MINUTES – REGULAR MEETING
BOONE TOWN COUNCIL
MARCH 19, 2013

A regular meeting of the Boone Town Council was called to order at 6:30 p.m., Tuesday, March 19, 2013, in the Council Chambers, 1500 Blowing Rock Road. Mayor Loretta Clawson presided. Council members present were Mayor Pro-Tem Jamie Leigh, Lynne Mason, Rennie Brantz, Andy Ball, and Allan Scherlen. Town Attorney Sam Furgiuele was also present. Staff members present were Town Manager Greg Young, Town Clerk Kimberly Brown, Finance Director Amy Davis, Police Chief Dana Crawford, Fire Chief Jimmy Isaacs, Public Utilities Director Rick Miller, Public Works Superintendent Eric Gustaveson, Planning Director Bill Bailey, Human Resources Director Peri Moretz, Cultural Resources Director Pilar Fotta, and Planner Jane Shook.

ANNOUNCEMENTS

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

TENTATIVE AGENDA ADOPTION

Town Manager Greg Young stated that are no changes to the agenda. Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to adopt the agenda.

VOTE: Aye – All
Nay – None

CONSENT AGENDA ADOPTION

Minutes: February 4, 2013 – Quarterly Public Hearing.
February 19/21, 2013 – Regular Meeting.
February 28, 2013 – Special Meeting.

Approval & Sealing of 2012 Closed Session Minutes.

Ratification of Final Draft of Town Code Chapter 73: Towing. **(Permanently on file in the March 2013 Town Council meeting packet.)**

Confirmation of Special Meeting Date – April 22, 2013.

Approval of Encroachment Agreement – Blue Ridge National Heritage Area Marker. **(Permanently on file in the March 2013 Town Council meeting packet.)**

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

VOTE: Aye – All
Nay – None

PUBLIC COMMENT

David Single, on behalf of the Watauga County Farmers Market Board of Directors, appeared before Council to request permission to use the area formerly occupied by the front section of the

Powderhorn Theater and to install a fence along 60' of steep embankment. Additionally, he relayed a request to install a 20' bench in the "kid's area of the market."

SCHEDULING OF SPECIAL MEETING – TOWN HALL STYLE MEETING ON ETJ

Council Member Mason stated that she and Planning Director Bill Bailey recently attended the LAC Lobby Day and that ETJ issues was one of the items discussed with the legislators in attendance. Based on the fact that there still remain concerns about the ETJ, Council Member Mason suggested planning a town hall-style meeting with the following format:

- Presentation on the history of the ETJ in Watauga County.
- Purpose of the ETJ
- Time for comments and question/answer period.

Council Member Ball agreed that education on the issue is important but suggested that more information be gathered before having a town hall-style meeting. Brief discussion ensued regarding the possibility of sending a letter or a resolution regarding the Town's position on the ETJ. Upon a motion by Council Member Ball, seconded by Council Member Scherlen, Council moved to table the request for a town hall-style meeting on the ETJ and to consider other possible options.

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

HISTORIC PRESERVATION COMMISSION REQUEST – FUNDING FOR TEA AND OLD TIMES PROGRAM

Council Member Brantz explained the request from the Historic Preservation Commission for funding for the "Tea and Old Times" program in the amount of $350. Upon a motion by Council Member Brantz, seconded by Council Member Ball, Council moved to grant the request from the Historic Preservation Commission for $350 for the "Tea and Old Times" program.

VOTE: Aye – All
Nay – None

SAHA PRESENTATION – ADDITIONAL INFORMATION REGARDING UPCOMING SEASON

Eric Woolridge and Michelle Ligon appeared before the Council to present information regarding the upcoming season of Horn in the West. Ms. Ligon distributed a packet of information for the Council to view which included the FY2013 approved budget. **(Information packet permanently on file at Boone Town Hall.)** Mr. Woolridge and Ms. Ligon outlined several ways that SAHA is considering in order to reduce costs such as reducing the length of the season and decreasing the production costs. Council Member Leigh asked if the revenue covers the cost of production. Ms. Ligon answered that revenue from the parking lot lease pays fixed bills but that it does not cover the total cost of producing the outdoor drama. Steve Canipe addressed the council regarding the comparison of this production with other outdoor dramas. He indicated that no other outdoor dramas survive on ticket sales alone.

