

**MINUTES – REGULAR MEETING
BOONE TOWN COUNCIL
MARCH 19, 2015**

A regular meeting of the Boone Town Council was called to order at 5:39 p.m., Thursday, March 19, 2015, in the Council Chambers, 1500 Blowing Rock Road. Mayor Andy Ball presided. Council members present were Lynne Mason, Fred Hay, Quint David and Jennifer Peña (arrived at 5:43 p.m.). Town Attorney Allison Meade was also present. Staff members present were Town Manager John Ward, Town Clerk Christine Pope, Assistant to the Manager Jim Byrne, Police Chief Dana Crawford, Fire Chief Jimmy Isaacs, Finance Director Amy Davis, Planning Director Bill Bailey, Public Works Director Rick Miller and Cultural Resources Director Pilar Fotta.

CALL TO ORDER

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

Police Chief Dana Crawford presented awards to Master Police Officer Joe Knapp for Boone Police Department 2014 Officer of the Year and Administrative Support Specialist April Gunter for Boone Police Department 2014 Employee of the Year. Mayor Ball thanked Officer Knapp and Ms. Gunter for their hard work and dedication to the Town.

TENTATIVE AGENDA ADOPTION

Town Manager John Ward advised of two changes to the agenda:

1. Addition of Item 7.I. – Request for direction from Council regarding the possible renewal of the contract with Republic Services d/b/a GDS.
2. Continuation of Items 8.A, B and C until April Meeting – Request for Sewer Services from Boone Development.

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

VOTE: Aye – All
 Nay – None

PUBLIC COMMENT

Mike McKee, a professor in economics for Appalachian State University, advocated for an increased decibel level for noise, stating that having officers respond to fruitless claims was misuse of town resources. He stated one remedy is to raise the decibel level to where it is very clear there is excess noise.

Nicole Kinnamon, co-owner of Speakeasy Tattoo Company, stated a third of their clients talk about going off the mountain to see shows where they're spending their money. She stated they'd like to keep music on the mountain and the Town will succeed from that business.

David Brewer, 686 Church Road, advocated for a higher noise limit, stating it is a waste of the police officers' time and Council's time rehashing the same issues, and supported live music. He felt it was important that the law governing these types of things is reasonable, adding that music venues are not abusing the privileges and have gone to a great expense to present music in an enjoyable way that is not destructive to others.

Megan Carmody, owner of Blackcat Burrito, stated they offer live music, and with a vibrant community the Town needs to do everything in their power to encourage that community. She stated they will lose money without live music in Boone on the weekends.

Michael Hamilton, of Boone Beats Entertainment, gave examples of different sound pressure levels and decibel levels. He stated his decibel level reader matches the Town's readers and it reached 90 decibels at the peak of people talking prior to the start of the Council meeting.

Seth Sullivan, front house manager for Boone Saloon, stated they have had to back off music bookings and pass on bands and business because they cannot bring bands in on Thursday and guarantee they won't get a fine.

Deborah Greene stated she read the minutes of the Feb. 4 Water Use Committee, and realized that the New River Advocates has exposed some of the issues with regard to the proposed intake. She stated she doesn't believe the Town can accomplish anything by stopping the Water Use Committee from talking about the intake. She said the committee simply wants to know the progress and when it will be completed, and felt that they can't do their job in making recommendations to the Town Council for future water allocations if they can't talk about future water supply.

Kevin McNamara, a resident of Boone, voiced his support for raising the decibel limit in the noise ordinance. He said if they can't have bands at Boone Saloon and other places, business will be taken elsewhere, including him and his friends who visit.

MONICA CARUSO – REQUESTED APPEARANCE

Monica Caruso, the county librarian, presented Council with the Watauga County Library's annual report for fiscal year 2013/2014 as well as information on upcoming programs available.

CONSENT AGENDA ADOPTION

- A. Minutes: Feb. 2, 2015 – Quarterly Public Hearing.
Feb. 4, 2015 – Special Meeting/Water Use Committee.
Feb. 6, 2015 – Special Meeting/Annual Retreat.
Feb. 13&23, 2015 – Special Meeting/Annual Retreat.
Feb. 23, 2015 – Regular Meeting.
- B. Rescheduling of July Meeting Date for July 23, 2015.
- C. Disclosure of Settlement between the Town's Insurance Company and Estate of Reinalda Roa-Gomez.
- D. Approval of Permanent Utility Easement with Phillips Group Properties Limited Partnership (**Easement permanently on file in Town Hall**).
- E. Approval of Amendments to Ordinance 11-01:

ORDINANCE

(FORMERLY ORDINANCES 11-01 AND 05-01)
(With amendments through March 25, 2015)

1. Term and Applicability of Ordinance:

- a. This ordinance shall control the approval of new water or sewer connections to the extent specified herein during the period beginning the date adopted through December 31, 2018 or such other end date as the Town Council may by majority vote designate. To the extent its provisions create any conflict with the Town of Boone Water and Sewer Use Code, this ordinance shall supercede and control. To the extent the provisions of this ordinance do not conflict with or otherwise supercede the Town of Boone Water and Sewer Use Code, that Code remains in full force and effect.

