Appalachian State University, on the southwest side by State of North Carolina, Appalachian State University, and on the northwest by the balance of the Walter Baker Edmisten lands as described from surveys by Donald H. McNeil, PLS, L-2809, survey no. 04293, November 04, 2004 as BEGINNING on a point in the northeast boundary line of the lands of Walter Baker Edmisten and the western line of the lands conveyed to the Board of Trustees of the Endowment Fund of Appalachian State University by deed recorded in Book of Records 1001 at page 020, said point also being on the existing city limits line of the Town of Boone and located south 36 degrees 23 minutes 35 seconds EAST 160.66 feet from a 5/8 inch rebar and SOUTH 84 degrees 29 minutes 50 seconds WEST 1,021.63 feet from MONUMENT no. 14 of the Town of Boone city limits; thence with the common line of the Edmisten lands and the lands of the ENDOWMENT FUND, SOUTH 36 degrees 23 minutes 35 seconds EAST 248.42 feet to a 5/8 inch rebar set, the eastern corner of the Edmisten lands thence continuing said line, SOUTH 47 degrees 18 minutes 05 seconds WEST 427.55 feet to a 5/8 inch rebar set in the northeastern line of the lands conveyed to the State of North Carolina, Appalachian State University by deed recorded in DEED BOOK 011 at page 580 (TRACT 1) and being located NORTH 53 degrees 12 minutes 45 seconds WEST 110.29 feet from a 5/8 inch rebar; thence with the western line of the lands of Edmisten and the line of the State of North Carolina, NORTH 53 degrees 12 minutes 45 seconds WEST 144.80 feet to a point in said common line and also the city limits line of the Town of Boone, said point being located SOUTH 53 degrees, 12 minutes 45 seconds EAST 120.53 feet from an existing ½ inch rebar in a fence corner and also NORTH 52 degrees 50 minutes 50 seconds 813.44 feet from MONUMENT NO. 16 of the Town of Boone city limits; thence with the existing city limits line as it crosses the lands of Walter Baker Edmisten, NORTH 52 degrees 50 minutes 50 seconds EAST 403.75 feet

to MONUMENT NO. 15 of the Town of Boone city limits; thence NORTH 84 degrees 29 minutes 50 seconds EAST 73.58 feet to the BEGINNING and containing 1.195 acres as calculated by the coordinate geometry method and having bearings relative to the North Carolina GEODETIC SURVEY (NAD 83) and all distances being horizontal measurements.

Section 2. Upon and after July 1, 2005, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the Town of Boone and shall be entitled to the same privileges and benefits as other parts of the Town of Boone. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the Town of Boone shall cause to be recorded in the office of Register of Deeds of Watauga County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Watauga County Board of Elections, as required by G.S. 163-288.1.

Adopted this the 17th day of March, 2005.

_____

Mayor

ATTEST:

_____

Town Clerk

(ORDINANCE TO BE TYPED IN BOOK 3, PAGES 262-263)

VOTE: Aye - All
Nay - None

ADOPTION OF RESOLUTION - DIRECTING THE CLERK TO INVESTIGATE WHITTINGTON ANNEXATION

Development Services Director John Spear stated the petition for annexation is in conjunction with an application for utility services. Mr. Spear explained that Lee G. and Theresa L. Whittington are requesting non-contiguous annexation. The entire property contains .452 acres and is located on Junaluska Road. Council member Mason noted this property is currently not in the corporate town limits and asked if approval for utility services were previously approved for this property. Public Utilities Director Rick Miller explained this property was on the list of pending projects that were approved before the latest water policy. He further noted this property is within the secondary pressure zone. Upon a motion by Council member Clawson,

seconded by Council member Spann, Council moved to adopt the following resolution directing the Clerk to investigate a petition for annexation.

