

**MINUTES – REGULAR MEETING
BOONE TOWN COUNCIL
MARCH 18, 2014**

A regular meeting of the Boone Town Council was called to order at 6:30 p.m., Tuesday, March 18, 2014, in the Council Chambers, 1500 Blowing Rock Road. Mayor Andy Ball presided. Council members present were Mayor Pro-Tem Rennie Brantz, Quint David, Jennifer Peña, Fred Hay and Lynne Mason. Town Attorney Sam Furgiuele was also present. Staff members present were Town Manager Greg Young, Deputy Town Clerk Christine Pope, Finance Director Amy Davis, Police Chief Dana Crawford, Fire Chief Jimmy Isaacs, Special Assistant to the Manager Jim Byrne, Public Utilities Director Rick Miller, Interim Public Works Director Eric Gustaveson, Planning Director Bill Bailey, Human Resources Director Peri Moretz, Building Inspector Todd Miller and Cultural Resources Director Pilar Fotta.

ANNOUNCEMENTS

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

Mayor Ball recognized Joe Shannon of Mountain Home Music, presenting him with a resolution thanking him for his many years of service to the community. Mr. Shannon thanked Mayor Ball for the recognition from the community he loves.

Mayor Ball indicated another resolution of appreciation would be presented at Thursday night's meeting.

TENTATIVE AGENDA ADOPTION

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

1. Addition of Item 4.E. – Approval of Encroachment Agreement – Lost Province Brewing.

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

VOTE: Aye – All
 Nay – None

CONSENT AGENDA ADOPTION

Minutes: January 21&23, 2014 – Regular Meetings.
 February 3, 2014 – Special Meeting.
 February 4, 2014 – Special Meeting.
 February 18&20, 2014 – Regular Meetings.

Approval of Parking License Agreement – Kingswood Condominiums, Inc. **(Agreement permanently on file in Town Hall.)**

Approval of Resolution – Recognition for C.J. Hayes.

Charles Jerry “CJ” Hayes Appreciation Resolution

WHEREAS, Charles Jerry “C.J.” Hayes was born in Watauga County on May 7, 1936; and,

WHEREAS, C.J. Hayes served in the U.S. Army during the Korean Conflict; and,

WHEREAS, worked in the downtown Boone Appalachian Theatre for 55 years, retiring as manager of the facility; and,

WHEREAS, C.J. Hayes brought much joy to downtown Boone and movie-goers of the Appalachian Theatre for more than five decades; and,

WHEREAS, C.J. Hayes befriended many people at the Appalachian Theatre with warm welcomes and conversation about movies and antique cars; and,

WHEREAS, C.J. Hayes helped bring joy to the residents and visitors of Boone and Watauga County.

NOW, THEREFORE, BE IT RESOLVED that the Boone Town Council, in honor of C.J. Hayes, a veteran, retired theatre manager, antique car restorer, husband, father, and grandfather, hereby proclaim recognition and appreciation for more than five decades of community service championing art and culture.

Adopted this 18th day of March 2014.

ATTEST:

Christine Pope, Deputy Town Clerk

Andy Ball, Mayor

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE(S) 215)

Approval of Resolution – Recognition for Joe Shannon.

Joe Shannon Appreciation Resolution

WHEREAS, Joe Shannon founded Music in the Mountains on February 4, 1994, to showcase and honor musicians, storytellers, dancers, and poets of the Appalachian region; and,

WHEREAS, Joe Shannon organized and directed the concert series, which became Mountain Home Music in 1997, in Boone and the High Country; and,

WHEREAS, Joe Shannon helped establish Mountain Home Music as a 501(c)(3) non-profit organization on June 5, 2003; and,

WHEREAS, on November 30, 2013, Joe Shannon was recognized with the Appalachian Cultural Enrichment Award for 20 years of service; and,

WHEREAS, Joe Shannon enriches our community by preserving and promoting the artistic heritage of the Appalachian Mountains; and,

WHEREAS, Joe Shannon helped establish Boone and the High Country as a destination for cultural tourism; and,

WHEREAS, Joe Shannon supports local and regional old-time, bluegrass, and folk musicians by showcasing them in his concert series and paying them a fair performing wage.

NOW, THEREFORE, BE IT RESOLVED that the Boone Town Council, in honor of Joe Shannon, a teacher, musician, storyteller, concert host, founder and director of Mountain Home Music, do hereby proclaim recognition and appreciation for more than two decades of community service championing our cultural heritage.

Adopted this 18th day of March 2014.

ATTEST:

Christine Pope, Deputy Town Clerk

Andy Ball, Mayor

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE(S) 216)

Upon a motion by Council Member Brantz, seconded by Council Member Peña, Council moved to adopt the consent agenda, with the amendment to remove the Approval of Encroachment Agreement – Lost Province Brewing from the consent agenda and to hear this item next on the agenda.

VOTE: Aye – All
 Nay – None

APPROVAL OF ENCROACHMENT AGREEMENT – LOST PROVINCE BREWING

Council Member Mason requested to be recused from this discussion due to her interest in the company. Upon a motion by Council Member Brantz, seconded by Council Member Peña, Council moved to recuse Council Member Mason.

VOTE: Aye – All
 Nay - None

Upon a motion by Council Member Brantz, seconded by Council Member Peña, Council moved to approve the encroachment agreement for Lost Province Brewing with the amendment to include that the construction must be completed within a one-year period (**Encroachment agreement permanently on file in Town Hall**).

VOTE: Aye – All
 Nay – None

Upon a motion by Council Member Brantz, seconded by Council Member Peña, Council moved to bring Council Member Mason back into the discussion.

VOTE: Aye – All
 Nay – None

PRESENTATION BY JASON REYES OF ALTA GREENWAYS – FINAL BICYCLE PLAN

Jason Reyes of Alta Greenways Consulting presented a final bicycle plan as coordinated with the Bicycle Plan Steering Committee for Council’s review (**Copy of plan permanently on file in Town Hall**). He added that this plan could be merged with the pedestrian plan for final approval by Council. Dean Ledbetter of NCDOT Division 11 spoke to Council regarding the bicycle plan, adding that NCDOT is available to help to the extent they are able in order for the Town to implement this plan. Brief discussion ensued regarding repainting the current bike lanes in town.