2. Amount of Water which may be Allocated:

- a. **Annual Amount Which May Be Allocated.** The amount of water available for allocation and attributable to any designated calendar year during the remaining term of this ordinance shall be 150,000 gallons per day hereafter referred to as "the water census." The Town shall always reserve at least 10,000 gallons per day from its available water supply for possible allocations to existing vacant lots within the corporate limits of the Town.
- b. **Determination of the Amount of Water to be Allocated and Deducted if a Request is Granted.** The water usage predicted for each application and thus

deducted from the available water from the year(s) to which it is attributed shall be determined by multiplying the usage predicted by the North Carolina Discharge Rate (NCDRS) Schedule by .60, even in cases where an applicant asserts that actual use will be less than the predicted use.

I. Deductions for Subdivision Approvals. When an application for water service to either a proposed minor or major residential subdivision is approved, the Director of Public Utilities (“the Director”) shall subtract an amount of water from the available water census which reflects the projected amount of water when all residences in the proposed subdivision are fully constructed and occupied.

c. Designation of Year from Which Allocation Is Made.

I. An approval of water service by the Director shall always be attributed to the calendar year in which it is approved.

II. An approval of water service by the Town Council shall ordinarily be attributed to the calendar year in which it is approved; however, the Town Council may designate that a particular approval of water service shall be attributed to the available allocation from another year within the term of this resolution or may apportion the allocation over two or more years.

d. Water Remaining at End of Year. Any unused allocation from a prior calendar year may be made available in any subsequent calendar year(s).

e. Water Shortage Declarations. When either a Stage II or Stage III water shortage is declared pursuant to Article VII of the Town of Boone Water and Sewer Code or imposed on the Town by the State of North Carolina, the Town Council may suspend its consideration and approval of any new water applications for the duration of the water shortage, and it may direct the Public Utilities Department (hereafter, “the Department”) to suspend its consideration or approval of any new water applications until further action by the Town Council.

f. Adjustment of Water Census. Each year while this ordinance is in effect the Town shall review actual water usage records to determine whether changes should be made to the allocation allotments for subsequent years either because more water is being used than was predicted or less water is being used. At any time the Town Council may increase or decrease any yearly allocation amount based on actual usage information concerning remaining capacity.

3. Who May Allocate Water:

a. Allocations by Director. Until the Town has allocated two-thirds of the full water allotment for the year during which the request is made, the Director may approve

new applications for water serving property within the corporate limits of the Town (“the Town limits”) when the predicted water usage is ten thousand (10,000) gallons per day or less. In addition, the Director may approve new applications for water service in the ETJ of the Town in which the predicted water usage is five hundred (500) gallon per day or less. Once more than two-thirds of the full water allotment for the year has been approved, the Director may only approve new applications for water serving property within the Town limits when the predicted water usage is no more than five hundred (500) gallons per day.

b. Allocations by Town Council. Except those allocations which may be approved by the Director, every other request for a new allocation of water serving property within the Town limits or within the Town’s planning extra-territorial jurisdiction (“ETJ”) must be approved upon action, by majority vote, of the Boone Town Council acting in its *quasi* judicial capacity. Any request for a new water allocation serving property outside the Town limits and ETJ of the Town, without regard to the amount of the request, must be approved by a two-thirds super-majority of the Town Council members present and not excused from the vote.

4. Requests for Service in the Town’s Secondary Pressure Zone. In general, the Town’s “secondary pressure zone” includes all areas at an altitude above 3,400 feet above sea level but below 3,620 feet above sea level. Requests for extensions and connections into the Town’s secondary pressure zone may only be approved if the following additional criteria are satisfied. For purposes of this paragraph, an “extension” refers to the continuation of a water main beyond its currently existing limits while a “connection” is defined as the linking of pipes serving a single customer to an existing water main.

a. Requests for Extensions into the Secondary Pressure Zone. No service extensions into the secondary pressure zone shall be considered for approval unless:

1. The property for which service is requested was located inside the Boone Town limits on or before March 8, 2007; and

II. The applicant agrees to adhere to Town of Boone secondary pressure zone specifications, and among other things, agrees at its expense to:

A. Use minimum eight-inch minimum pipe diameter;

B. Provides all needed booster pumping station(s) of EFI design with fire pumping capabilities;

C. Provides a minimum 100,000 gallon welded joint steel storage tank;

D. Installs pressure protection for each individual water service;
and

E. Install Dataflow Systems radio telemetry compatible with existing Town of Boone system is provided; and

III. All portions of a proposed extension are below 3,620 feet in elevation.

b. **Request for Connections into the Secondary Pressure Zone.** A connection to an existing water main in a secondary pressure zone may be approved by the Town Council in cases in which such connection:

I. Creates no negative impact on the Town's distribution system;

II. Allows adequate pressure to be maintained as may be necessary to comply with the requirements of the Boone Fire Department and applicable fire codes;

III. Results in no additional costs to the Town; and

IV. Otherwise complies with the requirements of the Town of Boone Water and Sewer Code for connection to the Town's water system.