APPROVAL OF ASSIGNMENT OF LEASE AGREEMENT – DANIEL BOONE NATIVE GARDENS

Town Attorney Sam Furgiuele explained that the Daniel Boone Native Gardens is a separate 501(c)(3) from that of the Garden Club of North Carolina. He presented an Assignment and Amendment of Lease for the Council to consider. Upon a motion by Council Member Leigh,

seconded by Council Member Ball, Council moved to approve the Assignment and Amendment of Lease Agreement with the Daniel Boone Native Gardens:

STATE OF NORTH CAROLINA

COUNTY OF WATAUGA

ASSIGNMENT AND AMENDMENT OF LEASE

THIS ASSIGNMENT AND AMENDMENT OF LEASE AGREEMENT is made this the **19th** day of **March, 2013** , by and between the Town of Boone, a North Carolina Municipal Corporation, hereinafter referred to as ALessor@ and The Garden Club of North Carolina, Incorporated, a North Carolina non-profit corporation, hereinafter referred to as AAssignor,@ and Daniel Boone Native Gardens, Inc., a North Carolina non-profit corporation, hereinafter referred to as AAssignee,@ collectively referred to as the Aparties.@

WITNESSETH: By this assignment Assignor assigns all of its rights and responsibilities, created by that certain lease between Lessor and Assignor, recorded in Book of Records 1572, Page 449, in the office of the Watauga County Register of Deeds, to Assignee, retaining only reversionary rights in the event the Assignee ceases to exist or abandons the leasehold, in which case Assignor will resume and regain its rights as Lessee. Henceforth, absent such reversion, Assignee shall be considered the lessee on such property and shall have all rights and responsibilities set out therein.

This assignment has been expressly authorized by the Town Council of Boone at its meeting on the 19th day of March, 2013.

Paragraph 27 of said lease is amended to provide that hereafter, all notices, requests, demands, and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested; to the following addresses:

If to Lessor, to: Greg Young
Town Manager
Town of Boone
P.O. Drawer 192
Boone, NC 28607

If to Lessee, to: Daniel Boone Native Gardens, Inc.,
P.O. Box 1705
Boone, NC 27607

This assignment and amendment shall be effective the date last signed by the parties.

IN WITNESS WHEREOF, the Lessor and Lessee have executed this Lease Agreement in duplicate originals, and agree to all of the terms and conditions set forth above, the day and year first above written.

VOTE: Aye – All
Nay – None

CONSIDER REVISIONS TO OUTSIDE AGENCY HANDBOOK

Council Members Brantz and Leigh presented the proposed additions and revisions recommended by the Outside Agency Funding Committee regarding the Outside Agency Funding Handbook. **(Proposed changes permanently on file in the March 2013 meeting packet.)** Lengthy discussion ensued regarding the inclusion of non-501(c)(3) organizations in this process. Upon a motion by Council Member Scherlen, seconded by Council Member Brantz, Council moved to approve the proposed changes with the following addition to the last sentence in the third paragraph on page three of the handbook: "Town Council also approved the committee's recommendation that the non-profit organizations with a 501(c)(3) have priority over those without the 501c(3) in regards to funding ***due to their charitable status.***"

VOTE: Aye – All
Nay – None

APPROVAL OF CHANGE ORDER – DOWNTOWN POST OFFICE RENOVATION

Randy Jones, of David R. Jones Architect, explained the change order for the Downtown Post Office Renovation project in the amount of $4,614.45 which will be deducted from the $50,000 Contingency Allowance. He also noted that the contractor is requesting 21 additional days due to having to find another HVAC contractor to finish the project since the original HVAC company went out of business and an additional 7 days for the removal and replacement of subgrade soils. Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to approve the request for the change order. **(Copy of change order permanently on file at Boone Town Hall.)**

VOTE: Aye – All
Nay – None

Mr. Jones also presented a brief update on the status of the renovation project.

