

**MINUTES - REGULAR MEETING
BOONE TOWN COUNCIL
MARCH 19, 2009**

A regular meeting of the Boone Town Council was called to order at 6:30 p.m., Thursday, March 19, 2009, in the Council Chambers, 1500 Blowing Rock Road. Mayor Loretta Clawson presided. Council members present were Mayor Pro-Tem Lynne Mason, Janet Pepin, Liz Aycock, Rennie Brantz, and Stephen Phillips. Town Attorney Sam Furgiuele was also present. Staff members present were Town Manager Greg Young, Deputy Town Clerk Kimberly Brown, Assistant to the Town Manager Jim Byrne, Police Chief Bill Post, Fire Chief Reggie Hassler, Public Works Director Blake Brown, Public Utilities Director Rick Miller, Finance Director Amy Davis, Human Resources Director Peri Moretz, and Development Coordinator David Graham.

ANNOUNCEMENTS

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

Mayor Clawson made the following announcement: "In conjunction with the statewide 'Spring Litter Sweep 2009' campaign issued by Governor Beverly Perdue for April 18th through May 2, 2009, the Town of Boone will hold a 'Spring Boone Clean-Up Day' on Saturday, April 18, 2009. Interested participants may come by the Town of Boone Public Works Department located at 321 East King Street between 9:00 a.m.-2:00 p.m. to pick up cleaning supplies. For more information, contact Shannon Isaacs at (828) 268-6230."

Mayor Clawson read the following proclamation:

PROCLAMATION

WHEREAS, our community is deeply concerned about the impacts of climate change and the future health and well-being of our planet and believes energy efficiency, natural resource conservation, and a demand by the voting public for action by elected officials are important element to combating climate change; and,

WHEREAS, Earth Hour is both an international and local symbolic event organized by World Wildlife Fund to raise awareness about climate change issues, to encourage businesses, individuals and government to take actions to reduce their carbon emissions and their impact on the environment in their daily lives and operations; and

WHEREAS, Earth Hour asks all citizens, businesses, government agencies, and commercial and non-commercial establishments to turn off all non-essential lighting for one hour beginning at 8:30 pm on March 28, 2009 and to encourage citizens and businesses to commit to actions they can take in the coming year to reduce their carbon footprints and conserve energy; and,

WHEREAS, if every household installs one CFL, annual energy savings will reach approximately 18 Gigawatt hours per year, or 1.3% of total residential energy demand; and,

WHEREAS, Earth Hour will be used as a tool to inform local residents and businesses about existing information and tools already available within the community to assist them in increasing energy efficiency and decreasing emissions and use of natural resources; and,

WHEREAS, Extinguishing non-essential lights in all Town government buildings, public schools and public landmarks for one hour and urging all businesses and citizens to do the same will send a clear message that the people of the Town of Boone in the State of North Carolina in the United States of America are concerned about climate change, stand with the rest of the world in seeking solutions and are demanding that elected leaders act immediately to take measures that will help fight global climate change effort to stop climate change, including the passage of legislation and good-faith participation in global climate treaty negotiations in Copenhagen in December 2009; and,

WHEREAS, Turning non-essential lights off in all Town government buildings, public schools and public landmarks will serve as an important rallying point for the city-wide energy conservation event Earth Hour; and, therefore be it, RESOLVED, That the Town of Boone endorses efforts by World Wildlife Fund through Earth Hour to raise awareness around global climate change and energy efficiency; and, be it,

FURTHER RESOLVED, That the Town of Boone encourages all Town employees to turn off all non-essential lighting in Town government buildings, public schools and public landmarks for the hour between 8:30 and 9:30 PM on March 28, 2009 to conserve energy and raise awareness about global climate change as part of the Town-wide energy conservation event: **Earth Hour Boone**; and, be it;

FURTHER RESOLVED, That the Boone Town Councils declares March 28, 2009 to be “WWF’s **Earth Hour**” day in the Town of Boone, North Carolina.

Adopted this the 19th day of March, 2009.

Loretta Clawson, Mayor

ATTEST:

Freida Van Allen, Town Clerk

TENTATIVE AGENDA ADOPTION

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

1. Move Item 6.F. - Resolution Opposing House Bill 272 - to Consent Agenda as Item 4.B.
2. Move Item 6.W. - Resolution for Stimulus Funding for Water Efficiency Projects to Consent Agenda as Item 4.C.
3. Addition of four resolutions to Consent Agenda regarding stimulus funding projects for Crest and Orchard Drives and the Water and Wastewater Treatment Plants as Items 4.D, 4.E., 4.F., and 4.G.
4. Deletion of Item 7.C. - Requested Appearance - Lisa Redman.

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

VOTE: Aye - All
 Nay - None

CONSENT AGENDA ADOPTION

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

Minutes: February 2, 2009 - Quarterly Public Hearing.
 February 9, 2009 - Planning Retreat.
 February 19, 2009 - Regular Meeting.
 February 20, 2009 - Special Meeting.

Adoption of Resolution - Opposing House Bill 272:

RESOLUTION EXPRESSING THE OPPOSITION OF THE TOWN COUNCIL OF THE TOWN OF BOONE, NORTH CAROLINA, FOR SENATE BILL 272

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. Chapter 160A, Article 8, the Town is empowered with taking appropriate measures to protect the health, safety and welfare of its citizens; and

WHEREAS, the Town of Boone strives to be a progressive, open-minded community that creates a comfortable environment in which all residents and visitors feel welcomed; and

WHEREAS, many cities and counties in North Carolina have shown through the adoption of Equal Opportunity and similar policies their collective dedication to protecting individuals from unwarranted discrimination and differential treatment based upon such things as gender, sexual orientation and gender identity; and

WHEREAS, Senator Jim Forrester and others have proposed an amendment to the Constitution of North Carolina that would incorporate therein provisions banning same sex marriage under the guise of protecting traditional marriage, which is not threatened in North Carolina by gay and lesbian couples and would not be enhanced by promoting discrimination against them; and

WHEREAS, the proposed legislation would not only ban same sex marriage, it would promote discrimination against unmarried opposite-sex couples and would undermine the power of the General Assembly to enact legislation that authorizes even civil unions, domestic partnership or other recognition for same sex or unmarried opposite sex couples, affording such persons basic human rights; and

WHEREAS, the Boone Town Council fears that if adopted, Senate Bill 272 will have such untenable consequences as negating the Town Equal Employment Opportunity policy and will lead to other unexpected, unintended and consequences; and

WHEREAS, the Boone Town Council, by adoption of this resolution, wishes to express its collective opinion that it is unnecessary, improper and for the General Assembly to attempt to legislate morality and to impose and institutionalize the moral positions of certain of its members upon the entirety of the citizenship of this great State, and

WHEREAS, the Boone Town Council, by adoption of this resolution, wishes to express its collective dismay that these certain members of the General Assembly would use their powers as representatives of all the people to add provisions to the State Constitution, a document primarily designed to protect the rights of citizens against infringement by the government, to instead promote and stamp with the imprimatur of legality discrimination against many of the citizens of North Carolina:

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE TOWN COUNCIL OF THE TOWN OF BOONE, NORTH CAROLINA, THAT THEY OPPOSE SENATE BILL 272 AND URGE ITS DEFEAT.