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-58.1

WHEREAS, a petition requesting annexation of an area described in said petition was received on March 17, 2005 by the Town Council; and

WHEREAS, G.S. 160A-58.2 provides that the sufficiency of the petition shall be investigated by the Town Clerk before further annexation proceedings may take place; and

WHERAS, the Town Council of the Town of Boone deems it advisable to proceed in response to this request for annexation;

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

The Town Clerk is hereby directed to investigate the sufficiency of the above described petition and to certify as soon as possible to the Town Council the result of her investigation.

Adopted this the 17th day of March, 2005.

_____

Mayor

ATTEST:

_____

Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 2, PAGE 282)

VOTE: Aye - All
Nay - None

DISCUSSION OF COMPREHENSIVE PLAN

Development Services Director John Spear noted that the Planning Commission, after a lengthy review period, composed recommendations including format changes, text amendments, and changes to the growth strategy map. He also noted the Planning Commission suggested putting this information on the web site for public convenience. Council member Mason stated a concern with the Comprehensive Plan projections until 2010. She stated the Comprehensive Plan should be more visionary for planning for future growth. Council member Wilcox stated the Town Council should take part in finalizing the map before it is presented for public review.

Council member Spann noted some grammatical errors within the document that should be corrected prior to public review.

DISCUSSION OF STATUS REPORT - STEEP SLOPE DEVELOPMENT & MULTI-FAMILY CONSTRUCTION

Development Services Director John Spear stated he has met with Town Manager Greg Young to discuss the need for additional resources to accomplish this study. Mr. Spear noted the study of steep slope development would be undertaken by the Development Services staff and presented to the Town Council within six months. He noted the recommendations from the Community Appearance Commission will also be incorporated within this report. In regard to the multi-family moratorium, Mr. Spear stated the staff will investigate the effect of large multi-family complexes on surrounding communities and will look at zoning districts suitable for multi-family development. He noted a final report will be presented to the Town Council concerning this issue.

FORMATION OF TASK FORCE - STEEP SLOPE DEVELOPMENT & MULTI-FAMILY CONSTRUCTION

Council member Mason stated a task force created to study these topics needs to reflect the diverse population of Boone. She proposed the task force include two representatives of the Planning Commission, two representatives of the Community Appearance Commission, two representatives of the Town Council, and eight representatives from the community to work with staff to create development recommendations. Council member Mason advised any person interested in participating on this task force make application at Town Hall. Mr. Spear noted that Council could direct the staff to draft a resolution with time limitations and the scope of intentions for the task force. Council member Mason made a motion for Council to direct the Development Services Department to create a resolution for the formation of a task force to study issues concerning steep slope development and multi-family development. Council member Clawson seconded the motion.

VOTE: Aye - All
Nay - None

PERMISSION TO APPLY FOR GRANT - GREENWAY SIGNAGE

Development Services Director John Spear noted this grant, if approved, would provide for maps, brochures and information kiosks to be located along the Greenway Trail. Upon a motion by Council member Mason, seconded by Council member Spann, the Council moved to approve a grant application which would provide for informational brochures and maps to be placed along the Greenway Trail.

VOTE: Aye - All
Nay - None

ADOPTION OF ORDINANCE - INITIATE LEGAL ACTION AGAINST LIBERTY TAX

SERVICE LLC AND EVELYN DOMBROWSKI

Town Attorney Sam Furgiuele stated this ordinance would allow for the Town to collect penalties for sign violations of the Unified Development Ordinance incurred by Liberty Tax Service and Ms. Dombrowski. Mr. Furgiuele suggested that one more attempt be made to collect these penalties and if unsuccessful, legal action could then be undertaken. Upon a motion by Council member Eggers, seconded by Council member Mason, Council moved to adopt the following ordinance to initiate legal action against Liberty Tax Service LLC and Evelyn Dombrowksi if one more attempt to collect penalties is unsuccessful.

