

**MINUTES – REGULAR MEETING
BOONE TOWN COUNCIL
JANUARY 15, 2013**

A regular meeting of the Boone Town Council was called to order at 6:30 p.m., Tuesday, January 15, 2013, in the Council Chambers, 1500 Blowing Rock Road. Mayor Loretta Clawson presided. Council members present were Mayor Pro-Tem Jamie Leigh, Lynne Mason, Rennie Brantz, Andy Ball, and Allan Scherlen. Town Attorney Sam Furguele was also present. Staff members present were Town Manager Greg Young, Town Clerk Kimberly Brown, Finance Director Amy Davis, Police Chief Dana Crawford, Fire Chief Jimmy Isaacs, Public Utilities Director Rick Miller, Public Works Director Blake Brown, Planning Director Bill Bailey, Human Resources Director Peri Moretz, Cultural Resources Director Pilar Fotta, and Urban Design Specialist Brian Johnson.

ANNOUNCEMENTS

Mayor Clawson called the meeting to order and welcomed all in attendance. She noted that anyone wanting to sign up to speak during the public comment session would need to sign the public comment sign-up sheet.

TENTATIVE AGENDA ADOPTION

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

1. Addition of Item 4.C. – Amendment to Park Rules and Regulations.
2. Addition of Items to Closed Session (Pursuant to NCGS 143-318(a)(3):
 - Item 15.B. Legal Advice – To consult with the Town Attorney in order to preserve the attorney/client privilege between the attorney and the Town Council to consider and give instruction regarding a potential claim against Boone Ready Mix, LLC and Delta Holdings, LLC.
 - Item 15.C. – Legal Advice – To consult with the Town Attorney in order to preserve the attorney/client privilege between the attorney and the Town Council to consider and give instruction concerning the handling of a settlement offer regarding Carl Paolucci.

Upon a motion by Council Member Brantz, seconded by Council Member Ball, Council moved to adopt the agenda, as amended.

VOTE: Aye – All
 Nay – None

CONSENT AGENDA ADOPTION

Minutes: December 10, 2012 – Special Public Hearing.
December 13, 2012 – Regular Meeting.

Adoption of Resolution – Hazard Mitigation Plan:

RESOLUTION OF ADOPTION

HAZARD MITIGATION PLAN

WHEREAS, the citizens and property within the Town of Boone are subject to the effects of natural hazards that pose threats to lives and cause damage to property, and with the knowledge and experience that certain areas of the county are particularly vulnerable to flooding, high winds, snow and ice storms; and

WHEREAS, the County desires to seek ways to mitigate the impact of identified hazard risks; and

WHEREAS, the Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Legislature of the State of North Carolina has in Section 1 Part 166A of the North Carolina General Statutes (adopted in Session Law 2001-214 --- Senate Bill 300 effective July 1, 2001), states therein in Item (a) (2) AFor a state of disaster proclaimed pursuant to G.S. 166A-6(a) after August 1, 2002, the eligible entity shall have a hazard mitigation plan approved pursuant to the Stafford Act®; and

WHEREAS, Section 322 of the Federal Disaster Mitigation Act of 2000 states that local governments must develop an All-Hazards Mitigation Plan in order to be eligible to receive future Hazard Mitigation Grant Program Funds and other disaster-related assistance funding and that said Plan must be updated and adopted within a five year cycle; and

WHEREAS, the Town of Boone has performed a comprehensive review and evaluation of each section of the previously approved Hazard Mitigation Plan and has updated the said plan as required under regulations at 44 CFR Part 201 and according to

guidance issued by the Federal Emergency Management Agency and the North Carolina Division of Emergency Management; and

WHEREAS, it is the intent of the Boone Town Council to fulfill this obligation in order that the County will be eligible for federal and state assistance in the event that a state of disaster is declared for a hazard event affecting the County;

NOW, therefore, be it resolved that the Boone Town Council hereby:

1. Adopts the Watauga County Hazard Mitigation Plan; and
2. Vests the Mayor with the responsibility, authority, and the means to:
 - (a) Inform all concerned parties of this action.
 - 1) Cooperate with Federal, State and local agencies and private firms which undertake to study, survey, map and identify floodplain areas, and cooperate with neighboring communities with respect to management of adjoining floodplain areas in order to prevent exacerbation of existing hazard impacts.
3. Appoints the Town Manager to assure that the Hazard Mitigation Plan is reviewed annually and every five years as specified in the Plan to assure that the Plan is in compliance with all State and Federal regulations and that any needed revisions or amendments to the Plan are developed and presented to the Boone Town Council for consideration.
4. Agrees to take such other official action as may be reasonably necessary to carry out the objectives of the Hazard Mitigation Plan.