P & I MONTHLY REPORT

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

RESCHEDULING OF 3RD UDO WORKSHOP

Upon a motion by Council Member Ball, seconded by Council Member Scherlen, Council moved to reschedule the third UDO Workshop for Tuesday, May 7, 2013, from 5-8 p.m. in the Council Chambers, 1500 Blowing Rock Road.

VOTE: Aye – All
Nay – None

Mayor Clawson declared a break at 8:08 p.m. Council reconvened at 8:18 p.m.

CONSIDERATION OF REVISED DRAFT – DOWNTOWN MASTER TREE PLAN

Planner Jane Shook presented a revised draft of the Downtown Master Tree Plan. **(Copy of revised draft of the Downtown Master Tree Plan is permanently on file at Boone Town Hall.)** Upon a motion by Council Member Leigh, seconded by Council Member Brantz, Council moved to delay adoption of the Downtown Master Tree Plan, in its entirety, but to approve the level one priorities with the addition of seven new tree pits with thorn-less honey locust trees on King Street.

VOTE: Aye – All
Nay – None

HOWARD STREET UPDATE

Cultural Resources Director Pilar Fotta presented a brief update on the Howard Street project. She stated that she is in the process of gathering budget information from contractors and anticipated costs for materials for the project. She stated that she will keep the Council updated once she has a rough cost estimate. Council Member Mason suggested that an updated traffic

study should be completed before the Council approves the final plans for the project. It was the consensus of Council to discuss this issue further at the April regular meeting.

CONSIDERATION OF WAIVER OF COMPETITIVE BIDDING – PURCHASE OF 1500 GPM 4x4 PUMPER FROM FERRARA FIRE APPATAUS

Upon a motion by Council Member Ball, seconded by Council Member Scherlen, Council moved to approve a waiver of bidding requirements in order to utilize terms and pricing of a contract between Ferrara Fire Apparatus and the Florida Sheriffs Association for the purchase of a 1500 GPM Pumper:

STATE OF NORTH CAROLINA

COUNTY OF WATAUGA

CONTRACT

THIS CONTRACT, made and entered into this 20th day of March, 2013, by and between the TOWN OF BOONE, NORTH CAROLINA (hereinafter referred to as "BOONE") AND FERRARA FIRE APPARATUS, Incorporated, (hereinafter referred to as "FERRARA"), collectively referred to as "the parties."

WITNESSETH:

WHEREAS, BOONE currently has a contract with FERRARA; and

WHEREAS, BOONE is in need of an 1500 GPM 4x4 Pumper and is authorized under state law to contract with a current vendor for the production of same; and

WHEREAS, FERRARA has submitted a proposal to BOONE; and

WHEREAS, FERRARA has agreed to construct and sell, and BOONE has agreed to buy one 1500 GPM 4x4 Pumper.

NOW, THEREFORE, in consideration of the mutual premises contained herein, as well as other good and valuable consideration flowing between the parties, it is mutually agreed as follows:

1. FERRARA shall deliver to BOONE one 1500 GPM 4x4 Pumper constructed in Accordance with the Specifications attached hereto as Exhibit 1 pp 1-118 (hereinafter referred to as "the 1500 GPM 4x4 Pumper.")

2. The terms and specifications attached hereto as Exhibit 1, are incorporated herein by reference. In the event any conflict exists between this contract and any provisions of said attachment, this contract shall supercede the conflicting term of the attachments.

3. Boone shall pay FERRARA the sum of $352,354.00 for said 1500 GPM 4x4 Pumper. This payment shall be made within 10 days after FERRARA delivers and BOONE accepts the 1500 GPM 4x4 Pumper.