ORDINANCE # 05-05

WHEREAS, the Town of Boone has duly adopted a Unified Development Ordinance, (hereinafter, the "UDO"); and

WHEREAS, on January 20, 2005, the Town of Boone Department of Development Services issued a notice of violation to Liberty Tax Service, LLC, and Evelyn Dombrowski, advising said parties of their violation of Section 338 of the UDO, in connection with their display of non-permitted and prohibited signs which were being displayed on property identified by PIN # 2910-22-8190-000 in the records of the Tax Administrator for Watauga County, North Carolina; advising said parties of the penalties for first time violators and repeat violators; and advising said parties of their right to appeal the staff decision finding them in violation of the UDO by pursuing an appeal to the Boone Board of Adjustment; and

WHEREAS, a subsequent inspection of property located at the corner of Watauga Village Drive and Blowing Rock Road revealed the display of an off-premises advertising sign placed thereon by the same parties, in violation of Section 322 of the UDO; and

WHEREAS, by letter dated February 8, 2005, the Town of Boone Department of Development Services issued a notice of penalty to Liberty Tax Service, LLC, and Evelyn Dombrowski, imposing penalties on the parties as repeat violators of the UDO in the amount of $1,500.00, plus $250.00 per day; giving the parties until February 25, 2005 to pay said penalties; and advising said parties of their right to appeal the staff's findings and decision to the Boone Board of Adjustment; and

WHEREAS, the parties did not appeal either of the aforesaid staff decisions to the Boone Board of Adjustment, making the staff decisions the final decisions of the Town of Boone; and

WHEREAS, the parties did not pay the aforesaid penalties assessed against them; and

WHEREAS, the UDO authorizes the institution of a civil action to collect the aforesaid civil penalties, as well as attorney's fees and costs;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BOONE, NORTH CAROLINA, PURSUANT TO N.C. GEN. STAT. § 160A-175, AND

THE TOWN OF BOONE UNIFIED DEVELOPMENT ORDINANCE, AS FOLLOWS:

1. Liberty Tax Service, LLC, and Evelyn Dombrowski have violated Section 322 of the UDO, in connection with their non-permitted display of an off-premises temporary sign. Said parties are repeat violators and are therefore subject to a flat civil penalty of $1,500.00 and an additional daily penalty of $250.00.

2. The Town Attorney is ordered to initiate a legal action in the General Court of Justice in Watauga County, North Carolina against Liberty Tax Service, LLC, and Evelyn Dombrowski, seeking to recover the unpaid penalties for their violation of the Ordinance, including attorney's fees and costs.

Adopted this 17th day of March, 2005.

_____
Mayor

Attest:

_____
Town Clerk

(ORDINANCE TO BE TYPED IN BOOK 3, PAGES 264-265)

VOTE: Aye - All
Nay - None

ADOPTION OF RESOLUTION - INCREASE IN ROOM OCCUPANCY TAX

Town Manager Greg Young recommended that the Town Council unanimously adopt an ordinance to raise the occupancy tax in Boone from three percent to six percent. Mr. Young stated he is under a deadline in getting this resolution to Senator John Garwood's office so that it can be converted from a blank bill to an actual bill. Council member Mason stated she sees this as an opportunity for the Town as means to continue with several large capital projects. Mayor Burnley informed the Council of a resolution of support for this action submitted by the Boone/Blowing Rock Lodging Association. She pointed out that this association is in favor of this resolution with a condition that one of the positions on the Tourism Development Authority (TDA) be occupied by a representative of the lodging business instead of the restaurant business. Mr. Ashok Patel, a local business owner, stated the TDA has had difficulty in the past securing a restaurant representative to serve on the board. Upon a motion by Council member Wilcox, seconded by Council member Mason, Council moved to adopt the following resolution:

A RESOLUTION OF THE TOWN OF BOONE REQUESTING THE INTRODUCTION OF A LOCAL BILL AUTHORIZING AN ADDITIONAL 3% ROOM OCCUPANCY TAX

WHEREAS, the municipalities of Watauga County are a destination for a large population of tourists from throughout North Carolina and beyond; and

WHEREAS, significant expenditures result from the expenses of tourism-related services and capital needs; and

WHEREAS, the establishment of an additional 3% Room Occupancy Tax with distribution at its point of origin would provide for substantial improvements to tourism-related services, facilities, and promotion.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Boone that the Council does support the introduction of a local bill establishing an additional 3% Room Occupancy Tax under the following guidelines:

1. Authority to enact up to 3% additional Room Occupancy Tax to be distributed on a point of origin basis following a public hearing of the governing body.