Mr. Ledbetter advised that as soon as weather allows, repainting will begin, and the best method would be for Town staff to contact the traffic and engineering representative for the NCDOT division to formally make the request. Council members Peña and Mason expressed their gratitude to Mr. Reyes for his presentation and Mr. Ledbetter for his advocacy with NCDOT.

PUBLIC COMMENT

Al Ernest of the Southern Appalachian Historical Association introduced himself to Council as the new chair for the organization.

Cathy LeMarre of Boone, NC, expressed her excitement for the bicycle plan presented to Town Council. Ms. LeMarre also requested that Council consider including on the Town's Web site a separate link to view the meeting agenda only, since it is difficult to view the entire meeting packet. Council Member Hay agreed that the information should be more visible and easier to access.

Greg Williams of the Southern Appalachian Historical Association introduced himself to Council as the new vice-chair for the organization.

Upon a motion by Council Member Peña, seconded by Council Member Brantz, Council moved to amend the agenda to add an item for discussion of a more accessible way for the agenda to be presented on the Town's Web site.

VOTE: Aye – All
 Nay – None

DISCUSSION OF AGENDA ACCESSIBILITY

Upon a motion by Council Member David, seconded by Council Member Peña, Council moved to separate the regular meeting agenda into its own document for viewing on the Town's Web site via the front page of the Web site and/or under Public Notices, and to be posted the same day as the agenda materials are distributed to Council.

VOTE: Aye – All
 Nay – None

HISTORIC PRESERVATION COMMISSION REQUEST

Council Member Brantz presented a request from the Historic Preservation Commission to complete a historic survey of the town. Council Member Brantz indicated that in order for the commission to achieve the status of being a quasi-judicial board and to obtain Certified Local Government status, all historic buildings in the Town will need to be surveyed. He added that this survey could cost \$30,000 to \$50,000, but would like to look into the possibility of receiving funding from the Downtown Boone Development Association toward this project and partnering with various departments at Appalachian State University as well.

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to direct the Historic Preservation Commission to create a proposal for completing the historic survey for Council's approval, and for the commission to consult with the Downtown Boone Development Association and various departments at Appalachian State University regarding their possible participation.

VOTE: Aye – All
 Nay – None

DISCUSSION OF TOWN COUNCIL REGULAR MEETING SCHEDULE

Mayor Ball presented a proposed outline of a new meeting schedule if Council held an agenda-setting meeting and a second regular business meeting to take action (**Handout permanently on file in March 2014 Town Council Meeting File**). Council Member Mason expressed her concern that the agenda-setting meeting would be too long if not structured correctly, which would then defeat the purpose of changing the meeting schedule.

Upon a motion by Council Member Peña, seconded by Council Member Mason, Council moved to direct the town attorney to draft changes to the Town's Municipal Code as necessary for Council's consideration and to adopt a new regular meeting schedule beginning April 2014 for a six-month trial period to include the following:

- Agenda-Setting Meeting to be held on the third Monday of each month at 5:30 p.m. at Council Chambers, 1500 Blowing Rock Road.
- Regular Monthly Business Meeting to take action on items on the subsequent Thursday at 5:30 p.m. at Council Chambers, 1500 Blowing Rock Road.
- All agenda packet items be submitted to the clerk's office by the Tuesday prior to the meeting week by 5 p.m.
- By 12 p.m. on the third Monday of each month, all supplemental packet items are submitted to the clerk and immediately dispersed to Council Members prior to agenda-setting meeting.
- By 12 p.m. on the Tuesday immediately following the agenda-setting meeting, the clerk distributes the final agenda packet to Council, distribution list and puts on Web site.
- A public comment period takes place at both meetings.

VOTE: Aye – All
 Nay – None

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to add item 12.D. to Thursday night's agenda for consideration of Town Code amendments regarding the change in Council's regular meeting schedule.

VOTE: Aye – All
 Nay – None

CONSIDERATION OF RESOLUTION – REQUEST FOR WATAUGA COUNTY BOARD OF COMMISSIONERS TO REDISTRIBUTE SALES TAX REVENUE

Discussion ensued regarding revisions to the fourth "Whereas" paragraph to indicate the amount of sales tax revenue collected by the town for the last-known fiscal year. Council Member Mason recommended revising the language to include that, as indicated in fiscal year 2005-06, the Town has historically collected approximately 60% of total county sales tax revenues.

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to adopt the following resolution with the amended language:

A RESOLUTION BY THE TOWN COUNCIL OF THE TOWN OF BOONE, NORTH CAROLINA, URGING THE WATAUGA COUNTY COMMISSION TO CHANGE THE METHOD OF DISTRIBUTION OF SALES TAX IN WATAUGA COUNTY

WHEREAS, for the last several years, whenever the Watauga County Commission has disagreed with an action taken by Boone, certain of its members have threatened to reapportion county sales taxes to the disadvantage and significant harm of the citizens of Boone; and

WHEREAS, in early 2013, Watauga County Commission members voted to change the sales tax distribution method to ad valorem from per capita, creating a net loss of revenue to the Town of Boone and Watauga County, while dramatically increasing distribution of sales tax revenues to Beech Mountain, Blowing Rock, and Seven Devils; and

WHEREAS, Watauga County has divided the portion of sales tax collected in the county based on the population or per capita distribution that has been in effect for decades; and

WHEREAS, as indicated in fiscal year 2005-2006, the Town of Boone has historically collected approximately 60% of total county sales tax revenues, yet a mere 12% percentage share of sales tax distribution was returned to the Town of Boone in fiscal year 2013-2014 using the ad valorem method; and

WHEREAS, during fiscal year 2013-2014 budget development, the Boone Town Council worked diligently to prioritize the many needs of Town residents, being forced to delay capital needs, delay facility maintenance, and make many other difficult budget decisions, ultimately doing so without an increase in the property tax rate; and