5. **What information Must be Provided by an Applicant for Water or Sewer Service.** At the time of application, an applicant for water service shall designate and describe the following and provide all required assurances. The refusal of an applicant to provide such information, or, for applicants for service outside the corporate boundaries of the Town, the stated unwillingness to petition for annexation or comply with the Town's Unified Development Ordinance shall be grounds for the Director to deny the application without further consideration. There shall be no appeal of the Director's denial of an application. An applicant must provide the following information and assurances, as applicable:

a. The name and address of the applicant;

b. The specific location of the property to be served so that it may be determined whether it is in the Town limits or ETJ, whether any portion of it is within the secondary pressure zone, and the relative location of available water and sewer connections;

c. The name and address of the owner of the property if the applicant is not the owner of the property;

d. If the applicant is not the owner of the property, a description of the legal rights of the applicant to apply for and obtain service and proof of those rights, as requested by the Director;

- e. If water rights have previously been approved for a property and are currently vested, a written relinquishment of previously granted water rights signed by the owner or other person with legal authority to do so.
- f. A site specific development plan for the property for which service is requested in sufficient detail to enable the Town to assess the factors which may be considered under this ordinance; and
- g. Any technical information needed by the Director to determine compliance with this ordinance or the Water and Sewer Use Code.
- h. If the application is for property located outside the corporate limits of the Town, a statement that if approved, the applicant will petition for voluntary annexation if requested to do so as a condition of approval, and in cases in which new construction or development is anticipated, the applicant will construct any such structures or develop the property in accordance with the requirements of the Town's Unified Development Ordinance if required to do so as a condition of approval.

6. Town Council Priorities in the Allocation of Water.

- a. **Requests Considered on a First-Come, First-Served Basis.** The Town Council shall ordinarily consider water service to future customers within the Town limits on a "first-come, first-served," basis. Hearings on requests shall be conducted by the Town Council in the order in which completed applications have been received by the Department, unless a case has been tabled to a later date for consideration either at the request of the applicant or by action of the Town Council.
- b. **Requests for Service in Town Preferred over Other Requests.** Requests for water service serving properties within the Town limits shall be preferred over other requests. Ordinarily, only requests for service connections to property which is in the Town limits will be granted. However, the Town Council may authorize a connection or extension outside the Town limits when a "[connection](#) hardship ~~connection~~," as that term is defined in Code of Boone §50.003 exists and the requirements of Code of Boone §50.004 are met.
- c. **Smaller Requests are Preferred over Larger Requests.** Ordinarily, the Town Council shall prefer small requests over large requests for water, and a request may be denied based on the determination by the Town Council that a particular request, if approved, would too greatly reduce the remaining water to be allocated.
- d. **Compliance by Applicant with Other Conditions Required by this Ordinance and the Water and Sewer Use Code.** The Town Council may also deny a request because an applicant has not complied with any other requirement of this ordinance or the Water and Sewer Use Code.

(1) **Additional Factors Which the Town Council May Consider When Deciding Whether to Grant a Request for Water.** In addition to the priorities and considerations described in **the foregoing** paragraphs, the Town Council can consider the following in deciding whether to grant or deny a request for water or sewer service:

- a. Any factor which may make the predicted actual use different from the NCDRS predicted use;
- b. The amount of water usage in gallons per day previously approved during the calendar year and the amount still left to be allocated for the year;
- c. Whether in its opinion the application is for a land use which is consistent with the Town's adopted policies concerning growth and development; and
- d. Such other factors as may be identified by the Town Council in its deliberations, which either suggest that a particular application promotes or undermines the public health or safety, or the general welfare of the Town.

8. **Conditions.** The Town Council may place conditions upon a successful application for water or sewer service. Without limitation and by way of example only, the Town Council may require:

- a. That an applicant whose property is partly or wholly outside the Town limits petition the Town for annexation in accordance with the requirements of North Carolina General Statutes and the Town of Boone's ordinances before service is provided.
- b. That an applicant whose property is partly or wholly outside the Town limits comply with designated development policies of the Town in order to receive and continue to receive service.
- c. That an applicant granted the right to connect to the sanitary sewer system agree to connect into the Town's water system should the Town later request that such a connection be made, and that the applicant sign a statement of commitment to that effect which will remain on file with the Town's Public Utilities Department.

9. **Vesting of Water Rights.**

- a. **Rights Vest to Property, Not Applicant.** Any vesting of water rights which is obtained through a successful application during the term of this ordinance vests to the property itself for the specific project rather than to the applicant personally. Therefore, any change in ownership or change in legal rights subsequent to approval shall not affect the vesting of the water rights, the time periods described herein, or the payment or retention of required fees.