2. The Town of Boone shall retain from the gross proceeds of the tax collected 5% to pay its direct cost for administrative and collection expenses.

3. The Tourism Development Authority may expend the funds distributed to it pursuant to subsection (a) in the following manner:

   (a) 60% of the net proceeds to further the development of travel, tourism, and conventions in the Town of Boone.

   (b) 40% of the net proceeds shall be allocated to the General Fund of the Town of Boone.

4. That once the term expires, the "restaurant owner" position on the Boone Tourism Development Authority be changed to an "hotel accommodations" position, with that position owning or operating a hotel within the Town of Boone, but residing in Watauga County.

This resolution adopted this the 17th day of March, 2005.

_____

Mayor

ATTEST:

_____
Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 2, PAGE 283)

VOTE: Aye - All
Nay - None

CABLE TV ADVISORY COMMITTEE NOMINATIONS

Mayor Burnley noted that there are three terms that expire this year on the Cable TV Advisory Committee. She informed the Council that all three persons currently serving have agreed to serve another term. The committee members are Howard Dorgan, Andrew Mason, and L. D. Hagaman. Council member Clawson moved to nominate Mr. Dorgan, Mr. Mason, and Mr. Hagaman. Council member Eggers seconded the motion.

VOTE: Aye - All
Nay - None

Mayor Burnley pointed out that an application was received from Neil Hartley to fill a vacant position on the committee. Council member Mason nominated Mr. Hartley to fill the vacant position. The positions will be appointed at the April meeting.

PLANNING COMMISSION NOMINATIONS

Mayor Burnley noted that two applications were received for the Planning Commission. Council member Wilcox nominated Mr. Robert Snead. Council member Mason nominated Mr. Gregory Reck. She asked Mr. Spear about the current attendance for the Planning Commission. Mr. Spear stated he would research the meeting records and report to the Council at the April meeting.

ADOPTION OF AUDIT CONTRACT

Finance Director Amy Davis presented a brief overview of this process. She stated the best bid for the audit contract was made by Billy Combs, P. C. at a cost of $32,000. Upon a motion by Council member Eggers, seconded by Council member Clawson, the Council moved to adopt the following audit contract: **Exhibit A**

VOTE: Aye - All
Nay - None

PERMISSION TO APPLY FOR FIRE ACT GRANT

Fire Chief Reggie Hassler explained this was the fourth attempt by the Boone Fire Department for this grant. He stated the grant money would be used to fund new respiratory breathing apparatus units for the department. Upon a motion by Council member Mason, seconded by Council member Clawson, the Council moved to grant the Boone Fire Department permission to

file an application for the FIRE ACT Grant.

VOTE: Aye - All
Nay - None

ADOPTION OF FEE SCHEDULE - FIRE DEPARTMENT

Fire Chief Reggie Hassler stated that this issue was brought before the Council at the January meeting. He pointed out that it has been twelve years since a fee increase. Council member Eggers explained these proposed amounts are based on the time involved on inspections by Fire Department personnel. Upon a motion by Council member Eggers, seconded by Council member Spann, the Council moved to adopt the following fee schedule.

Code Amendment

Special Event or Time Period	**Fee Change To:**
Fireworks for public display	$50.00
Tents or air structures	$20.00

SERVICE AND PERMIT FEE SCHEDULE

Temporary kiosks or displays for merchandising	$10.00
Insecticide fogging or fumigation	$20.00
Blasting permits (explosives)	
90 days	$50.00
48 hours	$20.00
Special assemblies (gun shows, crafts, etc.)	$20.00
Any other special function requiring Fire Prevention inspection and approval	$20.00

SPECIAL TESTS, INSPECTIONS, AND SERVICE FEES

Fire flow test	$50.00
Copies of fire reports	$ 2.00
Sprinkler certification test (existing system)	$20.00