Adopted this 19th day of March, 2009.

Loretta Clawson, Mayor

Attest:

Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE(S) 98)

Council Members Aycock and Pepin voiced support of this Resolution opposing House Bill 272 as a step in protecting the rights of all persons in our communities. Council Member Brantz asked that the words “repugnant” and “abhorrent” be deleted from the resolution. Council Member Aycock agreed to this modification.

Adoption of Resolution - Stimulus Funding for Water Efficiency Projects:

RESOLUTION

WHEREAS, The Federal Clean Water Act Amendments of 1987 and Safe Drinking Water Act Amendments of 1996 and the North Carolina Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater or drinking water system improvements, and

WHEREAS, The Town of Boone has need for and intends to construct a wastewater or drinking water system project described as the water efficiency improvements, and

WHEREAS, The Town of Boone intends to request state loan and grant assistance for the project,

NOW THEREFORE BE IT RESOLVED, BY THE COUNCIL OF THE TOWN OF BOONE:

That the Town of Boone, the Applicant, will arrange financing for all remaining costs of the project, if approved for a State loan and grant award.

That the Applicant will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the Applicant agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the Town of Boone to make scheduled repayment of the loan, to withhold from the Town of Boone any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That the Applicant will provide for efficient operation and maintenance of the project on completion of construction thereof.

That Greg Young, Town Manager, the Authorized Official, and successors so titled, is hereby authorized to execute and file an application on behalf of the Applicant with the State of North Carolina for a loan and/or grant to aid in the construction of the project described above.

That the Authorized Official, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the Applicant has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the 19th day of March, 2009 at Boone, North Carolina.

Mayor

Attest:

Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE(S) 99)

Adoption of Resolution - Authorizing Funding Applications to NCDENR-Construction Grants and Loans for the Town of Boone's 2009 Annual Water & Sewer Improvements Projects:

**RESOLUTION AUTHORIZING FUNDING APPLICATIONS
TO NCDENR – CONSTRUCTION GRANTS AND LOANS
FOR THE TOWN OF BOONE’S 2009 ANNUAL WATER &
SEWER IMPROVEMENTS PROJECT**

WHEREAS, The Federal Clean Water Act Amendments of 1987 and Safe Drinking Water Act Amendments of 1996 and the North Carolina Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater or drinking water system improvements, and

WHEREAS, The **Town of Boone** has need for and intends to construct a wastewater system project described as the Town of Boone 2009 Annual Water & Sewer Improvements Project to include approximately 2,000 LF of 8” gravity sewer, approximately 10 manholes, approximately 25 services and all necessary appurtenances along Crest Drive, Mac Street, and Arbor Lane to replace existing, old, substandard four inch and six inch clay sewer mains that have no manholes, and

WHEREAS, the **Town of Boone** intends to request state loan or grant assistance for the project,

NOW THEREFORE BE IT RESOLVED, BY THE TOWN COUNCIL OF THE TOWN OF BOONE:

That the **Town of Boone**, the **Applicant**, will arrange financing for all remaining costs of the project, if approved for a State loan or grant award.

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the Town of Boone to make scheduled repayment of the loan, to withhold from the Town of Boone any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That the **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.

That **Greg Young, Town Manager**, the **Authorized Official**, and successors so titled, is hereby authorized to execute and file an application on behalf of the **Applicant** with the State of North Carolina for a loan or grant to aid in the construction of the project described above.

That the **Authorized Official**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the 19th day of March, 2009 at the Town of Boone, North Carolina.

Mayor

ATTEST:

Town Clerk

(RESOLUTION TO BY TYPED IN BOOK 3, PAGE(S) 100)

Adoption of Resolution - Authorizing Funding Applications to NCDENR-Construction Grants and Loans for the Town of Boone's Orchard Street Sewer Rehabilitation Project:

**RESOLUTION AUTHORIZING FUNDING APPLICATIONS
TO NCDENR – CONSTRUCTION GRANTS AND LOANS
FOR THE TOWN OF BOONE'S ORCHARD STREET
SEWER REHABILITATION PROJECT**

WHEREAS, The Federal Clean Water Act Amendments of 1987 and Safe Drinking Water Act Amendments of 1996 and the North Carolina Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater or drinking water system improvements, and

WHEREAS, the **Town of Boone** has need for and intends to construct a wastewater system project described as the Town of Boone Orchard Street Sewer Rehabilitation Project to include approximately 1,250 LF of 8" gravity sewer, approximately 7 manholes, approximately 12 services, and all necessary appurtenances along Orchard St. to replace existing, old, substandard four inch and six inch clay sewer mains that have no manholes, and

WHEREAS, the **Town of Boone** intends to request state loan or grant assistance for the project,

NOW THEREFORE BE IT RESOLVED, BY THE TOWN COUNCIL OF THE TOWN OF BOONE:

That the **Town of Boone**, the **Applicant**, will arrange financing for all remaining costs of the project, if approved for a State loan or grant award.

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the Town of Boone to make scheduled repayment of the loan, to withhold from the Town of Boone any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That the **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.

That **Greg Young, Town Manager**, the **Authorized Official**, and successors so titled, is hereby authorized to execute and file an application on behalf of the **Applicant** with the State of North Carolina for a loan or grant to aid in the construction of the project described above.

That the **Authorized Official**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the 19th day of March, 2009 at the Town of Boone, North Carolina.

ATTEST:

Mayor

Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE(S) 101)

Adoption of Resolution - Authorizing Funding Applications to NCDENR-Public Water Supply for the Town of Boone's Raw Water Project:

**RESOLUTION AUTHORIZING FUNDING APPLICATIONS
TO NCDENR – PUBLIC WATER SUPPLY
FOR THE TOWN OF BOONE'S RAW WATER PROJECT**

WHEREAS, The Federal Clean Water Act Amendments of 1987 and Safe Drinking Water Act Amendments of 1996 and the North Carolina Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater or drinking water system improvements, and

WHEREAS, the **Town of Boone** has need for and intends to construct a drinking water system project described as the Town of Boone Raw Water Project to include improvements to standby emergency power at their WTP, increased clearwell storage, and a WTP upgrade / expansion to position them for an expansion from 3.0 MGD to 4.5 MGD (i.e. through the augmentation of supply by a separate project being administered by the Town of Boone), and all necessary appurtenances, and

WHEREAS, the **Town of Boone** intends to request state loan or grant assistance for the project,

NOW THEREFORE BE IT RESOLVED, BY THE TOWN COUNCIL OF THE TOWN OF BOONE:

That the **Town of Boone**, the **Applicant**, will arrange financing for all remaining costs of the project, if approved for a State loan or grant award.

