

**MINUTES – REGULAR MEETING
BOONE TOWN COUNCIL
February 9, 2022**

CALL TO ORDER

A regular meeting of the Boone Town Council was called to order electronically at 9:07 a.m. on Wednesday, February 9, 2022. Mayor Pro-tem Tugman presided. Council members present included Dalton George, Virginia Roseman, and Todd Carter. Staff members present included Town Manager John Ward, Town Clerk Nicole Harmon, Finance Director Amy Davis, Police Chief Andy Le Beau, Sustainability and Special Projects Manager George Santucci, Planning Director Jane Shook, Fire Chief Jimmy Isaacs, Deputy Public Works Director Todd Moody, Downtown Boone Development Director Lane Moody, Deputy Public Works Director Josh Eller, Public Works Director Rick Miller, Communications Specialist Laney Pilkington, Long Range Planner Jessica Mitchell, GIS Coordinator Chris Miller, Deputy Public Works Director Stacey Miller, and Cultural Resources Director Mark Freed. Town Attorney Allison Meade was also present.

Mayor Futrelle was absent due to a death in his family. Ms. Nenow was also not present for this meeting.

MOMENT OF SILENCE

ANNOUNCEMENTS

Mr. Ward read the proclamation honoring Mr. Jerry Hunter, and the proclamation recognizing February as Black History Month in Boone. He then gave the Covid-19 update, which indicated a decrease in cases locally. Lastly, Mr. Ward read the following board vacancies:

BOARD OF ADJUSTMENT

One alternate position

COMMUNITY APPEARANCE COMMISSION

One regular position; One student position

CULTURAL RESOURCES ADVISORY BOARD

One student position

DOWNTOWN BOONE DEVELOPMENT ASSOCIATION

One board appointed position

HISTORIC PRESERVATION COMMISSION

One regular position

WATAUGA COUNTY PARKS & RECREATION COMMISSION

One Town resident position

TRANSPORTATION COMMITTEE

One position (Cooperative Extension)

One resident position (Alternative Transportation)

One resident position

One student position

WATER ADVISORY COMMITTEE

Five regular positions; One student position

TENTATIVE AGENDA ADOPTION

Upon a motion by Ms. Roseman, seconded by Mr. George, Council voted to adopted the agenda as presented.

VOTE:	Aye:	Roseman, George, Carter, Tugman
	Nay:	None
	Absent:	Nenow

PUBLIC COMMENT

Austin Northern, owner of Blue Deer on King Street, asked Council members to reevaluate it's mask mandate.

The owner of Common Good in Downtown Boone, spoke against the local mask mandate, and accused Council members of instigating slander against her and her business on social media pages. She pleaded with members to stop weaponizing fear in Town of Boone citizens.

Page (last name unknown) spoke against the local mask mandate.

David Jackson of the Boone Chamber of Commerce asked members to develop an end date for the mask mandate.

Carey Gregory asked members to consider an end date for the local mask mandate.

Connie Ulmer of Boone suggested that members come up with an end date for the mask mandate.

REQUESTED APPEARANCES**LARRY WARREN, TAX ADMINISTRATOR & RYAN VINCENT, VINCENT VALUATIONS**

Ryan Vincent of Vincent Valuations presented Council with an explanation of the upcoming property reevaluation process. A complete copy of the presentation can be found at <http://boonenc.iqm2.com/Citizens/Default.aspx>.

JASON BERTONCINO - WITHERSRAVENEL

Jason Bertoncino of WithersRavenel gave an update on the progress of the new municipal complex at the Bolick Farm property. A complete copy of the presentation can be viewed at <http://boonenc.iqm2.com/Citizens/Default.aspx>.

JAMES MILNER - APPALACHIAN COMMERCIAL REAL ESTATE

James Milner of Appalachian Commercial Real Estate provided a brief update on the listing and marketing of the Town of Boone surplus property located at 1500 Blowing Rock Road.