4. FERRARA covenants and agrees that at the time of delivery of the Aerial Platform truck

unless noted otherwise, FERRARA is the lawful owner of said truck; that it is free from all liens and encumbrances; that FERRARA has the right to sell the above-described property; and that FERRARA will indemnify BOONE from all damages arising from claims by third parties to

ownership of any of said property, and will warrant and defend these covenants against the lawful claims and demands of all parties.

5. FERRARA shall deliver the completed 1500 GPM 4x4 Pumper with such documentation as necessary to obtain title.

6. FERRARA shall deliver the completed 1500 GPM 4x4 Pumper to BOONE in Boone, North Carolina within 210 days after award of contract. Time is of the essence. Award of contract occurs when the contract is approved by the Boone Town Council and a signed contract is delivered to FERRARA. FERRARA shall return signed contract to BOONE within 10 working days from receipt of signed contract from BOONE. Its failure to timely return a fully executed contract within said time period shall be considered its rejection of the contract and BOONE shall thereafter, without penalty be entitled to contract with any other party.

7. BOONE and FERRARA acknowledge that Boone will incur damages if FERRARA fails to deliver the 1500 GPM 4x4 Pumper within the time specified. The parties further acknowledge that the damages which might be reasonably anticipated are difficult to ascertain due to their indefiniteness or uncertainty. Consequently, the parties agree that FERRARA shall pay Boone LIQUIDATED DAMAGES in the amount of $352.35 per day for each calendar day, in whole or part, if FERRARA fails to deliver the 1500 GPM 4x4 Pumper within the specified time.

8. This Contract shall be governed by the laws of the State of North Carolina. Venue for any dispute shall be in Watauga County, North Carolina.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be signed their corporate names by their duly authorized officers and their seal to hereunto affixed, the day and year first written above.

VOTE: Aye – All
Nay – None

TRANSPORATION COMMITTEE RECOMMENDATION – NEW TRAFFIC STUDY AT CORNER OF COLLEGE STREET AND KING STREET

Planning Director Bill Bailey presented a recommendation from the Transportation Committee to approach the NC DOT with new traffic count data collected at the intersection of College Street and West King Street to encourage the NC DOT to perform a new traffic study to determine the need for a left-turn lane on West King Street. Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to approve the recommendation by the Transportation Committee.

VOTE Aye – All
Nay – None

APPROVAL OF CHANGE ORDER #2 – PRIDE DRIVE SEWER PROJECT

Public Utilities Director Rick Miller presented a change order for the Pride Drive Sewer Replacement project to modify the contract with McGill Associates for a reduction of $44,050 thereby bringing the project total to $245,215.50. Additionally, he explained that the change order is also needed to reimburse the contractor $1,035 for the new signal loop work in the left turn lane of Boone Heights Drive. Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to approve the request for change order # 2 for the Pride Drive Sewer Replacement project.

VOTE: Aye – All
Nay – None

MONTHLY WATER USE STATUS REPORT

Public Utilities Director Rick Miller presented the monthly water status report. **(Copy of report permanently on file in the March 2013 Town Council packet.)**