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the Town of Boone to make scheduled repayment of the loan, to withhold from the Town of Boone any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That the **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.

That **Greg Young, Town Manager**, the **Authorized Official**, and successors so titled, is hereby authorized to execute and file an application on behalf of the **Applicant** with the State of North Carolina for a loan or grant to aid in the construction of the project described above.

That the **Authorized Official**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the 19th day of March, 2009 at the Town of Boone, North Carolina.

Mayor

ATTEST:

Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE(S) 102)

Adoption of Resolution - Authorizing Funding Applications to NCDENR-WWTP Solids Handling Improvements Project:

**RESOLUTION AUTHORIZING FUNDING APPLICATIONS
TO NCDENR –WWTP SOLIDS
HANDLING IMPROVEMENTS PROJECT**

WHEREAS, The Federal Clean Water Act Amendments of 1987 and Safe Drinking Water Act Amendments of 1996 and the North Carolina Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater or drinking water system improvements, and

WHEREAS, the **Town of Boone** has need for and intends to construct a wastewater system project described as the Town of Boone WWTP Solids Handling Improvements Project to include improvements to the Class A Biosolids Handling Facility and all necessary appurtenances which includes energy enhancements, and

WHEREAS, the **Town of Boone** intends to request state loan or grant assistance for the project,

NOW THEREFORE BE IT RESOLVED, BY THE TOWN COUNCIL OF THE TOWN OF BOONE:

That the **Town of Boone**, the **Applicant**, will arrange financing for all remaining costs of the project, if approved for a State loan or grant award.

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the Town of Boone to make scheduled repayment of the loan, to withhold from the Town of Boone any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That the **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.

That **Greg Young, Town Manager**, the **Authorized Official**, and successors so titled, is hereby authorized to execute and file an application on behalf of the **Applicant** with the State of North Carolina for a loan or grant to aid in the construction of the project described above.

That the **Authorized Official**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such

application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the 19th day of March, 2009 at the Town of Boone, North Carolina.

Mayor

ATTEST:

Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE(S) 103)

VOTE: Aye - All
 Nay - None

PUBLIC COMMENT

Austin Hall appeared before the Council to voice his support of passing a Resolution of Support for House Bill 340, the Appalachian Mountains Preservation Act. He presented information illustrating the detrimental environmental and social effects of “mountaintop removal,” a method of coal extraction used in West Virginia, Kentucky, Virginia, and Tennessee.

ADOPTION OF RESOLUTION - MEMORIALIZING WADE EDWARD BROWN

Mayor Clawson read into record the Resolution Memorializing Wade Edward Brown, former Mayor of Boone, who passed away on March 9, 2009. Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to adopt the following resolution:

A RESOLUTION MEMORIALIZING WADE EDWARD BROWN

WHEREAS, Wade Edward Brown died on March 9, 2009 at the age of 101; and

WHEREAS, Wade E. Brown had served as Mayor of the Town of Boone from to 1961 to 1967; and

WHEREAS, Wade E. Brown served the community as an attorney-at-law, a prominent business leader, and an active participant in civic and governmental affairs; and

WHEREAS, Wade E. Brown was greatly involved in numerous projects to improve the community and the economic development of the area by bringing jobs to the High Country; this improvement was accomplished by his helping to establish the Boone Area Chamber of Commerce, the Horn in the West outdoor drama, the Boone Golf Club, expansion of the Watauga County Hospital, and construction of the new Watauga County Library; and

WHEREAS, Wade E. Brown was dedicated to improving the quality of education offered to residents of the area and was instrumental in the development of public schools in Watauga County; and

WHEREAS, Wade E. Brown worked diligently to appropriate state funding for Appalachian State University and served as a member of the Board of Trustees in 1941 and 1944; and

WHEREAS, Wade E. Brown was not only a fine attorney, an outstanding citizen, and a loyal husband and father, but a true friend, who will be greatly missed by many;

NOW, THEREFORE, BE IT RESOLVED, that Mayor Loretta Clawson, members of the Boone Town Council, and Town of Boone employees note with great sadness the passing of Wade E. Brown and extend their sympathy to his family and friends.

This the 19th day of March, 2009.

ATTEST:

Mayor

Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE(S) 94)

VOTE: Aye - All
 Nay - None

**APPROVAL OF AMENDMENT TO PERSONNEL CODE - ARTICLE XI
RECRUITMENT AND EMPLOYMENT**

Council Member Aycock stated that the modification to the Town of Boone Personnel Code, Article XI “Recruitment and Employment” include the addition of the words “creed” and “gender identity or sexual orientation.” Upon a motion by Council Member Aycock, seconded by Council Member Brantz, Council moved to approve the following amendment to the Town of Boone Personnel Code:

Proposed Amendment to Personnel Code, ARTICLE IV, “RECRUITMENT AND EMPLOYMENT”

Section2. Equal Employment Opportunity Policy.

It is the policy of the Town, and the Town is committed to fostering, maintaining, and promoting equal employment opportunity. The Town shall therefore select employees solely on the basis of their qualifications for the job and award them compensation and opportunities for training and advancement, including promotion, without regard to age, sex, gender identity or sexual orientation, race, color, religion, creed, national origin, disability, political registration, marital status, or any other reason prohibited by law. Qualified applicants with disabilities shall be given equal consideration with other applicants for positions unless their disabilities create an unreasonable barrier to their satisfactory performance of duties, and cannot be overcome with reasonable accommodation. All personnel responsible for recruitment and employment will review regularly the implementation of this Personnel Policy and relevant practices to assure that equal employment opportunity based on responsible, job-related requirements is being actively observed.