WRIGHT TILLEY - BOONE TOURISM DEVELOPMENT AUTHORITY

Wright Tilley of the Boone Tourism Development Authority presented an update on its accomplishments for the past year.

LANE MOODY - DOWNTOWN BOONE DEVELOPMENT ASSOCIATION

Lane Moody, Downtown Boone Development Director, gave an update on the Association's accomplishments for the past year.

MARK FREED - UPDATES ON BOONE 150 CELEBRATION AND BOONERANG MUSIC & ARTS FESTIVAL

Cultural Resources Director Mark Freed provided members with an update on the Boone 150 Celebration and the Boonerang Music and Arts Festival.

LAURA KRATT - APPALACHIAN THEATRE

Jim Deal of the Appalachian Theatre executive board thanked Council members for their support in the past, and asked them to consider funding the theatre in the upcoming budget process.

DANIEL JOHNSON - BOONEDOCK ENERGY SOLUTIONS

Daniel Johnson gave a presentation regarding Boonedock Energy Solutions. A complete copy of the presentation may be viewed online at <http://boonenc.iqm2.com/Citizens/Default.aspx> .

ADOPTION OF ITEMS ON CONSENT AGENDA

Upon a motion by Ms. Roseman, seconded by Mr. Carter, Council voted to approve the following items on the Consent Agenda:

1. Resolution of Appreciation - J. Hunter
2. Proclamation - Black History Month
3. Agency Renewal Agreement - Appalachian Commercial Real Estate (1500 Blowing Rock Road)

VOTE: Aye: Roseman, Carter, George, Tugman
 Nay: None
 Absent:None

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BLACK HISTORY MONTH PROCLAMATION

WHEREAS, February is designated nationally as Black History Month, an annual commemoration honoring the heritage and achievements of America's Black compatriots and recognizing the central role of Black people in our nation's history; and

WHEREAS, the noted scholar and founder of the Association for the Study of African American Life and History, Dr. Carter Godwin Woodson, introduced in 1926 the observance that evolved into Black History Month, as a part of the nation's bicentennial in 1976; and

WHEREAS, Boone's Junaluska community is one of western North Carolina's oldest, intact Black communities with origins dating back to the mid-1800s, and has continually been an important part of Boone's historical, economic, social, political, and spiritual development; and,

WHEREAS, Black community members have played important roles as dynamic and impactful citizens in Boone as religious leaders, educators, business owners, health care professionals, administrators, artists, and engaged citizens; and

WHEREAS, 2022's Black History Month coincides with the Town of Boone's sesquicentennial celebration, which is an opportunity for Boone's citizens to educate themselves on the history of Boone and the local Black community and the contributions that Black individuals have made to promoting social justice, advancing the cause of civil rights, and helping make Boone a better place to live, work, and play; and

WHEREAS, the Town of Boone is committed to advancing racial equity and celebrating our diverse heritage and culture;

NOW, THEREFORE, I, Tim Futrelle, Mayor the Town of Boone, North Carolina, do hereby proclaim February 2022 as Black History Month in the Town of Boone and ask that all citizens commit to its observance.

This the 9th day of February, 2022.

ATTEST:

Mayor Tim Futrelle

Town Clerk Nicole Harmon

COUNCIL MATTERS

TOWN MANAGER UPDATE

Town Manager John Ward updated members on the following items:

1. **Hunting Hills Bridge Replacement:** In coordination with the North Carolina Department of Transportation and the Federal Highway Administration, engineering design plans have been completed and right-of-way acquisition is now 90% complete. We're still working to obtain one last easement from the State of North Carolina. We anticipate moving into the last phase of this project

sometime this spring which involves securing an engineering firm for administration services.

construction

2. **Winter Maintenance:** The Public Works Department has used approximately 550 tons of road salt since January 1st to treat town streets and make salt brine . The department also had 2,680 man hours plowing streets and sidewalks, hauling snow from the downtown area, shoveling steps, and clearing building entryways. Following the winter storm on January 16th, crews removed and hauled over 9000 cubic yards of snow from our downtown area and sidewalks throughout town.