APPROVAL OF BUDGET AMENDMENTS

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

Description	Account#	To:	From:
AMERICAN LEGION-RENT	010-400-000-545007	$15,600	
APPROPRIATED FUND BALANCE-GENERAL FUND	010-000-000-499900		($15,600)
NCLM-MEMBERSHIP FEE	010-413-000-549213	$2,016	
APPROPRIATED FUND BALANCE	010-000-000-499900		($2,016)
SPECIAL PROJECTS-CULTURAL RESOURCES	010-418-000-549121	$33,234	
MISCELLANEOUS REVENUE	010-000-000-489900		($5,790)
CONTRIBUTIONS/DONATIONS	010-000-000-482200		($10,444)
SALARIES-CULTURAL RESOURCES	010-418-000-501101		($12,000)
PART-TIME SALARIES-CULTURAL RESOURCES	010-418-000-501301		($2,500)
FICA-CULTURAL RESOURCES	010-418-000-508211		($1,100)
RETIREMENT-CULTURAL RESOURCES	010-418-000-508211		($800)
401k-CULTURAL RESOURCES	010-418—000-508222		($600)
TRANSFER TO LAW ENFORCEMENT TRUST (SEPARATION ALLOW)	010-500-300-598042	$2,588	
APPROPRIATED FUND BALANCE-GENERAL FUND	010-000-000-499900		($2,588)
C/O LARGE TRUCKS FIRE DEPARTMENT	010-500-350-573300	$150,000	
CONTRIB./DONATIONS-ASU	010-000-000-482200		($150,000)
C/O LARGE TRUCKS FIRE DEPT	010-500-350-573300	$126,570	
TRANSFER FROM FIRE DEPT CAPITAL RESERVE	010-000-000-498016		($126,570)
C/O LARGE TRUCKS FIRE DEPT	010-500-350-573300	$100,000	
TRANSFER FROM RURAL FIRE	010-000-000-498051		($100,000)
TRANFER TO GENERAL FUND	051-451-000-598010	$100,000	
APPROPRIATED FUND BALANCE-RURAL FIRE	051-451-000-499900		($100,000)
SNOW&ICE REMOVAL SUPPLIES-STREET DEPT	010-600-401-514304	$90,070	
APPROPRIATED FUND BALANCE-GENERAL FUND	010-000-000-499900		($90,070)
MISC SUPPLIES-WORKSTATIONS FOR E911	011-500-304-519900	$7,500	
C/O SOFTWARES E911	011-500-000-499900		($7,500)
CONTRACTED SERVICES-PUBLIC UTILITIES	030-700-801-577000	$200,000	

TRANSFER FROM W/S INFRASTRUCTURE RESERVE	030-000-000-498033		($200,000)
C/O LARGE TRUCKS RURAL FIRE DISTRICT	051-451-000-573300	$352,354	
TRANSFER FROM RURAL FIRE CAPITAL RESERVE FUND	051-451-000-498052		($352,354)
WIDE AREA NETWORK-SPECIAL PROJECTS	010-411-000-549111	$8,500	
APPROPRIATED FUND BALANCE-GENERAL FUND	010-000-000-499900		($8,500)

VOTE: Aye – All
Nay – None

RECESS MEETING

Upon a motion by Council Member Mason, seconded by Council Member Ball, Council moved to recess the meeting at 9:15 p.m. until Thursday, March 21, 2013, at 6:30 p.m. in the Council Chambers, 1500 Blowing Rock Road.

VOTE: Aye – All
Nay – None

CALL TO RECONVENE

A recessed meeting of the Boone Town Council was called to order at 6:30 p.m., Thursday, March 21, 2013, in the Council Chambers, 1500 Blowing Rock Road. Mayor Loretta Clawson presided. Council members present were Mayor Pro-Tem Jamie Leigh, Lynne Mason, Allan Scherlen, Rennie Brantz and Andy Ball. Town Attorney Sam Furgiuele was also present. Staff members present were Town Manager Greg Young, Town Clerk Kimberly Brown, Finance Director Amy Davis, Police Chief Dana Crawford, Fire Chief Jimmy Isaacs, Public Utilities Director Rick Miller, Public Works Facilities Maintenance Superintendent Eric Gustaveson, Planning Director Bill Bailey, and Cultural Resources Director Pilar Fotta.

ANNOUNCEMENTS

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

TENTATIVE AGENDA ADOPTION

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

A. Addition of Item 14.F. – Legal Advice – To consult with the Town Attorney in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged, to consider and give instructions concerning the handling or settlement of a threatened judicial and administrative actions by the Watauga County Commission Chairman against the Town.

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

VOTE: Aye – All
Nay – None

PUBLIC COMMENT

There was no one signed up to speak.