VOTE: Aye - All
 Nay - None

**ADOPTION OF RESOLUTION - APPALACHIAN MOUNTAINS PRESERVATION
ACT**

Council Member Aycock stated that support of House Bill 340 is an important step in protecting the Appalachian Mountains which are an important and sacred part of not only our community but of many communities in several states stretching from Georgia to Maine. Council Member Mason agreed stating that the pursuit of renewable energy sources is essential in order to change the practice of burning coal for power. Upon a motion by Council Member Aycock, seconded by Council Member Mason, Council moved to adopt the following resolution:

**RESOLUTION EXPRESSING THE SUPPORT OF THE
TOWN COUNCIL OF THE TOWN OF BOONE,
NORTH CAROLINA, FOR HOUSE BILL 340,**

THE APPALACHIAN MOUNTAINS PRESERVATION ACT

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. Chapter 160A, Article 8, the Town is empowered with taking appropriate measures to protect the health, safety and welfare of its citizens; and

WHEREAS, the degradation and destruction of the regional environment and the Appalachian Mountains through non-sustainable and destructive methods of coal extraction are a threat to the health, safety and welfare of the citizens of Boone, as they are to the citizens of the Appalachian Mountains and region at large; and

WHEREAS, a method of coal extraction known as “Mountaintop Removal” is destroying the majestic vistas of the Appalachian Mountains, and has already resulted in the destruction of 470 peaks from the Appalachian skyline; and

WHEREAS, mountaintop removal has resulted in the burying or pollution of more than 1,200 miles of pristine headwater streams and the destruction of hundreds of square miles of diverse, valuable and irreplaceable ecosystems; and

WHEREAS, in House Bill 340, the Appalachian Mountains Preservation Act, members of the North Carolina General Assembly have proposed to prohibit the use by electric public utilities operating coal-fired generating units located in North Carolina from purchasing or using coal extracted through mountaintop removal; and

WHEREAS, the Boone Town Council recognizes that the prohibitions proposed in House Bill 340 will benefit and help protect the environment and will thus enhance the health, safety and welfare of the citizens of Boone, and therefore supports passage of these important measures:

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BOONE, NORTH CAROLINA, THAT THE TOWN OF BOONE, NORTH CAROLINA HEREBY SUPPORTS HOUSE BILL 340 AND URGES ITS PASSAGE.

Adopted this 19th day of March, 2009.

Loretta Clawson, Mayor

Attest:

Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE(S) 95)

VOTE: Aye - All
 Nay - None

ADOPTION OF RESOLUTION - SUPPORTING HOUSE BILL 207

Council Member Aycock stated that support of this bill is another step in ensuring the protection of all citizens in our communities. Upon a motion by Council Member Aycock, seconded by Council Member Mason, Council moved to adopt the following resolution:

**RESOLUTION EXPRESSING THE SUPPORT OF THE
TOWN COUNCIL OF THE TOWN OF BOONE,
NORTH CAROLINA, FOR HOUSE BILL 207**

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. Chapter 160A, Article 8, the Town is empowered with taking appropriate measures to protect the health, safety and welfare of its citizens; and

WHEREAS, the Town of Boone strives to be a progressive, open-minded community that creates a comfortable environment in which all residents and visitors feel welcomed; and

WHEREAS, many cities and counties in North Carolina, including Boone, have shown through the adoption of Equal Opportunity and like policies their collective dedication to protecting individuals from unwarranted discrimination and differential treatment based upon such things as race, color, religion, nationality, country of origin, age, gender, disability, sexual orientation and gender identity; and

WHEREAS, the Town of Boone considers crimes committed against individuals targeted because of their inclusion in such classes as particularly abhorrent; and

WHEREAS, in House Bill 207, “The Safer Communities Act,” members of the North Carolina General Assembly have proposed to expand the scope of the North Carolina “Ethnic Intimidation Act,” a law which heightens punishment for crimes motivated by bias or animosity toward persons based upon race, color, religion, nationality or country of origin, by adding to the scope of the act crimes motivated by bias or animosity toward persons due to age, gender, disability and sexual orientation; and

WHEREAS, the Boone Town Council recognizes that the protections proposed in House Bill 207 will benefit and help protect the citizens of Boone, and thus will enhance their health, safety and welfare, as well as the health, safety and welfare of visitors to the High Country, and it therefore supports passage of these important protections:

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BOONE, NORTH CAROLINA, THAT THE TOWN OF BOONE, NORTH CAROLINA HEREBY SUPPORTS HOUSE BILL 207 AND URGES ITS PASSAGE.

Adopted this 19th day of March, 2009.

Loretta Clawson, Mayor

Attest:

Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE(S) 96)

VOTE: Aye - All
 Nay - None

ADOPTION OF RESOLUTION OF INTENT - AMENDMENT BY ORDINANCE TO THE TOWN OF BOONE CHARTER

Mayor Clawson explained that the intent of this change is to allow more time for an elected official to fully serve the community. Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to adopt the following resolution:

**RESOLUTION OF INTENT TO CONSIDER
AN AMENDMENT BY
ORDINANCE TO THE TOWN OF BOONE CHARTER**

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. Chapter 160A-101, *et seq.*, the Town Council is empowered with the ability to make by ordinance certain modifications to the Town’s charter; and

WHEREAS, pursuant to N.C. Gen. Stat. Chapter 160A-101(8), the term of the Mayor of the Town of Boone can be modified by ordinance from two years to four years; and

WHEREAS, the Town Council wishes to consider an amendment to the Town Charter which modifies the term of the Mayor from two years to four years;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BOONE, NORTH CAROLINA:

1. That the Town Clerk shall schedule a public hearing on the 16th day of April, 2009 to consider the aforesaid modification, and
2. The Town Clerk shall publish notice of such hearing in the *Watauga Democrat* at least ten days prior to said hearing.

Adopted this 19th day of March, 2009.

Loretta Clawson, Mayor

Attest:

Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE(S) 97)

VOTE: Aye - All
 Nay - None

PRESENTATION OF PROPOSED UDO TEXT AMENDMENT - BICYCLE & MOTORCYCLE PARKING REQUIREMENTS

Development Coordinator David Graham presented a draft text amendment regarding parking requirements for bicycles and motorcycles. He noted that the Planning Commission did recommend that the draft amendment be placed on the agenda for the next Quarterly Public Hearing. Council Member Mason asked about bicycle parking availability in the downtown area. Mr. Graham stated that staff will consult the Public Works staff regarding areas where bicycle parking can be located. Council Member Brantz voiced a concern that providing areas for bicycle parking without having bike lanes throughout the town may be creating an unsafe situation. Council Member Mason assured the Council that plans for installing bike lanes are forthcoming. She inquired about such areas within large shopping centers and malls. Mr. Graham stated that staff will meet with current property owners to encourage the installation of bicycle and motorcycle parking. Furthermore, he stated that this issue can be addressed when a change of use for a property is proposed. Discussion ensued concerning the current trend in smart growth development for parking to be located at the rear of the property. Mr. Graham explained that parking signs for bicycles and motorcycles should be visible from the street to encourage use by cyclists. Council Member Mason asked Mr. Graham to further investigate this issue so that the language can be clarified. Upon a motion by Council Member Phillips, seconded by Council Member Mason, Council moved to place the proposed UDO text amendment for bicycle and motorcycle parking on the agenda for presentation at the May Quarterly Public Hearing.