Adopted the **15th** day of **January, 2013.**

Loretta Clawson, Mayor

ATTEST:

Kimberly S. Brown, Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE(S)189)

Amendment to Park Rules and Regulations.

ORDINANCE # 13-02

WHEREAS, the Town of Boone (hereafter the Town) is a municipal corporation organized under the laws of North Carolina and invested with the powers enumerated in Chapter 160A of the North Carolina General Statutes; and

WHEREAS, pursuant to N.C. Gen. Stat. " 14-415.11 and 14.415.23, the Town is given authority to ban the carrying of a concealed handgun in all city buildings and their appurtenant premises; and

WHEREAS, pursuant to N.C. Gen. Stat. ' 160A-351, the Town is given general authority to create, establish and operate the use of parks for the recreation and enjoyment of its citizens; and

WHEREAS, N.C. Gen. Stat. ' 14-415.23 was amended in 2011 to put certain limitations on the ability of a local unit of government to prohibit the carrying of a concealed handgun in municipal parks; and

WHEREAS, the Town previously promulgated rules and regulations which prohibited the possession of any firearm in its parks except by duly authorized law enforcement officers;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BOONE, NORTH CAROLINA, THAT THE CODE OF BOONE IS HEREBY AMENDED, AS FOLLOWS, BY ADDING NEW SECTIONS HIGHLIGHTED IN YELLOW AND STRIKING HIGHLIGHTED LANGUAGE SHOWN WITH A STRIKE-THROUGH:

'38.01 CONCEALED HANDGUNS AND DANGEROUS WEAPONS PROHIBITED.

(A) Other than a duly authorized law enforcement officer, a public safety employee of the town so authorized by the Town Manager, a district attorney, an assistant district attorney, or an investigator employed in the office of a district attorney, in accordance with and pursuant to N.C. Gen. Stat. " 14-415.11(c) and 14-415.23, no person may carry a concealed handgun, firearm or other dangerous weapon in any building owned by the Town of Boone or upon its appurtenant premises. Such buildings and premises include, but are not limited to:

- (1) Appalachian Theater 559 West King Street;

- (2) Brown Building (Public Works and Utilities) § 321 East King Street;
- (3) Downtown Post Office § 679 West King Street;
- (4) Fire Station I § 721-729 West King Street;
- (5) Fire Station II § 1075 State Farm Road;
- (6) Horn in the West (includes Powderhorn Theater, Administration, Restrooms, Concession, Theater, Storage and Dressing Rooms);
- (7) Jones House § 604 West King Street;
- (8) Public Works/Utilities Equipment Yard, Sheds and Buildings § Horn Avenue.
- (9) Rock House § 150 Clay House Drive;
- (10) Town Council Chambers/Police Department/Planning Office § 1510 Blowing Rock Road;
- (11) Town Hall § 567 West King Street;
- (12) Wastewater Treatment Facility § Casey Lane;
- (13) Water Treatment Facility § 376 Deck Hill Road; and
- (14) White House § 122 Moretz Street.

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'100.01 RULES AND REGULATIONS GOVERNING THE USE OF TOWN PARKS, INCLUDING THE TOWN OF BOONE GREENWAY.

(A) Town Parks. The following areas are considered town parks for purposes of these rules:

- (1) Boone Greenway Trail;
- (2) Canoe access to New River area near Highway 421 and New River Heights;

- (3) Clawson-Burnley Park;
- (4) Community Garden Area - 1.2 acres off Leola Street;
- (5) Daniel Boone Native Gardens;
- (6) Horn in the West;
- (7) Industrial fields (both Small Industrial Field and Large Industrial Field);
- (8) Jaycee Park;
- (9) Jimmy Smith Park;
- (10) Junaluska Park (portion other than area reserved for use by Watauga Post 130 of the American Legion and areas needs for access to the ALegion Hut®);
- (11) Morningside Drive Park;
- (12) North Street Park;
- (13) Rivers Park & Daniel Boone Monument;
- (14) Strawberry Hill Arboretum; and
- (15) Winkler's Creek Reservoir.