WHEREAS, in fiscal year 2013-2014, the Town of Boone budget was significantly impacted by the County Commission decision to switch distribution of sales tax to an ad valorem method, calculating sales tax distribution based on property values, which resulted in a loss of over 1.7 million dollars, or roughly 17 percent of general fund revenues; and

WHEREAS, if the Town of Boone does not offset the loss with new taxes, there will have to be many projects discontinued, including long needed capital improvement projects, and further expansion of the popular Greenway, among others; and

WHEREAS, if the Town of Boone continues to see this lost sales tax revenue without new taxes, town personnel, most of whom are residents of the county, may have to be laid off, resulting in possible reductions in police and fire protection, street maintenance, snow removal, and sidewalk maintenance and expansion; and

WHEREAS, if the Town of Boone does not offset the continued revenue loss with new taxes, funding for critical agencies in our community like the Hunger and Health Coalition and Western Youth Network, along with funding for cultural resources, such as assistance to Horn in the West, the Appalachian Regional Library, and cultural activities at the Jones House, can no longer be considered; and

WHEREAS, under State law, Boone is entitled to self-government and zoning authority, has always tried to exercise that authority for the good of the community at large rather than for the benefit of selected individuals, and has never tried to interfere with the operations of the County, instead working cooperatively with the Commissioners by supporting their recreation programs in multiple ways, leasing town-owned property to the county for nominal rent, paying the county to collect its taxes, providing water to county residents with contaminated wells, and deliberating with the County Commissioners on regional transportation plans, ETJ appointment procedures, support for our law enforcement and emergency services and many other matters; and

WHEREAS, the current County Commissioners have made many pronouncements about their opposition to increased taxes on citizens of the county, and the Town Council, too, has held the line on tax increases for more than a decade, and would appreciate not being forced to raise property taxes on Boone residents, each of whom are also Watauga County taxpayers and voters;

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Boone, North Carolina, hereby urges the Watauga County Commission to exercise their authority during the month of April to change the method of sales tax distribution in Watauga County back to per capita, more accurately reflecting the percentage of total sales tax collections from the Town of Boone business community.

ADOPTED THIS _____ DAY OF _____, 2014.

ATTEST:

Christine Pope, Deputy Town Clerk

Andy Ball, Mayor

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE(S) 217-218)

VOTE: Aye – All
 Nay – None

SCHEDULING OF SPECIAL MEETING

Upon a motion by Council Member Peña, seconded by Council Member Mason, Council moved to schedule a special meeting of the Boone Town Council for Tuesday, April 1, 2014, beginning at 8:30 a.m. to finish discussion of items from the annual retreat and meet with all Town committee chairs.

VOTE: Aye – All
 Nay – None

CONSIDERATION OF UDO AMENDMENT – EXTRATERRITORIAL JURISDICTION BOARD APPOINTMENTS

Town Attorney Sam Furguele presented drafted amendments to the Unified Development Ordinance regarding extraterritorial jurisdiction board appointments for the Board of Adjustment and Planning Commission (**Drafted amendments permanently on file in March 2014 meeting packet**). Mr. Furguele indicated that although these changes have not be approved by the Watauga County Board of Commissioners, County Attorney Stacy “Four” Eggers has advised that he and Board Chairman Nathan Miller are OK with the proposed changes.

Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to approve the submission of the amended version of the Unified Development Ordinance to the Watauga County Board of Commissioners for their approval.

VOTE: Aye – All
 Nay – None

P & I MONTHLY REPORT

Planning Director Bill Bailey presented the P & I Monthly report. (**Permanently on file in the March 2014 Town Council meeting packet.**)

CONSIDERATION OF ENCROACHMENT AGREEMENT – GILBERT FAMILY HOLDINGS

Town Attorney Sam Furgiuele recommended that Council amend the presented encroachment agreement to include the depiction attached as an exhibit and to add language making clear that the Town can terminate the agreement if needed.

Upon a motion by Council Member Mason, seconded by Council Member Hay, Council moved to approve the encroachment agreement with Gilbert Family Holdings subject to the two recommendations made by the town attorney be incorporated into the agreement and to add language stating that the construction must be completed within a one-year period. **(Encroachment agreement permanently on file in Town Hall.)**

VOTE: Aye – All
 Nay - None

TRANSPORTATION COMMITTEE RECOMMENDATION – “WATCH FOR ME NC” GRANT

Interim Public Works Director Eric Gustaveson presented a request from the Transportation Committee to apply for the NCDOT “WATCH FOR ME NC” statewide campaign grant to promote pedestrian and bicycle safety. He added that his department would be the grant manager on this project, and Planning Director Bill Bailey has offered for his department to assist as well.

Upon a motion by Council Member Peña, seconded by Council Member Mason, Council moved to approve the request and directed the Transportation Committee and Town staff to move forward with the “WATCH FOR ME NC” grant application process.

VOTE: Aye – All
 Nay – None

TRANSPORTATION COMMITTEE RECOMMENDATION – SPEED HUMP ON GREEN STREET

Interim Public Works Director Eric Gustaveson presented a recommendation from the Transportation Committee for Council’s consideration to install a speed hump on Green Street near the center part of the street.

Upon a motion by Council Member Mason, seconded by Council Member Hay, Council moved to approve the addition of a speed hump on Green Street as presented.

VOTE: Aye – All
 Nay – None

CONSIDERATION OF CONDITIONAL DISTRICT MAP AMENDMENT

- **Case 20140100 Boone Point Conditional District Map Amendment Modification** – Boone Point has filed a request that Units 202, 203 and 204 be allowed the flexibility to be used as either residential or office use (3.100 Office – all operations conducted entirely within fully enclosed building) and Unit 304 be allowed as a residential use with a home occupation.

Planning Director Bill Bailey presented the case. He stated that the Planning Commission unanimously approved recommendation of the amendment.