VOTE: Aye - All
 Nay - None

**ADOPTION OF CONDITIONAL USE ZONING AMENDMENT - CASE 20090091
BOONE POINT**

CASE 20090091 - The developers of Boone Point have filed a request to revise the permitted mix of land uses allowed within the approved conditional zoning district to include the following:

\$ Retail Use 2.100
\$ Office Use 3.100
\$ Recreation Use 6.110
\$ Restaurant Use 8.0
\$ Multi-Family Use 1.300.

Development Coordinator David Graham stated that the Planning Commission had unanimously recommended approval of this request. He noted that the proposed mix of land uses includes the addition of a 24-hour indoor fitness center. Council Member Mason stated that developments such as this promote Smart Growth principles. Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved that the proposed amendment to the Town's zoning ordinance is consistent with the Town's comprehensive plan and other applicable adopted plans of the Town because it incorporates aspects of Smart Growth development and promotes mixed-use development.

VOTE: Aye - All
 Nay - None

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council members moved to approve the proposed amendment to the Town's zoning ordinance. They believe approval is reasonable and in the public interest because Comprehensive Plan policy 5.1 encourages commercial and office developments in mixed-use developments to minimize the proliferation of strip development and policy 13.7 states "... properly planned mixed-use development that promotes efficient provision of public services are encouraged in the Urban Growth Area."

VOTE: Aye - All
 Nay - None

APPROVAL OF CONTRACT - CULVERT EXTENSION ON WILSON DRIVE

Assistant to the Manager Jim Byrne stated that this engineering work is necessary in order to move forward with the Wilson Drive greenway extension. He stated that the contract is in the amount of \$77,635.55 and that the design and culvert extension construction should still allow the town to remain within the original budget. Upon a motion by Council Member Brantz, seconded by Council Member Phillips, Council moved to approve the contract with Vaughn & Melton in the amount of \$77,635.55 for the design of the culvert extension on Wilson Drive. **(A copy of the contract is permanently on file at Town Hall.)**

VOTE: Aye - All
 Nay - None

APPROVAL OF CDBG GRANT AGREEMENT - WINKLER'S CREEK WATER INLET PROJECT

Assistant to the Manager Jim Byrne requested authorization for the Mayor to sign the CDBG Grant agreement for \$600,000 for the Winkler's Creek intake restoration project. He noted that the agreement will be reviewed by the Town Attorney. Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to approve the CDBG Grant agreement in the amount of \$600,000 for the Winkler's Creek intake restoration project. **(A copy of this agreement is permanently on file in the offices of the Boone Housing Authority.)**

VOTE: Aye - All

Nay - None

APPROVAL OF EXPENDITURES - HORN IN THE WEST PROPERTY IMPROVEMENTS

Assistant to the Manager Jim Byrne appeared before the Council to convey a request from the Horn in the West Board in the amount of \$12,000 for the following repairs to the facility:

\$ Repair of the stage wall - \$4,000.00

\$ Purchase of a utility shed to be used as sound booth and minor wiring - \$8,000.00. Upon a

motion by Council Member Brantz, seconded by Council Member Mason, Council moved to approve a request of \$12,000 for the aforementioned repairs to facilities at the Horn in the West.

VOTE: Aye - All
Nay - None

APPROVAL OF BOONE HOUSING AUTHORITY - ADMINISTRATION OF TOWN GRANTS

Assistant to the Manager Jim Byrne informed the Council that the Boone Housing Authority has written and administered almost all the Town grants since 1989. He stated that the agency obtains and administers up to \$1 million in grant programs to rehabilitate housing of elderly and disabled persons. Mr. Byrne explained that five persons work on a contract service basis writing and administering grant programs and that they are supported by the Town's annual allocation and administrative fees from funded grants. Upon a motion by Council Member Pepin, seconded by Council Member Aycock, Council moved to approve the continuation of the Boone Housing Authority to write and administer grants for the Town of Boone.

VOTE: Aye - All
Nay - None

APPROVAL OF FUNDING - DOWNTOWN POST OFFICE REHABILITATION

Assistant to the Manager Jim Byrne appeared before the Council to request approval for initial funding in the amount of \$229,000 for the Downtown Post Office. He explained that the following steps should be taken in the first phase of rehabilitation:

\$ Secure an architect to design and manage the rehabilitation process - \$150,000

\$ Paint the exterior of the building - \$25,000

\$ Identify and abate any hazardous materials - \$25,000

\$ Remove partitions in the basement of the building - \$29,000.

Town Manager Greg Young stated that there is \$233,907 appropriated for repairs to the post office. Upon a motion by Council Member Brantz, seconded by Council Member Pepin, Council moved to grant approval for funding in the amount of \$229,000 for the aforementioned actions for the first phase of rehabilitation of the Downtown Post Office.

VOTE: Aye - All
Nay - None

ANNOUNCEMENT OF BOARD VACANCY - GREENWAY, PARKS & GARDENS COMMITTEE

Public Works Director Blake Brown announced that Committee member Saul Chase has resigned his position on the Greenway, Parks & Gardens Committee after relocating to the Asheville area. He noted that a vacancy now exists that will expire on July 31, 2010. He requested that the Clerk advertise for applications for this vacant position. Mayor Clawson asked that a letter of appreciation be sent to Mr. Chase in recognition of his years of service to this committee.

ANNOUNCEMENT OF BOARD VACANCY - CABLE TV ADVISORY BOARD

Mayor Clawson announced another vacant position which will expire on April 30, 2009, as well as a vacant position that has been open for over a year. It was the consensus of the Council to direct the Town Clerk to advertise the vacant positions for the Cable TV Advisory Board when advertising for vacant positions on other Town boards.

PLANNING COMMISSION APPOINTMENTS

Development Coordinator David Graham noted that two vacancies on the Planning Commission were announced at the February meeting and advertised in local media publications and the Town's website. He noted that one term will expire on June 30, 2009, and the other term will expire on June 30, 2010. Council Member Mason explained that Commissioner Woolridge resigned from his position due to another commitment on the meeting date but has since been able to rectify the scheduling difference for the meeting dates. Mr. Graham listed the three applicants who have submitted applications for the two positions: Natalie Best, Elif Karsi, and Eric Woolridge. He noted that after reviewing the applications, he discovered that Ms. Best lives in the Town's ETJ and cannot be considered for a resident position on the Planning Commission. With no other nominations to consider, Council Member Phillips moved to appoint Eric Woolridge and Elif Karsi to serve on the Planning Commission. Council Member Aycock seconded the motion. Mr. Woolridge will serve the term to expire on June 30, 2009, and Ms. Karsi will serve the term that expires on June 30, 2010.