(B) For purposes of these rules and regulations, a town park® includes not only the land itself, but recreational facilities and equipment, playgrounds, athletic facilities and equipment, spectator areas, greenways and walking trails, bodies of water used for sporting events, recreational activities, fitness or athletic training areas, picnic areas, shelters and parking areas, signage and all other areas, natural features, facilities, and improvements associated with the park. The following acts are prohibited in all town parks:

- (2) Marking, defacing, disfiguring, injuring, tampering with, displacing or removing any structure, equipment, or facilities;
- (3) Damaging, cutting or removing any tree, plant or flower;
- (4) Depositing any trash or litter, except in receptacles placed for that purpose;

- (5) Driving any motorized vehicle, except for motorized wheelchairs, except in areas paved for that purpose or parking areas designated for that purpose;
 - (6) Consuming or possessing alcoholic beverages;
 - (7) Possessing a firearm or other dangerous weapon, except by duly authorized law enforcement officers, a public safety employee of the town so authorized by the Town Manager, or an individual who has been issued a permit authorizing the legal carrying of a concealed handgun, who may carry such handgun except in the parks identified in Section 100.03 herein, but as to those parks in which possession of a duly authorized concealed handgun is prohibited, may nevertheless secure the handgun in a locked vehicle within the trunk, glove box, or other enclosed compartment or area within or on his motor vehicle even if it is parked in a designated parking area of the park;
 - (8) Entering, using or remaining within a park between 30 minutes after sunset and 30 minutes before sunrise;
 - (9) Entering, using or remaining within a park when it is closed and a sign to that effect is posted at the entrance to such park;
 - (10) Disturbing or unreasonably interfering with another person who is using the park;
 - (11) Possessing or using fireworks or any other types of explosive device;
 - (12) Camping except in areas specifically designated for that purpose;
 - (13) Allowing any animal to be at large;
 - (14) Operating a bicycle and failing to yield to pedestrians;
 - (15) Riding a skateboard except in areas specifically designated for the use of a skateboard.
- (C) The Director of Public Works, or his designee, shall post these Rules and Regulations at each Town park. Each park in which it is prohibited for a person even with a duly issued permit authorizing the legal carrying of a concealed handgun to possess a concealed handgun, as listed in " 100.03, shall be posted with a specific notice to that effect.

' 100.03 PARKS IN WHICH CONCEALED HANDGUNS PROHIBITED.

(A) Other than a duly authorized law enforcement officer or a public safety employee of the town so authorized by the Town Manager, no person shall possess a concealed handgun in the following parks, all of which are designated recreational facilities, playgrounds, athletic fields, or athletic facilities, although an individual who has been issued a permit authorizing the legal carrying of a concealed handgun may secure the handgun in a locked vehicle within the trunk, glove box, or other enclosed compartment or area within or on his motor vehicle even if it is parked in a designated parking area of the park:

- (1) Boone Greenway Trail;
- (2) Canoe access to New River area near Highway 421 and New River Heights;
- (3) Industrial fields (both Small Industrial Field and Large Industrial Field);
- (4) Jaycee Park;
- (5) Jimmy Smith Park;
- (6) Junaluska Park (portion other than area reserved for use by Watauga Post 130 of the American Legion and areas needs for access to the ALegion Hut@); and
- (7) North Street Park.

' 100.99 PENALTIES.

(A)(1) Violation of the rules and regulations in '100.01 shall constitute an infraction, and unless another penalty is specifically provided within the Code of Boone or under North Carolina law, in which case that penalty shall apply, shall subject the responsible person to a penalty of \$10.00. Violators shall be issued written notice of the violation, which must be paid within ten days after the receipt of said notice. If the violator does not pay the penalty within ten days, the Town may recover such penalty, and all subsequently accruing penalties, in a civil action. In the event that it is necessary for the Town to institute a civil action to collect such penalty, the violator shall be responsible for all court costs and attorney's fees incurred by the Town.

(2) Violation of the provisions of ' 100.03 shall constitute a class 2 misdemeanor, as provided by N.C. Gen. Stat. ' 14-415.21(b).

(3) In addition to the aforesaid penalties, a duly authorized law enforcement officer or other authorized agent of the town may require that any person violating these rules immediately leave the town's park, and if the person has engaged in repeated violations within a twelve month period, may bar the person from the use of the town park for a period of sixty days.

THIS AMENDMENT IS EFFECTIVE UPON ADOPTION.

Adopted this 15TH day of January, 2013.

Mayor

Attest:

Town Clerk

(ORDINANCE TO BE TYPED IN BOOK 3, PAGE(S) 38-41)

Upon a motion by Council Member Ball, seconded by Council Member Mason, Council moved to adopt the consent agenda.

VOTE: Aye – All
 Nay – None

PUBLIC COMMENT

Jon Tate, owner of Lot Management Solutions, stated that it is impractical to place signs at each parking space and indicated that increased signage is not a viable solution. Mr. Tate pointed out that the sign posted by Murphy's restaurant is confusing and causes problems regarding the parking situation.

Jerry Butler, a local dentist and owner of apartments in Boone, stated that he uses Jon Tate's parking company and is very pleased with his service. Dr. Butler agreed that placing a sign at each space is not a practical solution. He indicated that parking becomes an issue each fall when the students return to campus.