Vote #1

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved that the proposed amendment to the Town's zoning map is consistent with the Town's Comprehensive Plan and other applicable adopted plans of the Town which relate to this application, because it is consistent with the growth strategy map, the 2030 Plan, and the Comprehensive Plan sections 2.1 The Economy, 2.1.1 Economic Development, 2.1.2 Commercial Development, and 2.3 The Community, which addresses mixed use development

VOTE: Aye – All
 Nay – None

Vote #2

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to approve the proposed amendment to the Town's zoning map with the two staff recommendations in the Planning Commission recommendation, and believe approval is reasonable and in the public's best interest, because it supports mixed use development in a business corridor that balances commercial and residential needs.

VOTE: Aye – All
 Nay – None

DISCUSSION OF LICENSE AGREEMENT – SOUTHERN APPALACHIAN HISTORICAL ASSOCIATION

Cultural Resources Director Pilar Fotta presented a license agreement between the Town of Boone and the Southern Appalachian Historical Association (SAHA) for consideration drafted with the assistance of the town attorney.

Upon a motion by Council Member Peña, seconded by Council Member Brantz, Council moved to allow public comment on this item.

VOTE: Aye –All
 Nay – None

Greg Williams, vice-chair of SAHA, advised that he had concerns with the weatherization noted for the administration building and looked for clarification on this matter.

Linda Ricker of SAHA advised she was concerned with the security of the buildings if other user groups intend to use the property as well, since items have been stolen in the past. Town Attorney Sam Furguele indicated that the buildings and contents in them are owned by SAHA and the organization has exclusive use of those buildings. He added that any use by other groups would only pertain to the grounds around the buildings.

Clyde Burleson of SAHA spoke to confirm that use of the administration building would be through the year into March of 2015. Town staff confirmed this was included in the license agreement.

Frank Mohler, chair of the Cultural Resources Advisory Board, asked for clarification from Council on whether or not SAHA is to have priority for use of the property when there are requests for use from multiple user groups. Mayor Ball and Council Member Brantz indicated it was their understanding that SAHA would have priority for use of the property during the time period included in the license agreement.

Lengthy discussion ensued regarding the exclusivity of the conditions of the agreement and use of the property on Mondays during the term of the SAHA license agreement. Council came to the consensus to wait for a recommendation from the Cultural Resources Advisory Board before determining use of the property on those Mondays, which may then require an amendment to the license agreement.

Upon a motion by Council Member Brantz, seconded by Council Member Peña, Council moved to approve the license agreement between the Town of Boone and the Southern Appalachian Historical Association as presented (**Agreement permanently on file in Town Hall**).

VOTE: Aye – All
 Nay – None

DISCUSSION OF HORN IN THE WEST PROPERTY DEMOLITION AND REPAIRS

Upon a motion by Council Member Peña, seconded by Council Member David, Council moved to allow public comment on this item.

VOTE: Aye – All
 Nay – None

Greg Williams, vice-chair of SAHA, advised that Blue Ridge Electric has agreed to pay at least half of the cost to repair the palisade wall, and they have a licensed contractor to oversee demolition.

Lengthy discussion ensued regarding clarification on the process by which demolition and repairs to structures must be completed in time for the outdoor drama to begin, and the current state of the structures. Building Inspector Todd Miller provided updates on the applications submitted to Planning and Inspections. Town Manager Greg Young and Town Attorney Sam Furgiuele pointed out the need for liens to avoid someone coming after the Town for payment and a mutual aid agreement needed if the county performs any work on the property.

Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to approve demolition and repairs to Horn in the West structures as recommended by Town staff, and to allow work to be done at the discretion of Planning and Inspections in conjunction with the town manager with up to \$20,000 authorized for the Town to complete demolition, noting that SAHA must still follow the procedures outlined in the license agreement and must work through the cultural resources director cooperatively with Planning and Inspections and the town manager to complete any work done, and to set a two-week deadline for SAHA and Planning and Inspections to have a repair and demolition plan in place approved by the town manager.

VOTE: Aye – All
 Nay – None

DISCUSSION OF LICENSE AGREEMENT – WATAUGA COUNTY FARMERS' MARKET

Cultural Resources Director Pilar Fotta presented a license agreement for consideration drafted with the assistance of the town attorney. Ms. Fotta noted there are some details yet to be worked out, which can be included as an amendment to the license if needed.

Upon a motion by Council Member Hay, seconded by Council Member Peña, Council moved to approve the license agreement between the Town of Boone and Watauga County Farmers'

Market with an amendment to Section 4.A.i. to indicate the sale of other items as allowed.
(Agreement permanently on file in Town Hall.)

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 March 2014 Town Council meeting packet.)**

REQUESTED APPEARANCE – MARY MORETZ

Council came to the consensus to amend the agenda to hear Item 13.A. Requested Appearance – Mary Moretz at that time.

Mary Moretz of the local chapter of the Daughters of the Revolution appeared before Council and introduced Linda Ricker, the chapter's member on the Historical Preservation Committee. Ms. Ricker presented a request on behalf of the Daniel Boone Chapter of the Daughters of the Revolution to partner with the Town of Boone and contribute funds toward the preservation of the Daniel Boone mural in the downtown post office. Ms. Ricker added that, in exchange for raising funds toward this cost, the chapter requests that a small plaque be placed near the mural naming the original artist of the mural as well as recognizing the Daniel Boone Chapter of the Daughters of the Revolution.

Upon a motion by Council Member Brantz, seconded by Council Member Hay, Council moved to express their appreciation to the Daughters of the Revolution for their support for the restoration of the Daniel Boone mural.