3. **Downtown Advocacy Committee:** The committee continues to meet and held its first in-person meeting recently.

4. **North Street Park:** since the fence has been deteriorating, and due to the fact that people frequently allow their pets to run off-leash, staff anticipates removing the fence. He indicated that there may be a way to creatively connect the park to the potential future parking deck.

TOWN ATTORNEY UPDATE

Ms. Meade updated members on the outstanding sale tax lawsuit involving Watauga County, as well as gave a brief overview of the ethics policy for Council members as it pertained to social media.

BOARD LIAISON UPDATE

Ms. Roseman indicated that the Historic Preservation Commission was working on many projects, including the Hayes-Bryan Cemetery. Mr. George noted that the Community Appearance Commission was working on tree planting. Mr. Carter announced that the AppalCart board was involved with the new double-decker bus and the design of the wrap advertising sustainability in Boone on the electric bus.

CONSIDERATION OF CASES HEARD AT THE JANUARY 24, 2022 PUBLIC HEARING

Since all parties were not yet available for the first scheduled case, Long Range Planner Jessica Mitchell presented case number PL05419-010622: HPC - Minor Works Modification - UDO Text Amendment. Ms. Meade suggested that, in addition to the proposed modifications, the modifier "photographic" be struck before evidence, since she believed it was unnecessary. Ms. Roseman then made a motion to approve the proposed text, as revised, and that it is consistent with the Town's Comprehensive Plan and any other adopted plans of the Town that are applicable because the amendment is consistent with: Comprehensive Plan Policy 2.1. The Economy 2.1.1 Economic Development A. The Town shall protect and enhance a high quality of life, image, cultural amenities, and natural beauty as the most effective, long term component of an economic development strategy. A.1 Continue to evaluate and amend development regulations to help ensure aesthetic quality in the area and preserve the natural beauty of the area. E.1 Continue to look for ways to make development regulations and permit procedures more predictable and timely. Evaluate opportunities for administrative review and permit issuance for development projects which, due to their small size or relatively minor impacts, may not require review by a formal public commission or board. Comprehensive Plan Policy 2.1.5 Downtown A. A compatible design character for the downtown area, drawing upon the locality's original High Country small-town features, shall be identified, reinforced and supported to put forth a quality image and sense of place. Comprehensive Plan Policy 2.3 The Community 2.3.2 Community Character A. The identification, restoration and active use of structures, buildings, monuments, and neighborhoods of historic or architectural significance shall be encouraged as a means of enhancing their economic and cultural value to the planning area. C. Wise development of the tourism potential of the area's architectural, historic, scenic and natural resources shall be encouraged. D. The destruction of significant architectural, historic, scenic, natural and archaeological resources in the planning area shall be discouraged, and that the reason for this is to allow staff the ability to adequately evaluate and preside over issues that are small and have a relatively minor impact to the community, while providing historical preservation as suggested within Town of Boone policies. Mr. George seconded the motion.

VOTE: Aye: Roseman, George, Carter, Tugman
 Nay: None
 Absent: Nenow

Mr. George made a motion to approve Ordinance PL05419-010622 as revised, and believes approval is reasonable and in the public interest because it streamlines the current Historic District, maximizes staff time, and makes the entire Historic District process more accessible and usable by everyone. Ms. Roseman seconded the motion.