BOARD APPOINTMENTS

Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to table all board appointments until the April regular meeting.

VOTE: Aye – All
Nay – None

REQUESTED APPEARANCE – DR. MATT ROBINSON

Dr. Matt Robinson appeared before the Council to present a resolution to abolish capital punishment in North Carolina for Council's consideration. Upon a motion by Council Member Ball, seconded by Council Member Brantz, Council moved to adopt the following resolution:

Resolution Calling for Abolition of Capital Punishment and Commutation of Death Sentences in North Carolina

WHEREAS, evidence from deliberate and credible studies in the state of North Carolina shows that the death penalty in the state is three times more likely to be used against killers of whites than killers of other races; and

WHEREAS, these studies also show that death sentences in the state have been applied to at least seven innocent people; and

WHEREAS, these studies also show that capital murder cases financially cost three to five times more than similar non-capital cases; and

WHEREAS, these studies also show that the death penalty is not a greater deterrent to murder than other severe criminal sanctions; and

WHEREAS, death sentences are already extraordinarily rare when compared to the number of murders in the state every year; and

WHEREAS, because of disputes over the proper role of doctors in the execution process and lawsuits filed over the lethal injection process, the state has not carried out an execution since 2006; and

WHEREAS, the murder rate in the state in 2010 was nevertheless the lowest in the state's recorded history; and

WHEREAS, not a single death sentence was handed down in the state in 2012.

NOW, THEREFORE, BE IT RESOLVED that the Boone Town Council calls on the North Carolina General Assembly and the Governor to enact legislation to repeal the death penalty in all state jurisdictions and to commute all death sentences currently in effect to sentences of life imprisonment without the possibility of parole.

BE IT FURTHER RESOLVED that a copy of this resolution shall be forwarded to the Governor of North Carolina and to appropriate members of the General Assembly (e.g., the Judiciary Committees of the House and Senate).

_____
Loretta Clawson, Mayor

Attest:

_____
Kimberly S. Brown, Town Clerk

(RESOLUTION TO BE TYPED IN BOOK _3_, PAGE(S)_193_)

VOTE: Aye – All
Nay – None

REQUESTED APPEARANCE – SHELLY WILSON

Shelly Wilson, of the High Country United Church, appeared before Council along with Kath Hopkins and Melody Childress to request that the members observe earth hours as town body and as individuals. The ladies asked the Council to sign earth hour pledge online on behalf of the town of Boone and to turn off non-essential lights for one hour. Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to sign the online pledge, to participate in the earth hour pledge, and to encourage citizens to participate.

VOTE: Aye – All
Nay – None

REQUESTED APPEARANCE – PHIL TREW

Phil Trew, of the High Country Council of Governments, appeared before Council to request a special meeting in order to introduce and explain the Watauga County Comprehensive Transportation Plan. He stated the representatives from the NC DOT will be in attendance at the special meeting. Upon a motion by Council Member Mason, seconded by Council Member Ball, Council moved to schedule a special meeting on April 18, 2013 at 5:30 p.m. in the Council Chambers in order to discuss the Watauga County Comprehensive Transportation Plan.

VOTE: Aye – All
Nay - None

REQUESTED APPEARANCE – ANN TATE AND JENNI GALLIMORE

Ann Tate and Jenni Gallimore appeared before the Council to request approval of the App State Color Run special event permit. Additionally, the applicants requested a fee waiver for the event since the color powder used during the event is very expensive. Upon a motion by Council Member Mason, seconded by Council Member Leigh, Council moved to approve the App State Color Run special event permit scheduled for Saturday, April 27, 2013 from 1 p.m. until 5 p.m. and to waive the event fee of $1,500.

VOTE: Aye – All
Nay – None

REQUESTED APPEARANCE – JOLYNN MAHONEY

JoLynn Mahoney appeared before the Council to request approval of the Cyclo.Via special event permit and a waiver of the $1,500 event fee. Upon a motion by Council Member Leigh, seconded by Council Member Ball, Council moved to approve the Cyclo.Via special event permit scheduled for Sunday, August 4, 2013, from 11 a.m. until 5 p.m. and to waive the event fee of $1,500.