Fire alarm testing (existing systems)	$20.00
Standpipe certification test (existing)	$20.00
Grease removal test (existing)	$20.00
Fixed fire suppression systems (existing)	$20.00
Day care inspection (other than annual user)	$20.00
Annual inspection permit	$30.00

SPECIAL TESTS, INSPECTIONS, AND SERVICE FEES CONTINUED

Annual inspection permit (multi-tenant up to two buildings)	$40.00
Multi-tenant inspection (three or more buildings)	$50.00
Occupancy permit inspection (ABC)	$20.00
Certificate of occupancy inspections	$20.00
Underground storage tanks	
Removal (per tank)	$50.00
New installations (per tank)	$50.00
Hydrant installations (private contractors)	$30.00
New Sprinkler Systems (per square feet)	$ .01
Sprinkler renovations	$20.00
Standpipes	$20.00
New alarm systems	$50.00
Alarm system renovations	$20.00
Fixed fire suppression systems	$50.00
Renovations to these systems	$20.00
Reinspection (per visit)	$20.00

Any other inspection required $20.00

VOTE: Aye - All
Nay - None

WAIVER OF BIDDING REQUIREMENTS - PURCHASE OF VEHICLES FROM STATE CONTRACT AND GSA CONTRACT

Finance Director Amy Davis presented information concerning this request. Council member Spann commented that it would be in the best interest of the town to proceed with this request. Ms. Davis agreed that, in dealing with larger companies, an advantage is usually a reduced rate. Upon a motion by Council member Spann, seconded by Council member Clawson, Council moved to waive bidding requirements in order to utilize North Carolina state contract #070G for the purchase of the following vehicles: a 2005 Ford Explorer, a 2005 Jeep Liberty, and a 2005 Chevrolet 2500HD.

VOTE: Aye - All
Nay - None

Upon a motion by Council member Clawson, seconded by Council member Mason, Council moved to waive bidding requirements in order to utilize procurement services offered through Law Enforcement Support Services, a division of the North Carolina Department of Crime Control & Public Safety, GSA contract #GS-30F-0017P, for the purchase of a 2005 Chevrolet Impala.

VOTE: Aye - All
Nay - None

SCHEDULING OF SPECIAL MEETING - WATER USE COMMITTEE

Mayor Burnley noted that, since the last meeting of the Water Use Committee was cancelled due to weather conditions, the Council needed to reschedule. She asked for the Council to forward agenda items for this meeting to the Town Clerk prior to the meeting. Upon a motion by Council member Mason, seconded by Council member Clawson, Council moved to set a special meeting of the Water Use Committee for Monday, April 18, 2005 at 4:00 p.m. in the Council Chambers.

VOTE: Aye - All
Nay - None

MONTHLY WATER USE STATUS REPORT

Public Utilities Director Rick Miller presented the following status report:

			Approved Water Connections			

			2005			
Staff Approved	Date	Projected Usage	Council Approved	Date	Projected Usage	Remaining Gallons
						50000
Cookout Grill	Jan-05	1500				50000
			Tom Adams	Feb-05	270	49730
Doug Hanks	Feb-05	600				49130
John Roberts	Feb-05	360				48770
David Styron	Feb-05	270				48500

The three projects approved by staff were as follows:
1) A four bedroom duplex for Mr. Doug Hanks which is located inside the corporate limits on Old Highway 421. This project is calculated to utilize 600 gpd usage.
2) A four bedroom residence for Mr. John Roberts which is located inside the corporate limits on Keystone Drive. This project is calculated to utilize 360 gpd usage.
3) A three bedroom residence for Mr. David Styron which is located inside the corporate limits on Dogwood Road. This project is calculated to utilize 270 gpd usage.

After removing these projected usages from our yearly allotment, the Public Utilities Department has 48,500 gallons per day remaining for allotment.