Mark Templeton, a local businessman and property owner, stated that parking in downtown is a commodity. He stated that he has received complaints from business owners that cars are being

left in the parking lots and are not patronizing the business. Mr. Templeton opined that placing a boot or wheel-lock is a better deterrent than towing the vehicle. Furthermore, he stated that placing a sign at each space is putting the burden on the property owner, not the violators. He asked the Council to reconsider the proposed amendments to the towing ordinance.

UPDATE ON POST OFFICE RENOVATION

Randy Jones appeared before Council to provide an update on the post office renovation. He stated that the work is coming along in a very timely manner. Mr. Jones indicated that Planning Director Bill Bailey is anticipating moving into the offices by March of this year. Council Member Leigh suggested hosting a grand-opening celebration for the event.

SCHEDULING OF PRE-BUDGET RETREAT

Upon a motion by Council Member Leigh, seconded by Council Member Brantz, Council moved to schedule a special meeting for a pre-budget retreat on Friday, March 1, 2013, at 8:30 a.m. in the Council Chambers, 1500 Blowing Rock Road.

VOTE: Aye – All
 Nay - None

It was the consensus of the Council to schedule a follow-up meeting after the pre-budget meeting and to schedule the Planning Retreat at the regular meeting in February.

UPDATE ON TREE PLANTING/SCHEDULE – HIGHWAY 421 PROJECT

Urban Design Specialist Brian Johnson presented packets of information on various trees and plantings that are appropriate for the areas. He stated that he is awaiting information from NC DOT staff person Ivan Dishman regarding possibilities for tree and landscaping. Council Member Leigh voiced her frustration at the lack of action on getting this project underway. She stated that staff should have already sent letters to property owners regarding the matter that that funding should be included in the Town's budget for this project. It was the consensus of the Council to place this matter for further discussion and an update from Brian Johnson at the March 2013 regular meeting.

DISCUSSION OF INCREASED TREE PLANTINGS IN TOWN

Council Member Leigh requested continued discussion of increased tree plantings throughout the town and including downtown. Upon a motion by Council Member Leigh, seconded by Council Member Mason, Council moved to direct staff to present a preliminary plan for increasing tree

plantings within the town at the February meeting and to provide an update on planting trees on Highway 421 at the March meeting.

VOTE: Aye – All
 Nay – None

DISCUSSION OF FORMAT & SCHEDULING OF MEETINGS – PUBLIC INPUT FOR NEW TABLE OF PERMISSIBLE USES

Planning Director Bill Bailey suggested that the format for receiving public input for the revised Table of Permissible Uses should include three workshops. Upon a motion by Council Member Mason, seconded by Council Member Ball, Council moved to schedule three special meetings in order to receive public input on the proposed changes to the UDO Table of Permissible Uses:

Thursday, February 28, 2013 from 5-8 p.m.

Wednesday, March 6, 2013 from 5-8 p.m.

Monday, March 25, 2013 from 5-8 p.m.

The meetings will be held in the Council Chambers, 1500 Blowing Rock Road.

VOTE: Aye – 4 (Scherlen, Mason, Ball, Brantz)
 Nay – 1 (Leigh)

Mayor Clawson declared a break at 8:21 p.m. Council reconvened at 8:32 p.m.

DISCUSSION OF HOUSING STUDY

Council Member Mason asked the Council to determine who should consider the recommendation from the Housing Study. She indicated that the study recommendations are broader than what the Affordable Housing Task Force has been asked to consider. It was determined that the Council should receive the recommendations from the study at a special meeting initially and then a meeting be scheduled to include the members of the Planning Commission, stakeholders, and the public.

ADOPTION OF ORDINANCE – REVISION TO GENERAL PENALTY PROVISION OF MUNICIPAL CODE

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to adopt the following ordinance and to delay implementation of the ordinance until

March 1, 2013, to allow staff to develop an appropriate personnel policy to coordinate with the ordinance:

ORDINANCE 13-01

REVISION TO GENERAL PENALTY PROVISION OF MUNICIPAL CODE

' 10.99 GENERAL PENALTY.

(A) Unless otherwise specifically provided, violation of any provision of this code of ordinances shall subject the offender to a civil penalty in the amount of \$100, to be recovered by the town. Violators shall be issued written notice of the violation which must be paid within 72 hours after receipt of the notice. If the violator does not pay the penalty within 72 hours, the town may recover the penalty, and all subsequently accruing penalties, in a civil action.

(B) Each day's continuing violation of any ordinance provision shall be a separate and distinct offense.

(C) Notwithstanding division (A) above, all ordinances may also be enforced by appropriate equitable remedies issuing from a court of competent jurisdiction.