VOTE: Aye – All
 Nay – None

RECESS MEETING

Upon a motion by Council Member Hay, seconded by Council Member David, Council moved to recess the meeting at 10:43 p.m. until Thursday, March 20, 2014, 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 March 18, 2014, was called to order at 6:30 p.m., Thursday, March 20, 2014, in the Council Chambers, 1500 Blowing Rock Road. Mayor Andy Ball presided. Council members present were Mayor Pro-Tem Rennie Brantz, Lynne Mason, Jennifer Peña, Fred Hay and Quint David. Town Attorney Sam Furgiuele was also in attendance. Staff members present were Town Manager Greg Young, Deputy Town Clerk Christine Pope, Finance Director Amy Davis, Special Assistant to the Manager Jim Byrne, Fire Chief Jimmy Isaacs, Police Chief Dana Crawford, Interim Public Works Director Eric Gustaveson, 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 Ball called the meeting to order and welcomed all in attendance. He noted that anyone wanting to sign up to speak during the public comment session would need to sign the public comment sign-up sheet.

Mayor Ball recognized C.J. Hayes, presenting his wife with a resolution honoring him for his many years of service to the community and especially to the Appalachian Theatre.

TENTATIVE AGENDA ADOPTION

Town Manager Greg Young stated that there are no changes to the agenda. Upon a motion by Council Member Brantz, seconded by Council Member Peña, Council adopted the agenda, as presented.

VOTE: Aye – All
 Nay – None

PUBLIC COMMENT

Clinton Marsh, president of Boone Area Cyclists, thanked Town Council for their support of the final bicycle plan, and for the current bike lanes within town.

Greg Simmons of 310 Delmar Street, Boone, expressed his support for the final bicycle plan presented by Jason Reyes of Alta Greenways, adding that merging this plan with the pedestrian plan is a great alternative transportation plan for the town. He added that the Greenway Trail has become a commuter route for bicyclists, and recommended that Town Council consider using this as leverage to request NCDOT create bike lanes for the detour necessary while parts of the Greenway Trail are closed.

Steve Frank of the Watauga Community Band presented a PowerPoint on the need for the arts in the community. Mr. Frank presented possible structures such as a gazebo at various locations in town that could provide a place for outdoor music and other uses. He added that the Watauga Community Band would be willing to contribute approximately \$10,000 toward the cost of constructing a gazebo or other structure for this purpose should the Town choose to move forward with this, but that a decision would need to be made soon before another local government chooses to partner with the organization first.

DISCUSSION OF WATER USE COMMITTEE TERMS

Public Utilities Director Rick Miller advised Council that five terms on the Water Use Committee have expired, including one that will require nomination by the Planning Commission. He added that because members are allowed to continue to serve until the position is filled, the next meeting of the Water Use Committee should not be adversely affected.

ANNOUNCEMENT OF BOARD VACANCIES

Mayor Ball announced the following board vacancies:

Planning Commission: Two ETJ positions will expire on June 30, 2014.

Board of Adjustment: One regular ETJ position and one Alternate ETJ position will expire on June 30, 2014.

Community Appearance Commission: Emily Stallings has resigned her position on this board. Her term will expire on June 30, 2014.

Water Use Committee: Five positions have expired. One of these positions is from the Planning Commission, and will require both nomination from the Planning Commission and completing a new application before Council's consideration.

BOARD APPOINTMENTS

ABC Board – Council Member Mason nominated Ronnie Holste to serve on the ABC Board. With no other nominations, Mayor Ball called for a vote:

VOTE: Aye – All
 Nay – None

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

Outside Agency Funding Committee – There were no applications for these vacancies.

CONSIDERATION OF TOWN CODE AMENDMENT – CHAPTER 30: TOWN COUNCIL

Town Attorney Sam Furgiuele presented drafted amendments to Chapter 30: Town Council of the Town Code to coordinate with the adoption of the new regular Council meeting schedule. He indicated that in this section, there were many redundancies and recommended that a more comprehensive review of this section be completed at some point. Mr. Furgiuele noted that a public hearing is not required for these amendments, but a regular meeting schedule change does require at least seven days for the change to take place before the next regular meeting.

Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to adopt the following code amendments to Chapter 30: Town Council of the Town of Boone Town Code:

CHAPTER 30: TOWN COUNCIL

MEETINGS

§ 30.01 ORGANIZATIONAL MEETING.

At the first regular meeting in December (at any time after the results of the municipal election have been officially determined and published) following a general election in which Council members are elected, the Mayor and Council members shall take and subscribe the oath of office as the first order of business. As the second order of business, the Council shall fill any vacancies which might have occurred as the result of the election. The Council shall next elect from its members a Mayor Pro Tempore who shall hold office at the pleasure of the Council.

§ 30.02 REGULAR MEETINGS.

(A) The Council shall hold one or more regular meeting(s) each month. At its organizational meeting, the Town Council shall fix the time and place of its regular meetings. By ordinance, resolution or other official action, its regular meeting schedule may be changed by the Council, but it shall direct that a current copy of the revised schedule, showing the time and place of regular meetings, be kept on file with the Clerk. A revised schedule shall not take effect less than seven calendar days following its adoption.

(B) As part of its duly adopted schedule, the Council may establish that one or more of its regularly scheduled meetings shall be held for the primary purpose of setting its agenda for a subsequent regular business meeting. Absent the unanimous vote of all members present, no other business shall be conducted as such a meeting other than to obtain information concerning proposed agenda items and adopting its final agenda for the regular business meeting.

1. At its agenda setting meeting, should one be established, the Council shall review the preliminary agenda and supplemental requests (See §30.06) and shall organize the agenda into consent items, discussion items and action items, as well as establishing an order of business for the regular business meeting. Town staff and other individuals may be requested to attend this meeting to provide additional information regarding items. Public comment will be accepted at this meeting in accordance with the limitations described in SS33.07(G) and (H).

(C) The Town Council shall ensure that its schedule of regular meetings, including both its agenda setting meetings and regular business meetings, is posted to the town's Web site.

§ 30.03 SPECIAL MEETINGS.