- b. **Rights not Transferrable.** Water rights may not be transferred from the property designated in the application to a different piece of property, even for the same or a similar site specific development plan.
- c. **Vesting Does Not Occur until Required Fees Are Paid.** No vesting of water or sewer rights occurs until the fees required by this ordinance are paid.
- d. **Initial Payment of Fees.** Within thirty days of the time an application is approved and at the applicant's option, the applicant must pay either ten percent (10%) or twenty percent (20%) of the availability fee for the approved site specific development plan, as further explained hereunder. Such fee is non-refundable, but will be credited against the availability fee charged at the time of the actual connection to the Town's system if the site specific plan is constructed as proposed.
 - I. **Fees are Non-Transferrable to Another Property.** A fee paid pursuant to this paragraph may not be transferred from one property to another property.
 - II. **Fees May not be Transferred to Another Project on the Same Property.** A fee paid pursuant to this paragraph may not be transferred from one site specific development plan to another, even if both are on the same property, if the subsequent plan represents a substantial change, as defined in paragraph 11, below, from the plan which has been approved.
- e. **Initial Vesting Period.** If an applicant pays ten percent (10%) of the availability fee for the approved site specific development plan, the applicant shall be entitled to a one year initial vesting period; if an applicant pays twenty percent (20%), the applicant shall be entitled to a two year initial vesting period, dated from the date of approval by the Town Council or Director of the application.
- f. **Temporary Extension of Vesting Period.** An applicant who initially pays ten percent (10%) of the full availability fee and obtains a one year initial vesting period may extend the initial vesting period for a second year upon payment of an additional ten percent (10%) of the full availability fee ("the extension payment") so long as the extension payment is made in its entirety and received by the Town prior to the lapse of the initial vesting period. When such payment is fully and timely made, the initial vesting period will be recalculated from the original one year period to a two year period, but will continue to be considered for purposes of this ordinance as the "initial vesting period."
- g. **Lapse of Vesting after Initial Vesting Period.** Unless extended by the payment of full availability fees, any applicant granted the right to connect to the Town's water distribution system must obtain all needed development permits within the initial vesting period or said approval will expire and the allocated water usage shall return into the water census for redistribution. For purposes of this section the term "development permits" shall mean the following:

- I. In the case of applicants for water service for a minor subdivision, the minor subdivision plat approval and recording of the approved plat with the Watauga County Register of Deeds, and any associated zoning and grading compliance certificates;
 - II. In the case of applicants for water service for a major subdivision, a special use permit, and associated zoning and grading compliance certificates;
 - III. In the case of a commercial development project, all permits required for the physical development of the land, plus those permits necessary for the building. These may include some or all of the following: a special use permit, a zoning permit and a building permit.
- h. Extension of Period of Vesting upon Payment of Full Availability Fees.** Upon payment made prior to the expiration of the initial vesting period of the full remainder of the availability fee predicted for the site specific development plan for which approval has been granted, the approval of a water application will be extended for an additional period matching the vesting period of approved development permits for the site specific development plan, but not less than one additional year from the expiration of the initial vesting period. Any additional vesting of development permits which is obtained during the additional vesting period shall automatically extend the water rights to match that vesting period.
- I. **Availability Fee Payment Non-Refundable.** The funds paid pursuant to this section are non-refundable, but will be credited against the availability fee charged at the time of the actual connection to the Town's system if the site specific plan is constructed as proposed.
 - II. **Availability Fee Payment Non-Transferrable.** The funds paid pursuant to this section are non-transferrable, as described. Such funds may not be transferred as a credit from one property to another property, and they may not be transferred from one site specific development plan to another, even if both are on the same property, if the subsequent plan represents a substantial change, as defined in paragraph 11, below, from the approved plan.
 - III. **Adjustment in Availability Fee at Time of Connection.** If the required availability fee at the time of the connection to the Town's system is more than the amount which has been previously paid, the remainder of the then current availability fee must be paid before a connection will be allowed. If the required current availability fee at the time of the connection to the Town's system is less than the amount which has been previously paid, no refund shall be due.

- i. **Expiration of Vesting.** Without regard to the payment of fees and term of vesting, should any applicant whose development project requires a special use permit or zoning permit allow the special use permit or zoning permit to expire, the applicant's water rights will also immediately expire. Likewise, should any applicant whose development project acquires a building permit allow the building permit to expire, the applicant's water rights will also immediately expire.