VOTE: Aye: George, Roseman, Carter, Tugman
 Nay: None
 Absent: Nenow

Ms. Shook presented case PL05186100821 Wynstone Townhomes Conditional District Zoning Map Amendment. A property representative presented seven pages of revisions made to the project, which included a permanent fence that would be placed through the landscape buffer; a six-foot fence across the back of the townhome units; a Greenway easement to be one foot beyond the required width to allow for grading; fencing to be installed through the middle of the required landscape buffer; and a revised landscape plan. Property representative Steve Barker stated that if approved, the townhomes would provide housing for families and were not designed specifically for student housing. Mr. George believed that this was a type of housing that was needed in the area, but felt that a traffic impact analysis was crucial due to the high traffic in that area. Property representatives responded that the right of way was under the jurisdiction of the NCDOT and did not believe they would have much leverage with them. Representatives added that a traffic impact analysis would cost approximately \$15,000, and that this would be spent for nothing based on the input they had received from the NCDOT and Town of Boone staff. Mr. Carter also expressed concerns about the amount of traffic in the area, and believed a traffic impact analysis was in order. Mr. Ward reminded members that there was a call each year by the NCDOT to for municipalities to submit road projects, and indicated that Council could submit this road as a potential project if it so desired. Discussion turned to the Greenway easement, with Public Works Deputy Director Todd Moody indicating that a five-foot easement would be needed for a buffer, and that the trail would be ten-feet wide. He added that it would be nice to have a couple feet behind the trail for maintenance as well. Moving on, Ms. Meade asked whether Ms. Garrett's client had agreed to condition number three, which was to investigate an AppalCART stop. Ms. Garrett and her clients agreed to this condition. Ms. Meade encouraged Council to not include the fourth condition and to direct the Town Manager to have a discussion with the NCDOT instead. She also stated that clear discussion needed to be held regarding the elevations of the buildings and what they would look like from the outside. The applicant responded that the depictions shown to Council were used primarily as an illustration of the shaping and the buffer on the fence, but that they could not commit to exactly what the units would look like at this time. The applicant stated that they would not use chain link or vinyl fencing, and committed to using the materials reflected in the photographs. Ms. Shook indicated that she would work with Ms. Garrett on the final conditions before obtaining the applicant's signature. Ms. Roseman made a motion to approve the amendment to the Town's zoning map and that it is consistent with the Town's Comprehensive Plan and any other adopted plans of the Town that are applicable because it is consistent with Comprehensive Plan Policy 1.2 Growth Strategy Map The property is located within the Primary Growth area. Comprehensive Plan Policy 2.3 The Community A. Urban type development within the Urban Growth Area shall meet appropriate Town standards. Comprehensive Plan Policy 2.3.3 Housing & Neighborhoods E. Factors in determining preferred locations for high density residential development shall include: close proximity to the university, employment or shopping centers; access to major thoroughfares and the transit system; the availability of public services and facilities; and compatibility with adjacent land uses. H. The overall housing unit density for proposed infill residential development or redevelopment should be compatible with the average density of existing areas; as well as the following conditions: 1. Wording for the dedicated Greenway shall be worked out between the applicant and the Town attorney. 2. The applicant's attorney will draft restrictive covenants that would regulate fencing behind units 22-36 so they are constructed using consistent materials and not constructed with chain-link or stockade-type materials, as well as language that addressed common exterior, public-facing nuisances and appearance issues typically associated with townhome developments such as laundry or unsightly personal items. 3. The applicant shall investigate with AppalCART the possibility of the installation of an AppalCART stop for the development and preserve a space, through an easement or other legal means, for that stop. 4. Recommend that the Town Manager's office pursue discussions with DOT

regarding any possible improvements to the area such as signalization or crosswalks for pedestrian improvement. 5. Where there is a conflict between the application information and the plans (dated January 4, 2022) the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO. 6. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated; In condition 2, the text “laundry and unsightly personal items” should be struck and replaced with “unnecessary personal items”; that a Greenway easement of a minimum of 5’ and possibly more if needed shall be maintained. Ms. Tugman offered a friendly amendment to include that the administrator would have the flexibility to work with the applicant to adjust landscaping to accommodate the Greenway plan. Ms. Roseman accepted this amendment, and added that approval is conditioned on the conditions cited being reduced to writing to the satisfaction of the Town of Boone and the applicants. Mr. Carter seconded the motion.