VOTE: Aye - All
 Nay - None

JONES HOUSE ADVISORY BOARD APPOINTMENTS

Mayor Clawson noted that three positions are open on the Jones House Advisory Board and have been advertised in the local media and on the Town's website. She further noted that appointments for this Board were tabled at the last meeting in order to review applications for the positions. Applications for these positions were received from the following: Judith Carlson, Eula Mae Fox, Shelby Lane, and Jimmie Owen. Council Member Brantz nominated Shelby Lane. Council Member Mason nominated Eula Mae Fox, and Jimmie Owen was nominated by Council Member Phillips. Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to appoint Shelby Lane, Eula Mae Fox, and Jimmie Owen to serve on the Jones House Advisory Committee with terms that will expire on February 28, 2012. Although this Board does not have a residency requirement, Council agreed that it is appropriate to appoint individuals that live in the town since this is a Town board

VOTE: Aye - All
 Nay - None

ABC COMMISSION APPOINTMENTS

Mayor Clawson noted that one position on the ABC Board is due to expire on March 31, 2009. She pointed out that the vacancy has been advertised in local media outlets and on the Town's website and that applications have been received from Bobby Dunnigan, Robert Flanigan, and Paige Murray. Council Member Brantz nominated Bobby Dunnigan who is a town resident. Although this Board does not have a residency requirement, Council agreed that it is appropriate to appoint someone who does live in the town since this is a Town board. Upon a motion by Council Member Brantz, seconded by Council Member Phillips, Council moved to appoint Bobby Dunnigan to serve on the ABC Board for a term that will expire on March 31, 2012.

VOTE: Aye - All
 Nay - None

Mayor Clawson asked that a letter of appreciation be sent to Paige Murray regarding his many years of service to the Town on the ABC Board.

WATER COMMITTEE APPOINTMENTS

Public Utilities Director Rick Miller noted that four vacant positions on the Water Committee were announced at the February meeting and that the vacancies have been advertised in the local media and on the Town's website. He noted that there are no residency requirements for this board and no by-laws concerning the number of members appointed to serve. Mr. Miller explained that Council can choose to either fill the vacant positions or cut the positions. Council Member Pepin pointed out that the members resigning from the committee represent the development and business community and voiced a concern about losing diversity on the board without representation from that sector of the community. Upon a motion by Council Member Pepin, seconded by Council Member Mason, Council moved to direct the Town Clerk to continue to advertise the four vacant positions on the Water Committee.

VOTE: Aye - All
 Nay - None

TRANSPORTATION COMMITTEE RECOMMENDATIONS

Public Works Director Blake Brown presented the following request made by the Transportation Committee: to have the NC DOT organize a public workshop to address the safety issues on Highway 105 South with public input, to present the Federal Highway Administration's "Access Management" video, and to create design improvement options. Council Member Mason reiterated that stakeholders along the highway be invited to attend the workshop. Council Member Aycock agreed and expressed appreciation that more effort is being made to involve those whose properties will be affected by changes to the highway. Upon a motion by Council Member Phillips, seconded by Council Member Aycock, Council moved to approve the abovementioned request made by the Transportation Committee.

VOTE: Aye - All
 Nay - None

REQUEST PERMISSION TO APPLY FOR GRANT - BOONE FIRE DEPARTMENT FOR REPLACEMENT OF ENGINE 5

Fire Chief Reggie Hassler appeared before the Council to request permission to apply for the Fire Act Grant for funding in the amount of \$600,000 to replace Engine 5. Upon a motion by Council Member Pepin, seconded by Council Member Phillips, Council moved to approve the request for permission to apply for the Fire Act Grant for funding in the amount of \$600,000 to replace Fire Engine 5.

VOTE: Aye - All
 Nay - None

SCHEDULING OF PUBLIC HEARING - LAND USE MASTER PLAN

Development Coordinator David Graham explained that the next step for the Land Use Master Plan implementation is to schedule a public hearing in order to receive input from the public. Upon a motion by Council Member Mason, seconded by Council Member Phillips, Council moved to schedule a public hearing on Monday, April 6, 2009, at 7:00 p.m. in the Council Chambers in order to present the Land Use Master Plan and to invite the members of the Planning Commission and other stakeholders involved in the process to attend.

VOTE: Aye - All
 Nay - None

MONTHLY WATER USE STATUS REPORT

Public Utilities Director Rick Miller presented the monthly water status report (**copy permanently on file in March 2009 Town Council packet**).

APPROVAL OF BUDGET AMENDMENTS

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

DESCRIPTION	ACCOUNT #	TO:	FROM:
W.A.M.Y. COMMUNITY ACTION, INC.	010-412-000-549232	\$2,267.00	
APPROPRIATED FUND BALANCE-GENERAL FUND	010-000-000-499900		(\$2,267.00)
MAINTENANCE & REPAIR-VEHICLES (POLICE DEPT.)	010-500-300-525301	\$330.00	
MISCELLANEOUS REVENUE	010-000-000-489900		(\$330.00)
CONTRACTED SERVICES (PUBLIC UTILITIES)	030-700-801-577000	\$5,331.00	
APPROPRIATED FUND BALANCE-W/S FUND	030-000-000-499900		(\$5,331.00)
CONTRACTED SERVICES-(PUBLIC UTILITIES)	030-700-000-577000	\$38,671.00	
TRANSFER FROM W/S INFRASTRUCTURE RESERVE	030-000-000-498033		(\$38,671.00)

VOTE: Aye - All
 Nay - None

Mayor Clawson declared a break at 8:00 p.m. Council reconvened at 8:10 p.m.

REQUESTED APPEARANCES - NANCY SPANN/SOUTHERN APPALACHIAN HISTORICAL ASSOCIATION

Nancy Spann, Chairperson of the Southern Appalachian Historical Association, appeared before the Council to update the progress made during the past year at the Horn in the West. She presented the following highlights:

- § a 14% increase in attendance compared to the 2007 season
- § the great economic impact of the outdoor drama on the area
- § the results of an audience survey performed during the 2008 season
- § improvements to facilities including the Daniel Boone Amphitheater, the electrical and audio system, and the Powderhorn Theater
- § revision of the script and production of the drama
- § increased marketing efforts to increase “off-the-mountain” exposure.

Council expressed appreciation for the work of Ms. Spann, the board members, and all others involved in continuing to assure that the Horn in the West outdoor drama is one of the top attractions of the area and a valuable part of the community.

REQUESTED APPEARANCES - JESSE KELLOGG/KONCEPTS HOOKAH LLC

Jesse Kellogg appeared before the Council to request a water usage examination for the business located at 805 West King Street. He reminded the Council that when he appeared previously for water allocation, the Water & Sewer Code did not have a category specific to hookah lounges and that his business was classified under bar/cocktail lounge. Mr. Kellogg contended that by monitoring the actual usage of water for his business, both he and the Town would benefit from knowing how much water is actually used. Public Utilities Director Rick Miller indicated that as long as the business is on a separate meter, it can be monitored for actual usage. Council Member Pepin posed a question about the availability fee which has already been paid. Mr. Kellogg introduced several examples of water usage from other hookah lounges within the state. After a brief discussion, Council Member Aycock moved to have Public Utilities Director Rick Miller and Town Attorney Sam validate the water usage amount of 466 gallons per day of the Hookah Haze Lounge in Greenville, NC, and once verified, base the availability fee on that amount of water usage, refund the difference of amount of the availability fee initially paid by Mr. Kellogg, and allow the monitoring of water usage at Koncepts Hookah Lounge at 805 West King Street for a one-year period. Council Member Mason seconded the motion.