10. **Changes in Development Plan after Approval.**

- a. **Substantial Changes Prohibited.** When an application has been approved for water or sewer service and fees paid to vest the approval, a substantial change may not be made in the site specific development plan designated in the application without a new application and appropriate payment of fees if approved. Except for a mixed use development proposed in accordance with Section ~~15.11 -179~~ of the Town's Unified Development Ordinance (a "mixed use project"), a "substantial change" is one for which a different type of principal zoning use is proposed, e.g. multi-family to commercial, or there is an increase or decrease of greater than ten percent (10%) in the predicted water use for the site specific development plan, as determined by the calculations prescribed in paragraph 2(b), provided that a reduction in predicted use which is the result of a change to a site specific development plan initiated and mandated by the Board of Adjustment in a special use permit proceeding, or one which is the result of conditions or modifications agreed upon by the Town Council in a conditional district zoning proceeding shall not be considered a "substantial change" for purposes of this ordinance.
- b. A substantial change in a mixed use project shall occur when there is a change in the multi-family portion of the project which, if viewed as an independent project, would be considered a substantial change pursuant to subparagraph ~~101~~(a), or for which there is an increase or decrease of greater than ten percent (10%) in the square footage of the completed commercial space from the commercial space described by the applicant at the time the application is approved, provided that a reduction in predicted square footage which is the result of a change to a site specific development plan initiated and mandated by the Board of Adjustment in a special use permit proceeding, or one which is the result of conditions or modifications agreed upon by the Town Council in a conditional district zoning proceeding, shall not be considered a "substantial change" for purposes of this ordinance.

11. **Monthly Water Reports.** ~~The Director shall provide a monthly report to the Boone Town Council~~ concerning the number and predicted volume of each water connection request approved during the term of this Resolution shall be provided to Town Council in such form and frequency as Council may request.

12. This Ordinance shall become effective upon adoption.

Adopted this 25th day of March, 2015.

- F. Approval of Resolution – Placement of South Water Street on Town’s Municipal Maintenance System:

RESOLUTION

WHEREAS, the Council of the Town of Boone is considering petitioning the N.C. Department of Transportation to release the following street from the State system and place on the town of Boone municipal maintenance system;

NOW, THEREFORE, BE IT RESOLVED, that the Town of Boone agrees to accept maintenance responsibilities on the street listed below, provided that the State Transportation Board agrees to include the street being accepted as being a part of the Powell Bill allocation for which application will be made on July 1, 2015.

1. South Water Street (SR1102) from Rivers Street (SR1163) to King Street – 491’ (.09miles).

Adopted this the 25th day of March, 2015.

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE 233)

- G. Authorization to Apply for N.C. Highway Historical Marker – Ginseng Trade.
H. Direct Staff to Provide an Interpretation Regarding Solar Permitting Standards.
I. Direct Staff to Work with Sustainability Task Force for Further Development of a Solar Picnic Shelter and/or Bus Stop Concept at Jimmy Smith Park.
J. Approval of Tax Releases – September 2014 through January 2015:

CO2
September 2014

Taxpayer	Year	Amount	Description
AT&T COMMUNICATIONS	2014	5.17	CLERICAL ERROR
BELLSOUTH TELECOMMUNICATIONS	2014	36606.56	CLERICAL ERROR
BLUE RIDGE ELECTRIC MEMBERSHIP CORP	2014	14868.49	CLERICAL ERROR
CHARTER FIBERLINK	2014	1658.57	CLERICAL ERROR
DUKENET COMMUNICATIONS INC	2014	358.01	CLERICAL ERROR
EARTHLINK BUSINESS LLC	2014	2.46	CLERICAL ERROR

EVERGREEN TRIALS INC dba HORIZON COACH	2014	82.37	CLERICAL ERROR
FEDERAL EXPRESS	2014	1212.41	CLERICAL ERROR
FRONTIER NATURAL GAS LLC	2014	4003.57	CLERICAL ERROR
GENERAL ELECTRIC CAPITAL CORP	2014	1.80	EQUIPMENT NOT IN TOB
GLEN WILDE LLC	2014	7259.26	BROWNFIELD AGREEMENT
GRIMES, MARK THOMAS	2014	16.65	IRP LICENSE PLATE
HOLIDAY TOURS INC	2014	15.96	CLERICAL ERROR
KAY CHEMICAL COMPANY	2014	10.09	NO PROPERTY IN TOB
MCI COMMUNICATION INC	2014	3.08	CLERICAL ERROR
MCI METRO ACCESS TRANS SERV INC	2014	5.95	CLERICAL ERROR
MILLER, JANIE WATTS MILLER, DONALD CURTIS	2014	80.77	CLERICAL ERROR
MR RESTORATION SERVICES INC	2014	959.04	BUSINESS NOT IN TOB
SPRINT NEXTEL CORPORATION	2014	68.15	ADJ PER NCDOR
THE PANTRY 4142	2014	56.79	DUPLICATE LISTING
TOWN OF BOONE	2014	800.73	EXEMPT
TW TELECOM OF NORTH CAROLINA LP	2014	1.48	CLERICAL ERROR
US BANK NATIONAL ASSOCIATION	2014	9.84	INCORRECTLY BILLED
WEEKS, ELSA OKIRI HENDERSON, LOUIS JAMES JR	2014	11.21	DUPLICATE BILLING FILE
WINDSTREAM KDL	2014	3.24	CLERICAL ERROR
BENAVIDES, PEDRO BENAVIDES, BELKIS ORTIZ	2013	61.83	DUPLICATE BILL
CARSWELL, MATTHEW VANCE CARSWELL, EVERETTE VANCE	2013	3.29	TEMP PLATE
MATTHEWS, MOLLY PATRICIA	2013	6.14	TEMP PLATE
REILLEY, KATELYN KIMBERLY	2013	8.92	PAID THRU LICENSE PLATE AGENCY
WOLFE, TAMMY REGINA WOLFE, GARRY LEE	2013	1.21	PLATE TURN-IN
		68183.04	