(A) A ***SPECIAL MEETING*** is any non-emergency meeting of the Council held at any time other than that specified in §30.02. The Council acknowledges that special meetings of the Town Council, although sometimes needed for the effective governance of the town, create significant burdens on town staff and may impose significant costs on the town. Excluding quarterly public hearings, budget workshops and properly called emergency meetings under § 30.04, and recognizing the provisions of G.S. § 160A-71 regarding the calling of a special meeting, in order to control those burdens and costs, the Council shall seek to limit the number of special meetings called in any calendar year to 12 or fewer, with the goal of no more than three meetings held each calendar quarter. To facilitate this end, the Council shall ordinarily refrain from scheduling a special meeting when the item of business for which a special meeting is considered may be adequately addressed at another meeting of the Council. In general, special meetings shall be used for matters involving the following:

- (1) Decisions, although not constituting an emergency, which must be made prior to another scheduled meeting of the Council;
- (2) Issues of scope or complexity that they cannot be accommodated within the available times for other scheduled meetings of the Council; or
- (3) Matters which, due to their nature, require the attendance of non-staff guests who are unavailable at other scheduled meetings of the Council.

(B) The Mayor, the Mayor Pro Tempore or any two members of the Council may, at any time, call a special meeting by signing a written notice stating the time and place of the meeting, and the subject to be considered.

(C) Notice of the meeting shall be given to Council members as provided in this division (C), preferably 48 hours, but not less than six hours, before the meeting:

- (1) Written notice shall be delivered personally to each Council member; or
- (2) If notice cannot be personally delivered, notice may be left at the Council member's usual place of dwelling. In this event, administration shall make every reasonable effort to contact the Council member by telephone.

(D) Special meetings may be held when all Council members are present and consent thereto or when those not present have signed a written waiver of notice; provided that, the notice to the media required by division (E) below is given.

(E) Administration shall give notice of a special meeting to the public and the media at least 48 hours before the meeting by:

(1) Posting a notice of the time and place of the meeting on the town's principal bulletin board;

(2) Mailing or delivering notice of the meeting to each of the media who has requested it in accordance with the Open Meetings Law;

(3) Mailing or delivering notice of the meeting to any person who has filed with the Clerk a written request for it in accordance with the Open Meetings Law; and

(4) Posting of notice of the meeting on the town's Web site.

(F) Only those items of business specified in the notice may be transacted at a special meeting unless all members are present or have signed a written waiver of notice and all members present agree.

(G) A special meeting may also be called or scheduled by vote of the Council in open session during another duly called meeting. The motion or resolution calling or scheduling the special meeting shall specify its time, place and purpose.

(Ord. passed 6-21-2011)

§ 30.04 EMERGENCY MEETINGS.

(A) An **EMERGENCY MEETING** is a meeting of the Council called because of generally unexpected circumstances that require immediate consideration.

(B) The Mayor, the Mayor Pro Tempore or any two members of the Council may, at any time, call an emergency meeting by signing a written statement stating the time and place of the meeting and the subjects to be considered.

(C) Notice of the meeting shall be given to Council members in the same manner as notice of special meetings.

(D) Emergency meetings may also be held when all Council members are present and consent thereto or when those not present have signed a written waiver of notice; provided that, the notice to the media required by division (E) below is given.

(E) Administration shall give notice of an emergency meeting to each of the media who has requested it in accordance with the Open Meetings Law. This notice shall be given either by telephone or by the same method used to notify Council members and shall be given immediately after the notice has been given to those members.

(F) Only business connected with the emergency may be transacted at an emergency meeting. No item may be added for action at an emergency meeting with the exception of a request for the scheduling of another emergency meeting in accordance with the provisions of this section.

(Ord. passed 9-21-2010)

§ 30.05 CONTINUED OR RECESSED MEETINGS.

(A) By majority vote, the Council may continue or recess any regular, special or emergency meeting to any place and time specified in the motion to continue or recess the meeting.

(B) In the event of a continued or recessed meeting, the Council shall direct the Town Clerk to post notice of the continued or recessed meeting on the town's Web site setting out the date, time and location of the meeting. No further notice need be given of any continued or recessed session of a meeting set in accordance with division (A) above.

§ 30.06 AGENDA.

(A) Regular Meetings.

1. *Requests to be placed on agenda.* A request to have any item of business placed on the agenda must be received by the Clerk by the second Tuesday of the calendar month in which the meeting is scheduled. A request shall include a description of the subject matter involved and an explanation of the action which is requested. When appropriate, it shall be accompanied by such materials and documents as may be needed in order to explain or understand the request. As feasible, a copy of all proposed ordinances shall be provided with a request that an ordinance be considered.
2. *Preparation of preliminary agenda.* Administration (Manager, Clerk and/or Deputy Clerk) shall prepare the preliminary agenda for the meeting.
3. *Distribution of preliminary agenda.* On or before the Friday following the second Tuesday of the calendar month in which the meeting is scheduled, the Clerk shall provide a copy of the preliminary agenda to the Mayor and each member of the Council, as well as each town department head. In addition, a copy of the preliminary agenda shall be mailed, e-mailed, or delivered to each newspaper, wire service, radio station, and television station that has filed a written request for notice with the Clerk and to any person, in addition to the representatives of the media listed above, who has filed a written request with the Clerk. Each newspaper, wire service, radio station, and television station submitting a written request for notice must renew its request annually by January 10 of each year. Persons other than the media who request a copy shall be charged a fee of ten dollars (\$10.00) per calendar year for notice other than by e-mail, for which no charge shall be made, and must renew their requests annually by January 10 of each year. A copy of the preliminary agenda shall also be posted on the town's Web site.
4. *Supplemental Requests for items of business placed on the agenda.* A request to supplement the preliminary agenda by adding an item of business for consideration may be made to the Clerk by 10:00 a.m. on the Monday following the second Tuesday of the calendar month in which the meeting is scheduled, subject to the same requirements as those listed in subparagraph (1). Generally, only items which due to their nature or external factors were not known or could not be properly documented or submitted by the initial deadline for the preliminary agenda should be submitted as a supplemental packet. As soon as practical or no later than noon of the day of the deadline for submission, the Clerk shall distribute the supplemental requests and materials to the same persons as those specified in subparagraph (3) above.
5. *Final agenda.* At its agenda setting meeting, should one be established, the Council shall adopt the final agenda for its regular business meeting. As soon as practical thereafter and no later than the Tuesday following the agenda setting meeting and at least two days before the regular business meeting, the Clerk shall distribute the final agenda packet to the Council, shall notify those persons and organizations entitled to direct notice of the contents in the final agenda, and shall post the final agenda and accompanying materials and documents comprising the Council's meeting book on the town's Web site.