VOTE: Aye - All
 Nay - None

Council Member Pepin asked to be excused from deliberation of the next case due to past conversations held with a Watauga County Commissioner regarding this issue. Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to excuse Council Member Pepin from deliberation of the ASU/Watauga County request for water service.

VOTE: Aye - All
 Nay - None

WATER & SEWER REQUEST - ASU/WATAUGA COUNTY

Town Attorney Sam Furguele opened a public hearing at 8:30 p.m. to hear sworn testimony from Watauga County Manager Robert (Rocky) Nelson, Greg Lovins (representing ASU), and Public Utilities Director Rick Miller on a request for water service to property located off Brookshire Drive. Mr. Nelson began by informing the Council that the Watauga County Commissioners, in an effort to help promote affordable housing/workforce housing opportunities, have established the Watauga Housing Trust, Inc., a 501(c)3 nonprofit organization. Furthermore, he reminded the Council that a request for sewer service for this property was granted in July 2008. In discussions with Public Utilities Director Rick Miller, Mr. Nelson stated that the size of main needed for future water service for affordable housing development was considered. Greg Lovins explained that the project now has a 1000-seat bleacher area and is used by the following groups: the High Country Soccer Association, the ASU soccer program, the Watauga County Parks & Recreation Department soccer program, the Hispanic Soccer program, the flag football program, and the Ultimate Frisbee program. He stated that the use of the complex for future tournament sites can have a great economic impact on the area. Council Member Brantz inquired about the issue of annexation of the property. Mr. Nelson indicated that the Watauga County Commissioners have discussed the issue of annexation and have no problem in complying with that condition for the property, as well as any future affordable housing development. Council Member Brantz asked about the pipe size for a possible water extension. Mr. Nelson stated that after discussing the matter with Public Utilities Director Rick Miller, a 6- to 8-inch line will be adequate for 60-80 units. Council Member Brantz questioned the use of the complex by the public. Mr. Nelson stated that a grant has been applied for to develop the following uses: an outdoor beach volleyball area, a basketball court area, an outdoor picnic shelter, extension of the walking trail, and a future handicap-accessible fishing area on the New River. He further noted that the complex is open at all times; however, request for use of the soccer fields must be approved by a scheduling committee. Council Member Mason asked about any issues with the floodplain. Mr. Nelson stated that the property is out of the floodway and that areas that have been filled do comply with code requirements. Public Utilities Director Rick Miller stated that a 6-inch water line will be adequate but that he has advised the applicant to have an engineer review the use of an 8-inch water line for adequacy in the future development of affordable housing. With no further testimony, Mr. Furguele closed the public hearing at 8:48 p.m. Council Member Mason stated that according to the Land Use Master Plan, which has not yet been adopted by the Council, the property is in an area appropriate for future expansion. She also noted that opportunities for affordable housing are very much needed in the area. Council Member Brantz noted this as another opportunity for cooperation between the Town of Boone, Watauga County, and ASU. Council Member Aycock expressed her appreciation for the County's creation of the Watauga Housing Trust. Council Member Phillips stated that this type of use is supported by policies contained in the Comprehensive Plan. Upon a motion by Council Member Mason, seconded by Council Member Aycock, Council moved to approve the request for water service of 3000 gallons per day from the 2009 allocation with the following conditions:

1. The property shall be annexed
2. There must be a review and certification by an engineer of the adequacy of the size of water line needed for future affordable housing development (6- or 8-inch water line).

She further noted that approval of this request is supported because of the possibility of future affordable housing development opportunities and for the aforementioned reasons voiced by the Council.

VOTE: Aye - All
 Nay - None

Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to reseat Council Member Pepin.

VOTE: Aye - All
 Nay - None

REQUESTED APPEARANCES - KENDALL MCDEVITT

Kendall McDevitt appeared before the Council to present an update of the accomplishments during the past year of the ASU Office of Off-Campus Community Relations. She listed the following activities:

- \$ Off-Campus Jurisdiction Enforcement
- \$ Recycling Committee
- \$ Town-Gown Committee
- \$ Landlord Meetings.

Council Member Phillips asked to be excused from deliberation of the next case because he is a member of the partnership that owns the property for which water and sewer service is being requested. Upon a motion by Council Member Pepin, seconded by Council Member Mason, Council moved to excuse Council Member Phillips from deliberation of the request for water and sewer service made by Roger Wright due to membership in the partnership that owns the property.

VOTE: Aye - All
 Nay - None

WATER & SEWER REQUEST - ROGER WRIGHT

Town Attorney Sam Furguele opened a public hearing at 9:05 p.m. to hear sworn testimony from Roger Wright and Public Utilities Director Rick Miller on a request for water and sewer service located off Snaggy Mountain Road. Roger Wright began by explaining the request as a 300-unit complex with one-, two-, and three-bedroom units developed for workforce housing for persons earning less than 60% of the median income. He stated that the complex is projected to be constructed in phases with 100 units each year beginning in 2011 but that the infrastructure for the complex will need to be constructed initially. Mr. Wright stated that the development will be funded through Ginny Mae, the government-owned mortgage-funding company. Council Member Mason asked if approval for the project has been granted by the N.C. Housing Finance Agency. Mr. Wright indicated that approval from that agency has been granted. Public Utilities Director Rick Miller noted that the property is within a secondary pressure zone and is outside the Town limits. Mr. Wright reiterated that the project is not being developed or marketed for student housing. Council Member Aycock inquired as to how the determination is made that the occupants of the complex are members of the workforce and not students. Mr. Wright indicated that the N. C. Housing Finance Agency both approves and monitors the occupants of the complex. Council Member Pepin asked about sewer service to the property. Mr. Miller stated that the nearest sewer main is located at the intersection of Snaggy Mountain Road and Highway 105. Furthermore, he noted that the Town Water and Sewer Code does not allow for acceptance of pump or lift station but encourages gravity-fed sewer systems. Council Member Aycock voiced a concern about the impact of such large complexes on the capacity of the Waste Water Treatment Plant. Mr. Wright stated he will be willing to run the sewer lines from the sewer main on Highway 105 to the development. With no other public testimony offered, Mr. Furguele closed the public hearing at 9:21 p.m. Council Member Pepin listed her concerns with the proposed project: consideration of the restrictions of the ordinance, the needed technology for the sewer system connection to the Town's sewer system, and the fact that the property is located within a secondary pressure zone. Council Member Mason agreed stating that as much as affordable housing opportunities are needed in the area, she has concerns with the fact that there are technical issues in providing utility services to the property. Also, she noted that the proposal does not meet the current requirements of Ordinance #05-01. Upon a motion by

Council Member Pepin, seconded by Council Member Mason, Council moved to deny the request.