**CO2
October 2014**

Taxpayer	Year	Amount	Description
FARMERS RENTAL & POWER EQUIP INC	2014	93.95	GRANTED LISTING EXTENSION
FIRST CITIZEN BANK & TRUST CO	2014	16.15	INCORRECT DEPRECIATION CODES
BLACKBURN, MICHAEL LEE	2013	73.41	INCORRECT SITUS
PARKER, DANIEL CHASE	2010	8.58	DID NOT OWN VEHICLE
		192.09	

**CO2
December 2014**

Taxpayer	Year	Amount	Description
CSI LEASING, INC	2014	9.62	DOUBLE BILLED
HARRISON, JAMES PAYNE	2014	4.92	INCORRECT BILLING
RIDGE RUNNER RENTALS, LLC	2014	3.50	BUSINESS NOT IN TOB
		18.04	

CO2
January 2015

Taxpayer	Year	Amount	Description
CLAWSON, WAYNE M	2014	720.78	PROPERTY NO LONGER MH PARK
LACUE, JOHN WESLEY	2012	29.42	SHOULD NOT HAVE BEEN BILLED
		750.20	

CO2
November 2014

Taxpayer	Year	Amount	Description
JESTES, ANTHONY CARL	2014	3.52	VEHICLE JUNKED
	2013	2.89	
	2012	3.54	
	2011	3.59	
REINS-STURDIVANT FUNERAL DIRECTORS	2014	1943.37	CLERICAL ERROR
		1956.91	

- K. Approval of Budget Amendment – Purchase of Additional Salt.
- L. Approval of Budget Amendment – Insurance Reimbursement for Guard Rail Damage.
- M. Approval of Budget Amendment – Insurance Reimbursement for Lightning Damaged Generator.
- N. Approval of Budget Amendment – Downtown Meters/Pay Stations.
- O. Approval of Budget Amendment – Final Payment to NCDOT for U-4020 Project.
- P. Approval of Budget Amendment – Replacement of UC Repeater System.
- Q. Approval of Watauga County Farmers’ Market License Agreement **(License Agreement permanently on file in Town Hall)**.

Council Member Hay noted that the discussion of the Boone Cemetery in the Feb. 13, 2015, retreat minutes mention Junaluska, but it is a separate location. Council was in consensus to remove the mention of Junaluska from that discussion.

Council Member David, seconded by Council Member Peña, moved to adopt the Consent Agenda.

VOTE: Aye – All
 Nay – None

**APPROVAL OF RENEWAL OF LEASE AGREEMENT – WATAUGA COUNTY
RECREATIONAL USE OF ANNE-MARIE DRIVE PROPERTY**

Town Manager John Ward indicated the lease agreement with the County for use of the recreational fields will be expiring in November, and the County has requested an extension for a longer term. Discussion ensued regarding various aspects of the existing agreement that are now out-of-date and/or no longer apply to the current situation, as well as whether a longer-term lease of 20 years is allowed by law between government entities. Watauga County Manager Deron Geouque stated that the Town and County have had prior leases for 20 years, and consulted with the School of Government, who said it was well within their ability to ask for 20 or 40 years depending on what the Town would like to do.

Upon a motion by Council Member Mason, seconded by Council Member Peña, Council moved to direct the town manager to meet with the county manager in order to make sure all terms of a lease for this purpose is current to the situation and to direct the town attorney to further evaluate from a legal standpoint the terms that the Town can enter into for the lease in regard to the length of the lease. Several Council members voiced their support for a 20-year lease as long as the terms were current and that they are eager to continue the partnership with the County.

VOTE: Aye – All
 Nay – None

CONSIDERATION OF MIDDLE FORK GREENWAY CONCEPT

Ann Browning of Blue Ridge Conservancy presented the Middle Fork Greenway Master Plan. She stated over half of the route is secure with landowners and there are numerous options for the remaining gaps. Discussion ensued regarding the possibilities for the Boone section of their plan. Mayor Ball stated he would want to be able to minimize the impacts and safety issues in doing so. Council briefly discussed which line item the funds requested for this fiscal year could come from as well as the best way to incorporate this plan.