6. *Additions.* The Council may, by unanimous vote of the Council membership present, add an item of business that is not on the final agenda for consideration at its regular business meeting. Unless otherwise specified by the Council, additions to the agenda shall be considered at the conclusion of all other regular business.

7. *Inspection and distribution.* Copies of the agenda and attachments shall be available for public inspection as soon as they are completed. Additional copies of the agenda shall be available for the press and interested members of the public.

(B) *Special and Emergency Meetings.* Town administration shall prepare the agenda for any special or emergency meeting, including therein only such matters as have been included in the notice of the meeting. Distribution of the agenda shall be in accordance with the requirements of §§3.03 and 3.04.

§ 30.07 ORDER OF BUSINESS.

(A) Items of business shall be taken up at a meeting in the order that they appear on the agenda, except as provided in division (D) below.

(B) Items shall be placed on the final agenda according to the "order of business" established by the Council at its agenda setting meeting or, if none is established at that meeting, in conformity with subsection (H).

(C) In establishing the "order of business", the Council may authorize broad categories of business to be included as agenda items; examples are, but are not limited to, "members of the public wishing to be heard", "matters by the Manager" or "matters by the Attorney".

(D) Items may be considered out of order by consent of all the members present or by majority vote upon a motion.

(E) Persons desiring to address the Council shall, if at all possible, call the office of the Town Clerk and give their names, addresses and subject matters to be discussed, and shall meet the deadlines established by §3.06 if they wish to appear as part of a preliminary or final agenda item. Such deadlines do not apply to a person addressing the Council as part of the "public comment" part of the meeting. Persons desiring to speak on an agenda item will be recognized to speak when the agenda item is reached if the agenda item authorizes the receipt of public comment or the Council, by majority vote, authorizes public comment in connection with a particular agenda item. No person, in addressing the Town Council, except as otherwise provided herein, shall be allowed to speak more than five minutes unless the Presiding Officer allows an extension of time. The Presiding Officer may, in his or her discretion, shorten the time for speaking when an unusually large number of persons have registered to speak.

(F) Any person wishing to address the Council at any regular meeting who has not been authorized to address the Council as part of a preliminary or final agenda item shall place his or her name on a sign up sheet available for this purpose. The person shall be entitled to speak under "Public Comments," subject to the following rules and regulations.

(1) Speakers shall be recognized in the order in which they have signed up.

(2) During the public comment period, no person shall be allowed to speak for more than five minutes unless the Presiding Officer allows an extension of time. When the Mayor or other Presiding Officer determines that there are more speakers than can be reasonably heard during the 15-minute initial public comment period, the Mayor or Presiding Officer may limit each speaker's presentation to less than five minutes. Likewise, the Town Council, by motion and majority vote, may limit the time allotted to each speaker to less than five minutes and may grant a speaker more than five minutes to complete a public comment. Any person who wishes to address the Town Council, but is unable to speak during the initial 15-minute public comment

period due to the number of persons offering public comment who signed up ahead of that person, shall be given an opportunity to address the Town Council at the conclusion of all business scheduled for open session, subject to the same procedures and rules which apply to the initial 15-minute public comment period.

(3) Should more than one person wish to make substantially the same comments regarding the same subject, or where a group of persons supports or opposes the same positions, the Presiding Officer may require that all persons designate a spokesperson for their group to address the Town Council, and the Presiding Officer may allot a larger amount of time for the presentation of the group position by the spokesperson.

(4) When the number of persons wishing to address the Town Council during the "public comment" period exceeds the number of people who can be safely accommodated within the Town Council chambers or other location of the meeting, the Presiding Officer may require that all persons select delegates from the groups of persons supporting or opposing the same positions to address the Town Council, and the Presiding Officer may allot a larger amount of time for the presentation of the group position by each delegate.

(5) All persons addressing the Town Council during the public comment period shall be treated respectfully by other persons in attendance at the meeting and all speakers shall conduct themselves with proper decorum. Should any person present during a public comment period substantially interfere with the ability of a person offering public comment or engage in behavior which violates norms of accepted decorum, or should a person offering public comment engage in behavior which violates norms of accepted decorum, after warning the person(s) and, except in a situations where there is a risk of harm to any person present, providing the person(s) the opportunity to alter his, her or their behavior to bring it into conformity with norms of accepted behavior, the Presiding Officer may direct that the person(s) be removed from the meeting. However, a person expressing positions which are critical of town policies or actions, or criticizing the Mayor, Town Council Members, town staff, town officials or town policies or actions shall not, on that basis alone, be considered to have engaged in behavior which violates norms of accepted decorum.

(6) Unless the agenda is amended in accordance with this section so as to allow action on an item raised during the public comment period, the matter presented by the speaker shall be for information.

(G) Unless a different order is established at the Council's agenda setting meeting, if any, or by action of the Council, items shall be placed on the agenda according to the following order of business: call to order; announcements; consent agenda adoption; public hearings (other than quasi-judicial hearings); public comment (for a period not exceeding fifteen minutes); Council matters; announcements of vacancies to boards, commissions, task forces, advisory bodies and committees; appointments to boards, commissions, task forces, advisory bodies and committees; resolutions requesting appointments by the Watauga County Commission of ETJ members to the Planning Commission and Board of Adjustment; requested appearances; quasi-judicial hearings; public comment not reached during the initial public comment period; closed session; and, adjournment. By general consent of the Council or majority vote, items may be considered out of order and items not fitting into one of the named categories may be considered. The Council may, by unanimous vote of those present, add items to or subtract items from the proposed agenda, except that the Council may not add items to the proposed agenda stated in the notice of a special meeting called by the Mayor, Mayor Pro Tempore and two Council members, unless all members are present and agree or those who are absent sign a written waiver of notice and all members who are present agree; and only business connected with an emergency may be considered at an emergency meeting. The Council shall not deliberate, vote or otherwise take action on any matter by reference to a letter, number or other designation, or other secret device or method with the intention of making it impossible for persons attending a meeting of the Council to understand what is being deliberated, voted or acted on. The Council may, however,

deliberate, vote or otherwise take action by reference to an agenda, if copies of the agenda, sufficiently worded to enable the public to understand what is being deliberated, voted or acted on, are available for public inspection at the meeting.