(D) Unless otherwise specifically provided or unless a greater penalty is established under State law for the same offense in which case that penalty shall apply, pursuant to N.C. Gen. Stat. ' 14- 4(a), every violations of provision of this code of ordinances, except one relating to the operation or parking of vehicles, shall be a class 3 misdemeanor punishable by a fine of up to five hundred dollars (\$500.00). Unless otherwise specifically provided herein, any person who violates a town ordinance regulating the operation or parking of vehicles shall be responsible for an infraction and shall be required to pay a penalty of up to fifty dollars (\$50.00).

(E) If any section of this ordinance is held to be invalid or unenforceable, all other sections shall nevertheless continue in full force and effect.

(F) In the event it is necessary for the town to institute a civil action to collect a civil penalty for the violation of any provision of any town ordinance, the offender shall pay all court costs, including filing fees, fees for service of process, and other expenses incurred in the litigation, such as costs of depositions, copying expenses and charges, and reasonable attorney's fees incurred by the town.

THIS AMENDMENT IS EFFECTIVE **MARCH 1, 2013.**

Adopted this 15th day of January, 2013.

Mayor

Attest:

Town Clerk

(ORDINANCE TO BE TYPED IN BOOK 3, PAGE(S) 37)

VOTE: Aye – All
 Nay – None

CONSIDERATION OF CODE AMENDMENT – CHAPTER 73: TOWING

After lengthy discussion, it was the consensus of the Council to direct the town attorney to take feedback from the discussion and public input and to draft a proposed ordinance for consideration. Upon a motion by Council Member Leigh, seconded by Council Member Ball, Council moved to table action on this matter until the February regular meeting.

VOTE: Aye – All
 Nay - None

SCHEDULE CASE FOR FEBRUARY OPH – CASE 20120726 WATAUGA MEDICAL CENTER

Case 20120 Watauga Medical Center, Inc. – Zoning Map Amendment Petition for General Use District. The request is to rezone 140 Mary Street (Watauga County PIN 2910-706-8160-000) from R-2, Two-Family Neighborhood to O/I, Office/Institutional. The property is approximately .8 acres. Upon a motion by Council Member Ball, seconded by Council Member Leigh, Council moved to place Case 201020726 on the February Quarterly Public Hearing agenda.

VOTE: Aye – All
 Nay - None

P & I MONTHLY REPORT

Planning Director Bill Bailey presented the P & I Monthly report. **(Permanently on file in the January 2013 Town Council packet.)**

CONSIDERATION OF PROPOSED TEXT AMENDMENT – TREE BOARD MEMBERSHIP REQUIREMENTS

Planning Director Bill Bailey explained that the proposed amendment will relax Tree Board membership requirements to explicitly broaden the candidate pool to include applicants who may not have professional certifications in related areas. Upon a motion by Council Member Ball, seconded by Council Member Brantz, Council moved to place a proposed amendment to the Tree Board membership requirements on the February Quarterly Public Hearing agenda.

VOTE: Aye – All
 Nay – None

2013 DOWNTOWN BOONE PROMOTIONS SCHEDULE

Cultural Resources Director Pilar Fotta presented a schedule of 2013 Downtown Boone promotions. **(Information permanently on file in the January 2013 Town Council meeting packet.)**

APPROVAL OF AGREEMENT – ALTA GREENWAYS PLANNING & DESIGN FIRM

Public Works Director Blake Brown presented a request for approval of a contract with Alta Greenways Planning and Design Firm for the development of the Town of Boone's Comprehensive Bicycle Plan which is to be merged with the existing Pedestrian Plan. He stated that the contract is not to exceed \$64,000. Upon a motion by Council Member Ball, seconded by Council Member Scherlen, Council moved to approve the contract with Alta Greenways Planning & Design, not to exceed \$64,000 and upon review by the town attorney and to be executed by the town manager. **(Contract permanently on file at Boone Town Hall.)**

VOTE: Aye – All
 Nay – None

Mayor Clawson declared a break at 10:39 p.m. Council reconvened at 10:44 p.m.

APPROVAL OF ENGINEERING SERVICES – DAVIS-MARTIN-POWELL & ASSOCIATES AND MCGILL ASSOCIATES

Public Works Director Blake Brown presented a request for approval of two engineering firms for the performance of town services. He explained that after interviewing five prospective engineering firms, he is seeking approval of contracts with Davis-Martin-Powell & Associates and McGill Associates. He stated that a request for a third firm will be forthcoming. Upon a

motion by Council Member Mason, seconded by Council Member Brantz, Council moved to approve the contracts with Davis-Martin-Powell & Associates and McGill Associates for engineering services upon review by the town attorney. **(Contracts permanently on file at Boone Town Hall.)**

VOTE: Aye – All
 Nay – None

REQUEST PERMISSION TO APPLY FOR A GRANT – NC GOVERNOR’S CRIME COMMISSION GRANT

Police Chief Dana Crawford requested permission to apply for grant funding from the North Carolina Governor’s Crime Commission to assist the department in acquiring the VIPER communications program. He stated that the amount of the grant is \$60,000 with a 25% match from the Town of Boone in the amount of \$15,000. Upon a motion by Council Member Brantz, seconded by Council Member Ball, Council moved to authorize the Police Chief to apply for a North Carolina Governor’s Crime Commission Grant in the amount of \$60,000.