ADOPTION OF BUDGET AMENDMENTS

Upon a motion by Council member Mason, seconded by Council member Clawson, Council adopted the following budget amendments:

DESCRIPTION	ACCOUNT #	TO:	FROM:
Insurance Deductible Reimbursement	010-401-000-535102	$500.	
Miscellaneous Revenue	010-000-000-489900		$500.
Maint. & Repairs-Bldg & Grounds Blowing Rock Road Building	010-407-000-525101	217.	
Miscellaneous Revenue	010-000-000-489900		217.
Boone Housing Authority	010-411-000-549101	8,652.	
Miscellaneous Revenue	010-000-000-489900		8,652.
Special Projects-Horn in the West	010-411-000-549122	20,140.	
Fund Balance Appropriated	010-000-000-499900		20,140.
Maint. & Repairs - Vehicles - Police Dept.	010-500-300-525301	577.	

Miscellaneous Revenue	010-000-000-489900		577.
Maint. & Repairs - Vehicles - Water Operations	030-700-802-525301	2,809.	
Miscellaneous Revenue	303-000-000-489900		2,809.

VOTE: Aye-All
Nay-None

REQUESTED APPEARANCE - DOUG HANKS

Mr. Doug Hanks appeared before the Council to request that Council begin procedures for closure of portion of South Street located off old Highway 421. He noted that after meeting with surveyors, it was determined that a portion of South Street, which was never constructed, was on his property. Mr. Hanks informed the Council of his desire to construct a single-family home on the property. He offered to pay for all costs associated with the street closing procedures. Council member Eggers made a motion that Council direct the Town Clerk to begin the street closure process for the portion of South Street adjacent to Mr. Hank's property. Council member Spann seconded the motion.

VOTE: Aye - All
Nay - None

REQUESTED APPEARANCE - VERDA INGLE

Ms. Verda Ingle appeared before the Town Council to request help in maintaining the Daniel Boone Native Gardens. She explained that such tasks as pruning, weeding, fertilizing, and the general upkeep of the gardens are an increasing burden on aging garden club members. She requested a full- time employee of the town be assigned maintenance duties for the gardens. Council member Mason voiced a desire for commitment to the town's capital needs. She inquired if the town currently has enough staff to help while pursuing additional staffing for this specific purpose. Town Manager Greg Young agreed that the town does need to increase the level of service to the gardens and the Horn in the West property, which could mean the need for additional personnel. Mayor Burnley asked that a memorandum of understanding be created outlining specifically what is needed from the town. Council member Mason made a motion to have town staff explore information on additional personnel needs in relation to the Daniel Boone Native Gardens and to explore a memorandum of understanding for the needs of the Daniel Boone Native Gardens. Council member Wilcox seconded the motion and asked for a friendly amendment to provide maintenance help within the next couple of weeks before the opening of gardens. Council member Mason accepted the amendment.

VOTE: Aye - All
Nay - None

Mayor Burnley declared a break at 8:00 p.m. Council reconvened at 8:16 p.m.

REQUESTED APPEARANCES - C. HUNTER NICHOLS

Town Attorney Sam Furgiuele opened the public hearing at 8:17 p.m. to hear sworn testimony from Public Utilities Director Rick Miller regarding a request for water service to property located off Greenbriar Road. Mr. Nichols was not present at this time. Mr. Furgiuele noted this case was continued from the February 17, 2005 meeting for the purpose of gathering additional information on contaminated wells in the area. Mr. Miller pointed out correspondence in the meeting packet between Town Manager Greg Young and County Manager Rocky Nelson. Information contained in the correspondence indicates that current wells are not expected to be affected by contaminants, and a monitoring event is scheduled for wells in this area in April. With no further testimony, Mr. Furgiuele closed the public hearing at 8:20 p.m. Upon a motion by Council member Wilcox, seconded by Council member Clawson, Council decided to table the case until the next regular meeting, April 21, 2005. It was the consensus of the Council to have Town Manager Greg Young request that the wells be tested by Watauga County.

VOTE: Aye - All
Nay - None

Due to the fact that the applicants for the next two cases were not present, Mayor Burnley asked the Town Attorney to proceed with the next request.