(Ord. passed 4-20-2006; Ord. passed 6-19-2008; Ord. passed 1-15-2009)

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§ 30.15 PUBLIC HEARINGS.

(A) (1) Public hearings required by law or deemed advisable by the Council shall be organized by a special order, adopted by a majority vote, that sets forth the subject, date, place and time of the hearing as well as any rules regarding the length of time for each speaker, and other pertinent matters.

(2) The rules may include, but are not limited to, rules fixing the maximum time allotted to each speaker; providing for the designation of spokespersons for groups of persons supporting or opposing the same positions; providing for the selection of delegates from groups of persons supporting or opposing the same positions when a number of persons wishing to attend the hearing exceed the capacity of the hall (so long as arrangements are made for those excluded from the hall to listen to the hearing); and providing for the maintenance of order and a quorum and the conduct of the hearing.

(3) All notice and other requirements of the Open Meetings Law applicable to Council meetings shall also apply to public hearings at which a majority of the Council is present. A public hearing for which any notices required by the Open Meetings Law or other provisions of law have been given may be continued to a time and place certain without further advertisement.

(4) The requirements of adjourned (or recessed) meetings shall be followed and continuing a hearing at which a majority of the Council is present.

(B) (1) At the appointed time for the hearing, the Mayor or his or her designee shall call the hearing to order and then preside over it.

(2) When the allotted time expires or when no one wishes to speak that has not done so, the Presiding Officer shall declare the hearing ended.

(C) A quorum of the Council shall be required at all public hearings required by state law. If a quorum is not present at a hearing, the hearing shall be continued until the next regular Council meeting without further advertisement or may be scheduled for a special hearing of the Council without further notice so long as the date, time and location of the special hearing is announced.

VOTE: Aye – All
 Nay – None

REQUESTED APPEARANCE

Lee Lancaster appeared before Council to request an adjustment of \$3,923.35 to her water bill for 1296 Hwy. 105, Boone. Ms. Lancaster advised that this property is rented and the water leak that existed was corrected as soon as it was found. Public Utilities Director Rick Miller advised that the department is currently only able to determine a leak if it is visible or when checking the meter. Town Manager Greg Young added that there have been numerous requests for adjustments to utility bills due to the unusual cold snaps this winter, and he has concurred with Mr. Miller's recommendations; however, he is only able to make adjustments up to a certain amount before it must go before Council for approval.

Upon a motion by Council Member David, seconded by Council Member Peña, Council moved to approve the adjustment to Ms. Lancaster’s water bill as recommended by Public Utilities Director Rick Miller in order to adjust the bill back to the average regular monthly amount due to the unusual circumstance.

VOTE: Aye – All
 Nay – None

REQUESTED APPEARANCE – FRANK MOHLER

Frank Mohler of the Appalachian Theatre of the High Country appeared before Council to present additional information for the request that Town Council consider a transfer of land for a portion of the parking lot located behind Town Hall for the purpose of creating additional space necessary for the renovation of the Appalachian Theatre (**Information permanently on file in March 2014 Town Council meeting file**). Lengthy discussion ensued regarding utility easements located in that area. Town Manager Greg Young noted a few items of concern with this potential land transfer including the resale value of the Town Hall property, snow removal and employee parking concerns. Council expressed their support for the Appalachian Theatre and several Council members felt that this contribution could be a good opportunity to help with the renovation project.

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to establish that the potential land transfer is for a public purpose, since it provides for a public auditorium and provides for urban redevelopment.

VOTE: Aye – All
 Nay – None

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to instruct the town manager and town attorney to continue to work on the details of this potential land transfer with the Appalachian Theatre of the High Country Board of Trustees to address the issues of utility easements and to define the conditions of the transfer that will ensure the property will be used for the public purposes stated, deed restrictions to ensure it will be used as proposed and to bring this information back to Council for further action.

VOTE: Aye – All
 Nay – None

REQUESTED APPEARANCE – MELISSA GARNER

Melissa Garner appeared before Council to request approval of a special event permit for the Melanoma 5K Walk/Run scheduled for Friday, May 9, 2014, from 6 to 7 p.m. Additionally, the applicant requested waiver of the \$250 permit fee. Ms. Garner indicated that the event will primarily take place on the Greenway Trail, but would require closure of Birch Street where the event will begin and finish. Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to approve the special event permit for the Melanoma 5K Walk/Run on Friday, May 9, 2014, from 6 to 7 p.m. and to waive the event fee of \$250.

VOTE: Aye – All
 Nay – None

Before deliberating on the quasi-judicial requests, Town Attorney Sam Furguele questioned the members of Council on whether or not they had contact with the applicant regarding the request.

All Council members stated they had not had any significant contact with the applicant for the request.

WATER AND SEWER REQUEST – THE STANDARD OF BOONE LLC

Town Attorney Sam Furgiuele opened a public hearing at 8:07 p.m. to hear sworn testimony for water and sewer service to property located on Blowing Rock Road. Mayor Ball stated he received written notice from the applicant requesting a continuance until the May regular Town Council meeting for action. With no other testimony, Mr. Furgiuele closed the public hearing at 8:08 p.m. Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to table the request for water and sewer service by The Standard of Boone LLC until the May regular meeting.

VOTE: Aye – All
 Nay – None

ADJOURNMENT

Upon a motion by Council Member Brantz, seconded by Council Member Peña, Council moved to adjourn at 8:09 p.m.

VOTE: Aye – All
 Nay – None

Christine Pope, Deputy Town Clerk

Andy Ball, Mayor