VOTE: Aye - All
 Nay - None

Upon a motion by Council Member Pepin, seconded by Council Member Brantz, Council moved to reseal Council Member Phillips.

VOTE: Aye - All
 Nay - None

WATER & SEWER REQUEST - ENOCH LYONS

Town Attorney Sam Furgiuele opened a public hearing at 9:26 p.m. to hear sworn testimony from Enoch Lyons and Public Utilities Director Rick Miller on a request for water and sewer service to properties located at Lot 8 and 9 of the White Laurel Subdivision. Mr. Lyons stated that he is the managing member of The Lyons Share LLC, a housing and property development company doing business in the area since 1982. Mr. Lyons stated that he wants to construct an affordable house on each of the lots. He noted that the lots already have water and sewer taps. Public Utilities Director Rick Miller noted that the subdivision was originally designed to be part of the public water and sewer system but that, due to deficiencies in the material and installation, the Town could not accept the system. Mr. Miller stated that the Utility Department cannot certify a private sewer system. Mr. Lyons explained that each house will have three bedrooms and two bathrooms and will list around \$200,000 each. With no other public testimony, Mr. Furgiuele closed the public hearing at 9:36 p.m. Upon a motion by Council Member Aycock, seconded by Council Member Phillips, Council moved to approve the request for 540 gallons per day out of the 2009 allocation.

VOTE: Aye - 4 (Phillips, Aycock, Mason, Brantz)
 Nay - 1 (Pepin)

WATER & SEWER REQUEST - CATHY KOSTERMAN

Town Attorney Sam Furgiuele opened a public hearing at 9:37 p.m. to hear sworn testimony from Cathy Kosterman, Will Buckner, and Public Utilities Director Rick Miller on a request for water and sewer service for property located off Park Street. Cathy Kosterman, owner of the property, appeared before the Council to request allocation of water and sewer service to the property over a period of two years. She explained that water had already been granted to the property under the name of Adam Church of Infinity Builders. She noted that all approvals for the development of the property were granted in August 2008, but that the developer was waiting for funding approval of the project. Furthermore, she noted that the water allocation previously granted did expire last month. Ms. Kosterman informed the Council that Nautical Lane did receive a Special Use Permit for the development of the property. Will Buckner, a realtor representing Ms. Kosterman, stated that a Special Use Permit for the development of the property was granted in August 2008 and that the development must adhere to conditions of the Special Use Permit. Responding to a question from Council Member Brantz, Mr. Buckner stated that if granted water, Ms. Kosterman would like to have the property under contract for development as soon as possible. He stated that the Special Use Permit has a two-year vesting period. Mr. Buckner entered into evidence as **Exhibit A**, a map showing the location of existing water tanks in relation to the subject property (**Exhibit permanently on file at Town Hall**). Public Utilities Director Rick Miller reiterated that the water allocation in the amount of 24,750 gallons per day granted to Adam Upchurch did expire in February 2009. He noted that the requirements for extension into the secondary pressure zone include that the plans shall be designed and sealed by a professional engineer and be approved by officials from the NC DENR among other requirements. Mr. Miller stated that no availability fees have been paid. With no other public testimony, Mr. Furgiuele closed the public hearing at 9:55 p.m. Discussion ensued concerning the conflict of the development rights with the water rights. Mr. Furgiuele advised that if Council decides to grant the request, the property owner should produce a document certified from an attorney for unity of the development and water rights or a signed document from Nautical Land, recipient of the Special Use Permit, which relinquishes the development

rights to Cathy Kosterman. Upon a motion by Council Member Aycock, seconded by Council Member Brantz, Council moved to reopen the public hearing at 10:05 p.m.

VOTE: Aye - All
 Nay - None

Ms. Kosterman testified that she is not under contract with Nautical Land at this time. Mr. Furguele closed the public hearing at 10:13 p.m. Council Member Pepin stated that the property owner needs to provide verification that the development rights for the property are no longer with Nautical Land since there is no contract between Ms. Kosterman and Nautical Land. Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to table the case pending verification of the development rights of the property from Cathy Kosterman.

VOTE: Aye - All
 Nay - None

WATER & SEWER REQUEST - JOHN WINKLER

Town Attorney Sam Furguele opened a public hearing at 10:16 p.m. to hear sworn testimony from John Winkler and Roger Wright on a request for water allocation to property located at 644 Blowing Rock Road. Mr. Winkler explained that the location of the project is the old Lonestar Steakhouse restaurant and that he plans to construct a 12-unit apartment building at the location. He noted that his request is for 4,572 gallons per day from the 2009 allocation. Mr. Winkler stated that construction is planned as soon as the water request is granted and all permits are approved and that the projected completion date is August 2009. Council Member Aycock asked if Mr. Winkler has considered another type of retail use for the location. Mr. Winkler answered that few funding options are available for development of retail uses. He pointed out that the project will not be accessed from Highway 321 but from Faculty Street. Mr. Winkler entered into evidence a site plan of the project and an architectural rendering of the project **(Exhibits A and B, permanently on file at Town Hall)**. Roger Wright reiterated that access for the project will be on Faculty Street. With no other public testimony, Mr. Furguele closed the public hearing at 10:23 p.m. Upon a motion by Council Member Pepin, seconded by Council Member Phillips, Council moved to approve the request for 4,572 gallons per day from the 2009 allocation with the condition that the applicant is responsible for relocating a public sewer main that is on the property.

VOTE: Aye - 4 (Phillips, Mason, Pepin, Brantz)
 Nay - 1 (Aycock)

CLOSED SESSION

Upon a motion by Council Member Brantz, seconded by Council Member Phillips, Council moved to enter Closed Session at 10:24 p.m. pursuant to NCGS 143-318.11a(3)5) to hear the following items:

- Personnel.
- Legal Advice Regarding Relationship Between Boone Fire Department and Watauga Rescue Squad.

VOTE: Aye - All
 Nay - None

Upon a motion by Council Member Pepin, seconded by Council Member Mason, Council moved to exit Closed Session at 11:05 p.m.

VOTE: Aye - All
 Nay - None

ADJOURNMENT

Upon a motion by Council Member Pepin, seconded by Council Member Aycock, Council moved to adjourn at 11:06 p.m.

VOTE: Aye - All
 Nay - None

Deputy Town Clerk

Mayor