VOTE: Aye – All
Nay – None

REQUESTED APPEARANCE – MAUREEN JACKSON

Maureen Jackson appeared before the Council to provide additional information about the Howard Street Exchange Pedestrian Fair, including two guest speakers, 16 confirmed vendors, and a map approved by the Boone Fire Department. She stated that she has spoken to merchants along King and Howard Street informing them of the event and that several merchants will be participating in the event. Ms. Jackson stated that there will be one port-a-john at the event. She requested that the remainder of the event fee be waived. Upon a motion by Council Member Brantz, seconded by Council Member Ball, Council moved to approve the Howard Street Exchange on Sunday, April 7, 2013, from 11 a.m. to 5 p.m., to waive the remaining $1,000 event fee, and with the requirement that at least two port-a-johns be secured for the event.

VOTE: Aye – All
Nay – None

CLOSED SESSION

Upon a motion by Council Member Brantz, seconded by Council Member Ball, Council moved to enter Closed Session at 7:15 p.m. pursuant to NCGS 143-318-11a(3)(5) to hear the following items:

- Property Acquisition and Legal Advice – To consult with the Town Attorney in order to preserve the attorney/client privilege between the attorney and the Town Council and to instruct Town staff and the Town Attorney concerning the positions to be taken by or on behalf of the Town in negotiating the price and other material terms of proposed contracts for the acquisition of easements in real property related to the proposed raw water intake, and to consult with an attorney employed or retained by the public body, which privilege is hereby acknowledged, to consider and give instructions to the attorney concerning the handling or settlement of a judicial action.
- Legal Advice – To consult with the Town Attorney in order to preserve the attorney/client privilege between the attorney and the Town Council to consider and give instruction concerning the handling of a claim regarding the Watauga Arts Council.
- Legal Advice – To consult with the Town Attorney in order to preserve the attorney/client privilege between the attorney and the Town Council and to consider and give instructions to the Town Attorney, Town staff or negotiating agents concerning the position to be taken by or on behalf of the Town in negotiating the material terms of a contract or proposed contract for the lease of Horn in the West.
- Legal Advice – To consult with the Town Attorney in order to preserve the attorney/client privilege between the attorney and the Town Council and to consider and give instructions to the Town Attorney concerning the handling or settlement of a claim regarding the Highway 421 and Downtown lighting projects.
- Legal Advice – To consult with the Town Attorney in order to preserve the attorney/client privilege between the attorney and the Town Council and consider and give instructions to Town Attorney concerning the handling or settlement of a claim regarding the Wilson Drive project.
- Legal Advice – To consult with the Town Attorney in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged, to consider and give instructions concerning the handling or settlement of

threatened judicial and administrative actions by the Watauga County Commission Chairman against the Town.

VOTE: Aye – All
Nay – None

Upon a motion by Council Member Ball, seconded by Council Member Brantz, Council moved to exit Closed Session at 11:23 p.m.

VOTE: Aye – All
Nay – None

POSSIBLE ACTION FOLLOWING CLOSED SESSION

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to approve the recommendations from the engineer, Vaughn & Melton, on liquidated damages and anticipated liquidated damages on the Wilson Drive project. **(Copy of listed recommendations permanently on file at Boone Town Hall.)**

VOTE: Aye – All
Nay – None

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to extend the completion date for the lighting contracts for the Downtown Lighting project and the Highway 421 Lighting project to January 31, 2013.

VOTE: Aye – All
Nay - None

ADJOURNMENT

Upon a motion by Council Member Scherlen, seconded by Council Member Mason, Council moved to adjourn at 11:25 p.m.

VOTE: Aye – All
Nay – None

Kimberly S. Brown, Town Clerk

Loretta Clawson, Mayor