Upon a motion by Council Member Mason, seconded by Council Member David, Council moved to adopt Section 6 of the Middle Fork Greenway Master Plan as an addendum to the Town's Bike/Walk Plan, and to appropriate \$14,000 for this fiscal year from funding set aside for sustainability projects so the group can begin to work on the next level of design and engineering for the Boone section of this plan.

VOTE: Aye – All
 Nay – None

Mayor Ball declared a break at 6:48 p.m. Council reconvened at 6:59 p.m.

SCHEDULING OF BUDGET RETREAT

Upon a motion by Council Member Peña, seconded by Council Member Mason, Council moved to schedule the Town's FY 2015/16 budget retreat for Tuesday, May 26 and Wednesday, May 27, 2015, from 8:30 a.m. to 5 p.m. both days at the Council Chambers, 1500 Blowing Rock Road.

VOTE: Aye – All
 Nay – None

CONSIDERATION OF CODE AMENDMENTS – CHAPTER 93: NOISE CONTROL

Town Attorney Allison Meade presented amendments to Chapter 93: Noise Control as directed by Council in February. Ms. Meade stated she had various concerns with the amendments, including the new language being applicable only to live music, requiring police to enter the premises to determine whether or not it is live music versus other forms as well as differences in interpretation as to what qualifies as live music. She also stated that the federal court reviewed the prior amendments and found them to be constitutional and nondiscriminatory, but by making additional amendments, it could potentially open up new litigation. Ms. Meade also advised Council of the rules governing adoption of an ordinance on its first introduction, which requires a 2/3 vote of the Council not including the mayor. Lengthy discussion ensued regarding the Council's abilities to vote that evening, the difference between residential and business noise complaints, the police department's process for responding to complaints, and ways to limit the ordinance restrictions to the downtown area. Mayor Ball provided a statement sent by Council Member Brantz who was not in attendance, stating that ignoring citizen complaints denies basic citizen rights and felt these amendments should be sent to public hearing.

Council Member Hay made a motion to accept the ordinance as written, but limit the area considered to the downtown business district, and to exclude the enforcement of Section E. Discussion ensued regarding Council's capability to vote on these amendments that evening as well as whether or not a trial period should be established.

Council Member Hay amended his motion to direct the town attorney to make amendments for Council's consideration to Chapter 93: Noise Control, excluding the previously suggested enforcement in Section E, in order to increase the decibel limit for the downtown business district to the following:

- Thursdays: 85 from 10 a.m. to 10 p.m.
75 from 10 p.m. till 2 a.m. Friday
- Fridays: 75 from 10 p.m. till 2 a.m. Saturday
- Saturdays: 75 from 10 p.m. till 2 a.m. Sunday

Council Member Peña seconded the motion. Council was also in consensus to have the town attorney submit a revised, simpler schedule of the noise decibel levels and time frames for consideration, to try the above-mentioned amendments for a three-month trial period, and requested that the proposed ordinance revisions be distributed to Council one week prior to receiving the April meeting packet. Ms. Meade recommended that the language regarding live music in this case be the same wording as established throughout the ordinance (i.e. live, recorded and amplified), with which Council was in agreement.

VOTE: Aye – All
 Nay – None

WATER USE COMMITTEE RECOMMENDATIONS

Public Works Director Rick Miller presented recommendations submitted by the Water Use Committee for Council’s consideration regarding amendments to the committee’s purpose and scope of duties as well as a water allocation amount for the next four years of 150,000 gallons per year. Council Member Peña voiced her support for the recommendations regarding the committee’s scope, and also noted her concern that the committee isn’t receiving the previous committee minutes. Mr. Miller stated he would address that matter and get the minutes to the committee sooner. In response to Council Member David’s question regarding the full Council’s presence on the committee, Mr. Miller noted that when the committee was formed, it was originally two Council members, two Planning Commission members and two developers, and at that meeting, Council felt it was an important enough issue that they all wanted to be part of it. Town Attorney Allison Meade stated she spoke with the town manager about possibly coming back to clarify concerns regarding the committee’s procedures since it does include all Council members. She stated the rules and procedures are unclear and addressing ambiguity may take changes to the ordinance. Council Member Peña asked that they come back with clarification.

Upon a motion by Council Member Peña, seconded by Council Member Mason, Council moved to amend the purpose of the Water Use Committee’s scope of duties to include all listed in the committee’s recommendation #1: water conservation, water rates and deposit fees, general water and sewer policy, the new water intake as well as any other items that might have an impact on the town water and sewer system and be considered pertinent to the Town’s current water situation.

VOTE: Aye – All

Nay – None

Upon a motion by Council Member Mason, seconded by Council Member Peña, Council moved to adopt recommendation #2 of the Water Use Committee regarding the water allocation of 150,000 gallons per year for the next four years.