REQUESTED APPEARANCE - DAN MINTON

Town Attorney Sam Furgiuele opened the public hearing at 8:22 p.m. to hear sworn testimony from Dan Minton and Public Utilities Director Rick Miller regarding a request for water and sewer service for property located off Winklers Creek Road (across from Boone Mall). Mr. Minton began by stating the property is approximately 4.2 acres with development occurring on the existing flat area of about one acre. He stated the remaining three acres would be left undisturbed with walking trails in the area. Mr. Minton provided digital photographs of the area to be developed. He further stated the buildings will contain twenty units with a total of 48 bedrooms. Mr. Minton stated his intention is for these units to be purchased by young professionals, not college students. Council members Clawson and Spann voiced concern as to how this development will be viewed from the surrounding community. Mr. Minton stated the development will be constructed at least 70-75 feet from the front of the property. He expressed his desire for this project to be a model of development in Boone. Council member Eggers questioned if this property is in the main or secondary pressure zone. Mr. Miller stated it is in the main pressure zone. With no further public testimony, Mr. Furgiuele closed the public hearing at 8:58 p.m. Upon a motion by Council member Eggers, seconded by Council member Spann, Council moved to grant the request for water and sewer service. Council member Mason commented that she has high expectations for this project to be a model for all future projects in Boone.

VOTE: Aye - All
Nay - None

REQUESTED APPEARANCE - C. HUNTER NICHOLS

Town Attorney Sam Furgiuele opened the public hearing at 9:00 p.m. to hear sworn testimony from Hunter Nichols and Public Utilities Director Rick Miller regarding a request for water service to property located off Greenbriar Road. Mr. Nichols presented a deed to Council which he feels shows a 60-foot right-of-way at the top of the property. Mr. Nichols stated he would like to run the water lines in this right-of-way across the road to the existing water lines. Mr. Furgiuele stated his opinion that this deed does describe the boundaries of the property as being subject to the right-of-way but does not establish that Mr. Nichols has access to the right-of-way. He stated that Mr. Nichols would need to have an easement. Mr. Nichols suggested that could be a condition of approval. He stated his intention of constructing a single-family residence on the property and his concern about possible contamination of a well. Mr. Nichols pointed out that the property adjacent to his was granted water service. Public Utilities Director Rick Miller stated this property is not adjacent to an existing water line and is not in the ETJ. Mr. Furgiuele explained that this case was tabled earlier in the meeting in order to gather further information regarding the contamination of wells in the area. He closed the public hearing at 9:31 p.m.

REQUESTED APPEARANCE - DAVID BLUST

Town Attorney Sam Furgiuele opened the public hearing at 9:32 p.m. to hear sworn testimony from David Blust and Public Utilities Director Rick Miller regarding a request for water service to property located off George Wilson Road. Mr. Blust stated he would like to receive water service to two double-wide mobile homes located on this property that are used as offices during the week. He stated he is not requesting sewer service at this time due to financial constraints. Public Utilities Director Rick Miller stated that a request for water and sewer service was previously granted for this property. He stated that there is an existing water line adjacent to the property; therefore, no extension of the line is needed. Council member Mason asked Mr. Blust of his intention of pursuing annexation. Mr. Blust stated he would have no problem with being voluntarily annexed into the town of Boone. With no further public testimony, Mr. Furgiuele closed the public hearing at 9:42 p.m. Council member Mason moved to grant the request for water service to this property contingent on the applicant applying for voluntary annexation and paying all costs for a future sewer line extension to the property. Council member Wilcox seconded the motion.