VOTE: Aye: Roseman, Carter, Tugman
 Nay: George
 Absent: Nenow

Ms. Roseman made a second motion to approve ordinance PL05186-100821 and believes approval is reasonable and in the public interest because by approving this change, Council will be allowing a more cohesive neighborhood-like atmosphere for the Town of Boone. Mr. Carter seconded the motion.

VOTE: Aye: Roseman, Carter, Tugman
 Nay: George
 Absent: Nenow

CONSIDERATION OF THE COUNCILL'S STORE HISTORIC MARKER REPORT

Jessica Mitchell, Long Range Planner, presented two options for the location of the Council's Store Historic Marker. Mr. Carter then made a motion to approve the Council Store Historic Marker to be installed in Location/Option B as presented in the report. Ms. Roseman seconded the motion. Mr. Ward indicated that funds were already set aside for this project.

VOTE: Aye: Carter, Roseman, George, Tugman
 Nay: None
 Absent: Nenow

CONSIDERATION & DISCUSSION OF FEES/MINOR VS. MAJOR WORK RELATED TO COA IN HISTORIC DISTRICT

Ms. Shook presented a request to Council for the discussion of fees, and minor versus major work related to certificates of appropriateness required in historic districts and historic landmarks. After brief discussion regarding the fees associated with major and minor work, Ms. Roseman made a motion to instruct Planning staff to work with the Historic Preservation Commission to establish the difference in major and minor work and to find an appropriate pay scale for such procedures for cases that would deserve a certificate of appropriateness to present to the Council. Mr. George seconded the motion. Mr. Carter offered a friendly amendment to mimic the language that Ms. Shook provided and to send the chart and corresponding UDO amendments to the next available public hearing. Ms. Roseman and Mr. George accepted the amendment.

VOTE: Aye: Roseman, George, Tugman
 Nay: None
 Absent: Nenow

CONSIDERATION OF POLICIES REGARDING 1 PERSON SERVING ON MORE THAN 1 UDO BOARD

Ms. Meade presented her opinion regarding the appropriateness of one person serving on more than one UDO board. She indicated that during the last public hearing, there was a discussion between herself and Dr. Eric Plaag about him serving on the Planning Commission and simultaneously considering a recommendation from the Historic Preservation Commission on which he also serves as Chair. Ms. Meade stated that there was not statutory language that addressed this issue, which was why she was asking Council members to consider the policy before them today. Mr. George stated that he was against the first option presented, and noted that he was against any mechanism that would remove participation from boards. Ms. Roseman suggested that the first option presented could only apply to the Board of Adjustment, since the board was tasked with interpreting laws, but that the second option could apply to the remaining boards. Mayor Pro-Tem Tugman also expressed concerns with limiting board participation. Ms. Meade suggested, and it was the consensus of Council, that she bring back more narrowly drawn language for Council's consideration. Ms. Meade also pointed out that the Town Code provided for Council member liaisons to vote on every board except for the Human Resource Commission and the Historic Preservation Commission. Brief discussion was held regarding potential conflicts of interest in a Council member serving on a Watauga County board, such as the County Board of Adjustment. Ms. Roseman brought up a discussion involving members of the previous Council regarding conflicts of interest on the ABC Board. Ms. Meade indicated that she had reached out to the Attorney General's office as directed and was then directed to the State ABC Board but has not yet received a response. It was the consensus of Council to leave things as they were with regards to Council member liaisons.

CONSIDERATION OF HISTORIC PRESERVATION COMMISSION ASSIGNED TASKS

Ms. Shook presented a request that the Historic Preservation Commission be allowed to reduce the current assigned advisory tasks to only include the items that the Commission is currently working on with the Cultural Resources Department for the Boone 150 celebration. Mr. George made a motion that staff be allowed to consult with the Historic Preservation Commission to space the required tasks associated with each project so that they are completed with sufficient time to support the programming of Boone 150. Mr. Carter seconded the motion.