VOTE: Aye – All
 Nay – None

TOWN MANAGER UPDATE:

Town Manager John Ward advised Council of the following updates:

1. The Water Treatment Plant recorded a maximum daily demand of 2.424 million gallons per day (mgd) on Feb. 24, an average daily demand of 2.044 mgd, and a five consecutive day maximum daily demand of 2.57 mgd at 75.25% of permitted capacity. He indicated that this is the highest maximum daily demand since January 2009, adding that the numbers are trending upwards similar to pre-2008 recession numbers.
2. Educational pamphlets for the downtown parking meter installation will be distributed to downtown businesses and indicated that a new parking Web site link will be placed on the Town's Web site and installation is scheduled to begin March 23.
3. Since Council's new direction regarding multi-use of the Daniel Boone Park, five new activities have been added in addition to the normal license holders.
4. In April, the Town will be celebrating Earth Month and Boone's commitment to sustainability with a month-long series of events and activities. He added that there will be a press release and highlights of activities of the sustainability task force available online soon.
5. The Red Roof Inn and Scottish Inn have been demolished and The Standard development will be starting shortly.

ANNOUNCEMENT OF BOARD VACANCIES

Mayor Ball announced the existing board vacancies and the deadline to submit an application to be considered in April.

BOARD APPOINTMENTS

Water Use Committee

Mayor Ball noted one application was received from John Prickett for the community member position and the Planning Commission has recommended Jon Tate to serve in the Planning

Commission appointment position. Council Member Peña nominated John Prickett to serve in the community member position. With no other nominations, Mayor Ball called for a vote.

VOTE: Aye – All
 Nay – None

Mr. Prickett's term will expire March 23, 2018.

Council Member David nominated Jon Tate to serve as the Planning Commission appointment. With no other nominations, Mayor Ball called for a vote.

VOTE: Aye – All
 Nay – None

REQUEST FOR DIRECTION FROM COUNCIL – POSSIBLE RENEWAL OF CONTRACT WITH REPUBLIC SERVICES d/b/a GDS

Town Manager John Ward advised Council that the renewal notification deadline for the Republic Services of NC d/b/a GDS contract for trash collection services is the end of March if they choose to renew for the second, and final, three-year term. He noted that there is limited competition in the area for solid waste services, and if Council chooses to go out to bid, there is the possibility of a rate increase, but by renewing this contract, Council knows what the rate will be. Upon questioning by Council Member Mason, Public Works Director Rick Miller advised that he is satisfied with the performance of the current company. Upon a motion by Council Member Mason, seconded by Council Member David, Council moved to proceed with the renewal of the existing agreement with Republic Services d/b/a GDS for a second, three-year period (**Agreement permanently on file in Town Hall**).

VOTE: Aye – All
 Nay – None

Town Attorney Allison Meade advised that the three requests for sewer service have been continued until April, adding that she directed staff that they have the ability to grant a continuance without taking Council time and without requiring the attorneys to make appearances as long as there is no prejudice.

CLOSED SESSION

Upon a motion by Council Member Peña, seconded by Council Member David, Council moved to enter Closed Session at 8:13 p.m. pursuant to NCGS § 143-318-11(a)(3) to hear the following items:

- A. Pursuant to N.C. Gen. Stat. §143-318.11(a)(3), to consult with the Town Attorney in order to preserve the attorney-client privilege between the attorney and the Town Council and consider and give instructions to the attorney concerning the handling of potential claims involving the Town of Boone.
- B. Pursuant to N.C. Gen. Stat. §143-318.11(a)(3), to consult with the Town Attorney in order to preserve the attorney-client privilege between the attorney and the Town Council and consider and give instructions to the attorney concerning the handling of a potential claim involving the Town.
- C. Pursuant to N.C. Gen. Stat. §143-318.11(a)(3), to consult with the Town Attorney to obtain legal advice concerning the confidentiality of members' communications with the Attorney and others, and Town practices relevant to its obligations under open records law.
- D. Pursuant to N.C. Gen. Stat. §143-318.11(a)(3), to consult with the Town Attorney in order to preserve the attorney-client privilege between the attorney and the Town Council and consider and give instructions to the attorney concerning the handling of the claim by the Town of Boone against the State of North Carolina.

VOTE: Aye – All
 Nay – None

Upon a motion by Council Member Peña, seconded by Council Member Hay, Council moved to exit Closed Session at 9:38 p.m.

POSSIBLE ACTION FOLLOWING CLOSED SESSION

Upon a motion by Council Member Mason, seconded by Council Member Peña, Council moved that after consultation with the town attorney, the Town approve a 20-year lease agreement with Watauga County that is updated to the current situation for use of the recreational fields located on the Anne-Marie Drive property.

VOTE: Aye – All
 Nay – None

ADJOURNMENT

Upon a motion by Council Member Hay, seconded by Council Member Peña, Council moved to adjourn at 9:40 p.m.

VOTE: Aye – All
 Nay – None

Christine Pope, Town Clerk

Andy Ball, Mayor