VOTE: Aye - All
Nay - None

REQUESTED APPEARANCE - B. L. BROWN/WATAUGA MEDICAL CENTER

Town Attorney Sam Furgiuele opened the public hearing at 9:44 p.m. to hear sworn testimony from the following persons: B. L. Brown, Mark Greene, Timothy Ford, and Town Manager Greg Young regarding a request for water and sewer service to property located at 232 Boone Heights Drive. B. L. Brown stated this request is for a proposed addition to the Wellness Center which will include a lap and therapy pool, and additional bathrooms and showers. He stated the expected water use of 17,520 gallons per day will exceed the level that can be approved by town staff. Council member Wilcox asked about the current water usage for the Wellness Center. Mark Greene stated the current water usage is 43,920 gallons per day based on calculations provided by the plumbing engineer. Council member Clawson asked what portion of the

property is taxable. Timothy Ford stated the physical therapy portion of the building is non-taxable. He stated two-thirds of the current building is taxable and at least one-half of the new addition will also be taxable. Town Manager Greg Young stated that, based on tax information provided by the Watauga County Tax office, approximately 90.77% of the property is taxable and 9.23% is exempt. With no further testimony, Mr. Furgiuele closed the public hearing at 9:55 p.m. Council member Eggers asked to be excused from voting on this case since he is on the Board of Trustees for the Watauga Medical Center. Council member Wilcox moved to excuse Council member Eggers from voting on this matter only. Council member Clawson seconded the motion.

VOTE: Aye - All
Nay - None

Council member Mason stated this project promotes health and safety for the general welfare of the community. Council member Mason moved to grant the request for water and sewer service to this property. Council member Clawson seconded the motion.

VOTE: Aye - All
Nay - None
Excused - 1 (Eggers)

REQUESTED APPEARANCE - VIA LLC/ED STREET PROPERTIES

Town Attorney Sam Furgiuele opened the public hearing at 10:05 p.m. to hear sworn testimony from Ed Street, Frank Bolick, John Spear, and Public Utilities Director Rick Miller in regard to a request for water and sewer service to property located off Highway 421. Ed Street began by stating this property consists of a total of 59 acres, 39 acres of which is to be developed into a shopping center. He stated 25 acres of the property is located in the floodway or floodplain. He pointed out this property, if developed, could generate a substantial amount in sales and property tax. He stated the portion of the property to be developed is in the B-3, General Business, zone. Frank Bolick stated there is an active meter on the property serving a single-family residence and utility lines that are adjacent to the property. Mr. Bolick stated the property would be voluntarily annexed into the town of Boone. Development Services Director John Spear stated the property consists of roughly 20 acres zoned B-3, General Business, and 30 acres zoned R-A, Rural/Agriculture. He further stated this property is in the ETJ and the designated rural growth area of the comprehensive plan. Council member Clawson asked what type of retail business is proposed for the project. Mr. Street stated he has been in negotiation with several national retailers. He stated the project would be a "power center" consisting of three "big box" buildings. He listed two examples of comparable projects in Johnson City, Tennessee, and Hickory, North Carolina. Council member Clawson asked if a force main pump station would be needed for the project. Public Utilities Director Rick Miller stated that the comment was in his memo since he has not seen any site plans. Mr. Street stated the buildings and sewer lines will be elevated enough to gravitate into the sewer lines. Council member Eggers asked about the timeline for construction of the project. Mr. Street stated that permits would be applied for within six months if water and sewer service is granted. He stated that groundbreaking would commence within one year and that construction is projected to last at least ten months. With no

further testimony, Mr. Furgiuele closed the public hearing at 10:20 p.m. Upon a motion by Council member Mason, seconded by Council member Clawson, Council moved to table the case until the April 2005 meeting in order to gather further information concerning the project.

VOTE: Aye - All
Nay - None

Mayor Burnley declared a break at 10:23 p.m. Council reconvened at 10:30 p.m.

CLOSED SESSION

Upon a motion by Council member Wilcox, seconded by Council member Mason, Council moved to enter Closed Session at 10:32 p.m. pursuant to NCGS 143-318.11a)3 in order to discuss the ASU violations.

VOTE: Aye - All
Nay - None

Upon a motion by Council member Wilcox, seconded by Council member Clawson, Council moved to exit Closed Session at 11:06 p.m.

VOTE: Aye - All
Nay - None

ADJOURNMENT

On a motion by Council member Wilcox, seconded by Council member Spann, Council moved to adjourn at 11:07 p.m.

VOTE: Aye - All
Nay - None

_____ _____

Deputy Town Clerk

Mayor