VOTE: Aye: George, Carter, Roseman, Tugman
 Nay: None
 Absent: Nenow

CONSIDERATION OF COMMUNITY APPEARANCE COMMISSION ASSIGNED TASKS

Ms. Shook presented Council with a request that the Urban Forestry Master Management Plan be updated in concert with the update of the Comprehensive Plan; and that the Community Appearance Commission consideration of tree regulation be suspended until the Urban Forestry Plan is updated, because a comprehensive and up-to-date approach to managing the Town's tree canopy would provide the most benefit to the community. Ms. Roseman made a motion accept the recommendation as presented. Mr. George seconded the motion.

VOTE: Aye: Roseman, George, Carter, Tugman
 Nay: None
 Absent: Nenow

PLANNING & INSPECTIONS UPDATE

Ms. Shook presented Council with an update of current Planning and Inspections projects. A copy of the presentation can be viewed at <http://boonenc.iqm2.com/Citizens/Default.aspx>.

FOLLOW-UP DISCUSSION REGARDING POTENTIAL CONSOLIDATION OF TOB/WATAUGA CO. COMMUNICATIONS CENTER

Police Chief Andy Le Beau gave a presentation on the progress of the potential consolidation of the Town of Boone and Watauga County Communication centers. A complete copy of the presentation may be viewed online at <http://boonenc.iqu2.com/Citizens/Default.aspx>. Chief Le Beau indicated that if Council chose to move forward with this project, the consolidation could take place in as little as one to two months. Fire Chief Jimmy Isaacs offered that one benefit he saw to the consolidation was that 911 calls would no longer have to be transferred between the Town and County which would save precious time in emergency situations. Mr. George asked whether Town employees who chose to transition to the County would be able to negotiate to keep their vacation time. Chief Le Beau indicated that the Human Resources Director Dale Presnell would be speaking with the Watauga County Emergency Management Director on the matter. Ms. Roseman expressed disappointment that Blowing Rock was unwilling to consolidate to the County along with the Town of Boone, and asked whether they had been approached by staff yet. Chief Le Beau stated that the County had expressed a willingness to discuss the matter with the Town of Blowing Rock. He then indicated that he would bring additional information, including financial materials, back next month for Council's consideration.

REQUEST TO RESEARCH COMPLAINTS OF DISCRIMINATION BASED ON AGE & FAMILY STATUS RELATED TO HOUSING

Mr. George presented a request that Ms. Meade research whether the use of age or familial status could be used to discriminate against potential rental tenants. It was the consensus of Council to add this to Ms. Meade's list of work items.

CLOSED SESSION

Upon a motion by Ms. Roseman, seconded by Mr. George, Council voted to enter into closed session at 4:44 p.m. pursuant to:

1. N.C. Gen. Stat. § 143-318.11(a)(1), to review, approve and seal closed session minutes from Council's prior closed session(s).
2. N.C. Gen. Stat. § 143-318.11(a)(3), to consult with the Town Attorney in order to preserve the attorney-client privilege between the attorney and the Town Council and obtain legal advice, consider and/or give instructions to the attorney concerning one or more potential legal claims.
3. N.C. Gen. Stat. § 143-318.11(a)(3), to consult with the Town Attorney in order to preserve the attorney-client privilege between the attorney and the Town Council and obtain legal advice, consider and/or give instructions to the attorney concerning (2) the two lawsuits involving Watauga County pending in state courts, and (2) the lawsuit brought by Damon Malletere pending in the United States District Court for the Western District of North Carolina.

VOTE: Aye: Roseman, George, Carter, Tugman
 Nay: None
 Absent: Nenow

Upon a motion by Mr. Carter, seconded by Ms. Roseman, Council voted to exit closed session at 5:41p.m.

VOTE: Aye: Roseman, George, Carter, Tugman
 Nay: None
 Absent: Nenow

ADJOURNMENT

Upon a motion by Ms. Roseman, seconded by Mr. Carter, Council voted to adjourn the meeting at 5:42 p.m.

VOTE: Aye: Roseman, George, Carter, Tugman
 Nay: None
 Absent: Nenow

Nicole Harmon, Town Clerk

Tim Futrelle, Mayor