VOTE: Aye – All
 Nay - None

MONTHLY NOISE ORDINANCE REPORT

Police Chief Dana Crawford presented a noise report for October 2012. **(Copy of report permanently on file in the January 2013 Town Council packet.)**

SCHEDULING OF SPECIAL MEETING – WATER USE COMMITTEE

Upon a motion by Council Member Mason, seconded by Council Member Ball, Council moved to schedule a special meeting of the Water Use Committee for Thursday, March 28, 2013, at 5 p.m. in the Council Chambers, 1500 Blowing Rock Road.

VOTE: Aye – 4 (Scherlen, Mason, Ball, Brantz)
 Nay – 1 (Leigh)

APPROVAL OF CONTRACT – MCGILL ASSOCIATES FOR DECK HILL WATER TANK EVALUATION

Public Utilities Director Rick Miller explained the request for approval of a contract with McGill Associates in the amount of \$15,200 for the evaluation of alternative sites and other options

before committing to the current site. He explained that this action is a result of a capital improvement plan previously adopted by the Council that includes a tank replacement for the Deck Hill area. Upon a motion by Council Member Mason, seconded by Council Member Ball, Council moved to approve a contract in the amount of \$15,200 with McGill Associates for evaluation of the Deck Hill Water Tank. **(Contract permanently on file at Boone Town Hall.)**

VOTE: Aye – All
 Nay - None

APPROVAL OF CHANGE ORDER #1 – PRIDE DRIVE SEWER REPLACEMENT

Public Utilities Director Rick Miller explained that the change order is to modify the contract price for an additional \$19,722.50 and to extend the contract time by two days. He stated that this is necessary due to the unexpected conflict with the existing Town water main along US Highway 321. Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to approve Change Order #1, as presented, for the Pride Drive Sewer Replacement project.

VOTE: Aye – All
 Nay - None

MONTHLY WATER USE STATUS REPORT

Public Utilities Director Rick Miller presented the monthly water status report. **(Copy of report permanently on file in the January 2013 Town Council 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:
OVERTIME-POLICE DEPARTMENT	010-500-300-501201	\$22,534	
GAS&OIL-POLICE DEPARTMENT	010-500-300-515100	\$6,000	
MISCELLANEOUS REVENUE	010-000-000-489900		(\$28,534)
CAPITAL OUTLAY-FIRE STATION #3	010-411-000-575023	\$400,000	
TRANSFER FROM RURAL FIRE CAPITAL RESERVE FUND	010-000-000-498052		(\$400,000)

VOTE: Aye – All
 Nay – None

RECESS MEETING

Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to recess the meeting at 11:07 p.m. until Thursday, January 17, 2013, at 6:30 p.m. in the Council Chambers, 1500 Blowing Rock Road.

VOTE: Aye – All
 Nay – None

CALL TO RECONVENE

A recessed meeting from January 15, 2013, was called to order at 6:30 p.m., Thursday, January 17, in the Council Chambers, 1500 Blowing Rock Road. Mayor Loretta Clawson presided. Council members present were Lynne Mason, Rennie Brantz, and Allan Scherlen. Town Attorney Sam Furgiuele was also in attendance. Staff members present were Town Manager Greg Young, Town Clerk Kim Brown, Finance Director Amy Davis, Fire Chief Jimmy Isaacs, Police Chief Dana Crawford, Public Works Director Blake Brown, Public Utilities Director Rick Miller, Human Resources Director Peri Moretz, Planning Director Bill Bailey, and Cultural Resources Director Pilar Fotta.

CALL TO ORDER & ANNOUNCEMENTS

Mayor Clawson called the meeting to order and welcomed all in attendance. She noted that anyone wanting to sign up to speak during the public comment session would need to sign the public comment sign-up sheet.

TENTATIVE AGENDA ADOPTION

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

1. Addition of Item 12.D. – Approval of Encroachment Agreement – For the placement of orange interdict and fiber optic cable on New Market Boulevard.
2. Addition of Items to Closed Session (Pursuant to NCGS 143-318(a)(3)(5):
 - Item 15.D. Legal Advice – To consult with the Town Attorney in order to preserve the attorney/client privilege between the attorney and the Town Council, which privilege is

hereby acknowledged to consider and give instructions concerning the handling of an administrative procedure involving Richard Franklin.

-Item 15.E. Legal Advice – To consult with the Town Attorney in order to preserve the attorney/client privilege between the attorney and the Town Council to consider and give instructions to the attorney concerning the handling or settlement of a claim against Bank of America.

-Item 15.F. Legal Advice and Property Acquisition – To instruct the Town’s negotiating agents concerning the position to be taken by or on behalf of the Town Council in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property located on Highway 105.

Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council adopted the agenda, as amended.

VOTE: Aye – All
 Nay – None
 Absent – 2 (Leigh, Ball)

PUBLIC COMMENT

There was no one present to speak during public comment.

ANNOUNCEMENT OF BOARD VACANCIES

Mayor Clawson announced that Andrew Miller has submitted his resignation from the Transportation Committee and the Alternative Transportation Committee.

BOARD APPOINTMENTS

Affordable Housing Task Force – There were no applications for these vacancies.

Board of Adjustment – Upon a motion by Council Member Mason, seconded by Council Member Scherlen, Council moved to defer action on this appointment until another application is submitted so that two applications can be forwarded to the Watauga County Board of Commissioners for consideration.

VOTE: Aye – All
 Nay – None
 Absent – 2 (Leigh, Ball)

Community Appearance Commission – There were no applications for this vacancy.

Outside Agency Funding Committee – There were no applications for this vacancy.

Planning Commission – There were no applications for this vacancy.

Boone Tourism Development Authority Board – There were no applications submitted for this vacant position.

Tree Board – Upon a motion by Council Member Mason, seconded by Council Member Scherlen, Council moved to appoint Michael Kirk to serve a second term on the Tree Board and to defer consideration of Shawna Rhyne’s application until the February meeting.

VOTE: Aye – All
 Nay – None
 Absent – 2 (Leigh, Ball)

CONSIDERATION OF APPLICATIONS – BICYCLE PLAN STEERING COMMITTEE

Public Works Director Blake Brown requested the addition of four more positions on the Bicycle Plan Steering Committee. Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to amend the agenda to take action on the expansion of the Bicycle Plan Steering Committee.

VOTE: Aye – All
 Nay – None
 Absent – 2 (Leigh, Ball)

Upon a motion by Council Member Brantz, seconded by Council Member Scherlen, Council moved to expand the Bicycle Plan Steering Committee by four positions.

VOTE: Aye – All
 Nay – None
 Absent – 2 (Leigh, Ball)

Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to appoint the following persons to serve on the Bicycle Plan Steering Committee:

Kathy Henson, Boone Area Cyclist Board of Directors
Stephen Poulos, Watauga County Parks & Recreation Director

Dean Ledbetter, NCDOT Traffic Engineer
Mike O'Connor, ASU Physical Plant Director.

VOTE: Aye – All
 Nay – None
 Absent – 2 (Leigh, Ball)

APPROVAL OF ENCROACHMENT AGREEMENT – FIBER OPTIC CABLE ON NEW MARKET BOULEVARD

Public Works Director Blake Brown presented a request for an encroachment agreement from Ridge Link, LLC for the installation of 1 ¼ inch orange interdict and fiber optic cable on New Market Boulevard. Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to approve an encroachment agreement with Ridge Link, LLC for the installation of 1 ¼ inch orange interdict and fiber optic cable on New Market Boulevard. **(Agreement permanently on file at Boone Town Hall.)**

VOTE: Aye – All
 Nay – None
 Absent – 2 (Leigh, Ball)

REQUESTED APPEARANCE – DARRELL KING/FRONTIER NATURAL GAS

Dave Shipley, vice president of Gas Natural and overseer of the east coast operations for the company, introduced Nick Guise, sales representative for the Boone area and Darrell Knight, general manager. Mr. Shipley offered a brief history of the company's history in the area. He stated that the company continues to prepare for planned and unplanned growth. Council Member Mason expressed frustration at the continued lack of response from Frontier Gas to residents. She stated that she has received complaints from the residents who are experiencing that frustration at the lack of response. She stated that promises that had been made to the public about extensions into residential areas were broken. Mr. Shipley acknowledged problems with communication and community interaction in the past and has vowed to improve these issues. He stated he will provide the Council with a list and map outlining where lines have been installed and new projects that are being considered. Council requested that a representative from Frontier Gas appear before Council to present an annual update.

REQUESTED APPEARANCE – REUBEN KLINE

Reuben Kline and Darrell Prillaman appeared before the Council to request approval of a Special Event permit for the Boone Gran Fondo. Mr. Kline explained that the event is a bicycling event

scheduled for Sunday, August 4, 2013, from 7 a.m. until 6 p.m. He asked for a waiver of the \$1,500 application fee. Mr. Prillaman pointed out that the event will be beneficial to the local economy. He requested police assistance for the event. Chief Crawford indicated that he will have to have a minimum of at least two additional officers and possibly as many as four extra officers for the event and that it will affect his department's overtime budget. Council Member Scherlen voiced his concern with waiving the fee since use of extra personnel will be costly. Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to approve the Boone Gran Fondo, scheduled for Sunday, August 4, 2013, from 7 a.m. until 6 p.m. and to waive the fee of \$1,500.

VOTE: Aye – 2 (Mason, Brantz)
 Nay – 1 (Scherlen)
 Absent – 2 (Leigh, Ball)

REQUESTED APPEARANCE – EMILY GREER

Emily Greer appeared before the Council to request approval of a Special Event permit for the Hunter's Heroes: A Race to Remember. She explained that the event is scheduled for Saturday, June 8, 2013, from 7-9 a.m. She asked for a waiver of the application fee of \$1,500. Upon a motion by Council Member Mason, seconded by Council Member Scherlen, Council moved to approve the Special Event permit for the Hunter's Heroes: A Race to Remember, waive the fee, and provide a letter of support for the event.

VOTE: Aye – All
 Nay – None
 Absent – 2 (Leigh, Ball)

Before deliberating on the quasi-judicial requests, Town Attorney Sam Furguele questioned the members of Council on whether or not they had contact with any of the applicants regarding the requests. All Council members stated that they had not had any significant contact with any of the applicants for any of the requests.

WATER & SEWER REQUEST – JOHN WINKLER

Town Attorney Sam Furguele opened a public hearing at 7:40 p.m. to hear sworn testimony on a request for water and sewer service to property located at the corner of US Highway 321 and Clement Street. Neither the applicant nor his representative was present for the meeting. Planning Director Bill Bailey, being duly sworn, pointed out that the revisions to the UDO Table of Permissible Uses is due to be completed within the next couple of months and then his staff will begin working on the proposed overlay districts. With no other testimony offered, Mr.

Furgiuele closed the public hearing at 7:41 p.m. Upon a motion by Council Member Brantz, seconded by Council Member Scherlen, Council moved to table consideration of this request until the May 2013 regular meeting.

VOTE: Aye – All
 Nay – None
 Absent – 2 (Leigh, Ball)

CLOSED SESSION

Upon a motion by Council Member Brantz, seconded by Council Member LM, Council moved to enter Closed Session at 7:42 p.m. pursuant to NCGS 143-318-11a(3)(5) to hear the following items:

- A. Property Acquisition and Legal Advice – To consult with the Town Attorney in order to preserve the attorney/client privilege between the attorney and the Town Council and to instruct Town staff and the Town Attorney concerning the positions to be taken by or on behalf of the Town in negotiating the price and other material terms of proposed contracts for the acquisition of easements in real property related to the proposed raw water intake, and to consult with an attorney employed or retained by the public body, which privilege is hereby acknowledged, to consider and give instructions to the attorney concerning the handling or settlement of a judicial action.
- B. Legal Advice – To consult with the Town Attorney in order to preserve the attorney/client privilege between the attorney and the Town Council to consider and give instruction regarding a potential claim against Boone Ready Mix, LLC and Delta Holdings, LLC.
- C. Legal Advice – To consult with the Town Attorney in order to preserve the attorney/client privilege between the attorney and the Town Council to consider and give instruction concerning the handling of a settlement offer regarding Carl Paolucci.
- D. Legal Advice – To consult with the Town Attorney in order to preserve the attorney-client privilege between the attorney and the Town Council, which privilege is hereby acknowledged to consider and give instructions concerning the handling of an administrative procedure involving Richard Franklin.
- E. Legal Advice – To consult with the Town Attorney in order to preserve the attorney/client privilege between the attorney and the Town Council, to consider and give instructions to the attorney concerning the handling or settlement of a claim against Bank of America.
- F. Property Acquisition and Legal Advice – To instruct the Town's negotiating agents concerning the position to be taken by or on behalf of the Town Council in negotiating

the price and other material terms of a contract or proposed contract for the acquisition of real property located on Highway 105.

VOTE: Aye – All
 Nay – None
 Absent – 2 (Leigh, Ball)

Council Member Ball arrived in Closed Session at 9:20 p.m. Upon a motion by Council Member Ball, seconded by Council Member Scherlen, Council moved to exit Closed Session at 9:25 p.m.

VOTE: Aye – All
 Nay – None
 Absent – 1 (Leigh)

ADJOURNMENT

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to adjourn at 9:26 p.m.

VOTE: Aye – All
 Nay – None
 Absent – 1 (Leigh)

Kimberly S. Brown, Town Clerk

Loretta Clawson, Mayor