MINUTES – REGULAR MEETING
BOONE TOWN COUNCIL
APRIL 16, 2015

A regular meeting of the Boone Town Council was called to order at 5:30 p.m., Thursday, April 16, 2015, in the Council Chambers, 1500 Blowing Rock Road. Mayor Andy Ball presided. Council members present were Mayor Pro-Tem Rennie Brantz, Lynne Mason, Fred Hay, Quint David and Jennifer Peña. 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, Human Resources Director Peri Moretz 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.

Mayor Ball presented proclamations announcing April 2015 as Greening My Plate Month as well as Sexual Assault Awareness Month.

Mayor Ball announced that the annual Boone Clean-Up Day will be held Saturday, April 18, 2015.

TENTATIVE AGENDA ADOPTION

Town Manager John Ward stated there were no changes to the agenda. Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to adopt the tentative agenda.

VOTE: Aye – All
Nay – None

PUBLIC COMMENT

Charlie Brady of 610 River Run Road in Boone addressed the noise ordinance, stating that he appreciates Council taking an affirmative approach to look at the ordinance and possibly amend it, but that there was not a rational basis for Council to limit the decibel increase to three days a week. He felt that the town needs to foster an environment conducive to a music environment.

Pete Catoe of 277 Howard Street spoke regarding the Howard Street traffic study, and requested that Council hold a public workshop about this concept. Mr. Catoe also spoke regarding the noise ordinance, stating that he agreed with Mr. Brady's comment regarding fostering that type of culture.

Terry Taylor of 601 Grand Blvd. spoke against the increase in decibel limit. He stated there appears to be an obsession by music venues and supporters to increase the levels, but no data has been presented to support this decision or facts to prove businesses will be negatively impacted without an increase.

Colton Lentz of 360 Queen Street stated that when this first started, the decibel limit was 85 then dropped to 65. He felt that an increase to 75 decibels is heading in the right direction, but asked Council to consider opening it up to more than just three weekend nights. He stated that an increase helps protect the businesses and residents. Mr. Lentz also stated that he felt making all of Howard Street one-way is not necessarily a good idea.

JOEL WHITE/HIGHLAND INTERNATIONAL, INC. – REQUESTED APPEARANCE

Joel White of Highland International, Inc. requested that Council make an amendment to Article 15 of the Town's Unified Development Ordinance (UDO) to exempt "Use 14.10 Manufacturing, Other" located within an approved industrial park from the Transitional Zone requirements. Mr. White provided a history of his company and the expansion of the facility planned. Brief discussion ensued regarding how such an amendment would affect all future cases as well as the typical process for such a request, which would require the applicant to seek counsel. Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to direct staff to work on a UDO amendment that would address this type of situation with industrial parks not having to need the transitional zone if that's what has been approved.

VOTE: Aye – All
Nay – None

TYLER MOFFATT/CORNERSTONE CAMPUS COMMUNITIES – REQUESTED APPEARANCE

Tyler Moffatt, on behalf of Cornerstone Campus Communities, requested that Council make amendments to Ordinance #11-01, section 9(f) regarding extensions of the initial vesting period. Mr. Moffatt stated that due to the need to get special approval from the NC Department of Insurance, they do not believe they will be able to acquire the building permit prior to the end of the current extension received. Mr. Moffatt stated his client is asking that Council amend the ordinance in order to allow up to two additional six-month extensions beyond the initial extension

of the vesting period upon payment of an additional 10 percent of the full availability fee for each of the six-month extensions. Tony Barry, representing the development company, spoke regarding the time frame for completion once permits are issued as well as the amount of funds they have put toward the project thus far. Brief discussion ensued regarding how this amendment could potentially affect other developments in the area that need extensions as well. Upon a motion by Council Member Brantz, seconded by Council Member Peña, Council moved to take the proposal to the Water Use Committee for review.

VOTE: Aye – All
Nay – None

HARVARD AYERS – REQUESTED APPEARANCE

Harvard Ayers and Landon Pennington of Climate Voices US requested Council's approval of a proposed solar bus shelter at Jimmy Smith Park and to authorize the expenditure of up to $20,000 which will partially fund the project from the Town's sustainability fund. Mr. Ayers and Mr. Pennington provided Council with the organization's background and advised that the Sustainability Task Force has also voiced their approval of this proposed solar bus shelter. Town Manager John Ward advised that in taking this proposal into consideration, the Tree Board intends to plant several trees in the same vicinity as the proposed shelter site and the Council may want to consider contracting out for such an installation since the Public Works Department has several projects they are currently working to complete prior to the end of the budget year. Planning Director Bill Bailey added that the proposed site is in the floodway, which means they would not be able to develop there. Upon a motion by Council Member David, seconded by Council Member Mason, Council moved to carry forward with the idea of a solar bus shelter and contractual obligations to tie together, and to direct the group to come back with some other potential spots to pick for this shelter in an area not in the floodway.

VOTE: Aye – All
Nay – None

CONSENT AGENDA ADOPTION

A. Minutes: March 19, 2015 – Regular Meeting.
B. Approval of Code Amendments – Chapter 90: Alarm Systems:

CHAPTER 90: ALARM SYSTEMS

Section
90.01 Purpose
90.02 Definitions
~~Alarm system user permits required; application~~

90.03 ~~Certain alarm systems prohibited~~Duties of the alarm user
90.04 ~~False alarm; permit revocation~~Penalties, Enforcement, Appeal
90.05 Allocation of revenue

§ 90.01 PURPOSE.

The purpose of this chapter is to encourage alarm users to properly use and maintain the operational effectiveness and proper utilization of alarm systems and to reduce or eliminate false alarms which may unduly divert police resources.

This chapter governs systems intended to summon law enforcement and provides for penalties and procedures for violations.

§ 90.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

~~***ALARM SYSTEM.*** Any mechanism, equipment or device which is designed to operate automatically to transmit to the Police Department or other receiving station a signal, message or warning of an occurrence requiring urgent attention and to which emergency personnel are expected to respond. This definition shall not include local alarm systems.~~

ALARM. Any electronic or mechanical device which emits any signal, whether electronic, audible, silent or recorded, and which is designed, used, or intended for the detection of an unauthorized intrusion or attempted intrusion into a building, structure or premises or to signal an actual or attempted robbery.

ALARM COMPANY. A business, individual, partnership, corporation or other entity that sells, leases, maintains, services, repairs, alters, replaces, moves, installs or monitors an alarm system in an alarm site. Alarm companies referenced in this ordinance shall hold a current alarm systems business license issued by the North Carolina Alarm Systems Licensing Board.

ALARM DISPATCH REQUEST. A notification to a law enforcement agency that an alarm, either manual or automatic, has been activated at a particular alarm site.

ALARM SITE. A single fixed premises or location served by an alarm system or systems. Each tenancy, if served by a separate alarm system in a multi-tenant building or complex shall be considered a separate alarm site.

ALARM SYSTEM. Any assembly of equipment, mechanical or electrical, device or series of devices, including, but not limited to, systems interconnected with a radio frequency method such as cellular or private radio signals, which emit or transmit a remote or local audible, visual or electronic signal indicating an alarm condition and intended to discourage crime and summon law enforcement. Alarm system does not include: (1) an alarm installed on a vehicle or person unless the vehicle or personal alarm is permanently located at a site, and (2) an alarm designed to alert

only the inhabitants of a premises that does not have a sounding device which can be heard from the exterior of the alarm site.

ALARM USER. Any person, firm, association or corporation of any kind in control of any building, structure or facility wherein an alarm system is installed, operated and maintained. In the case of a tenancy, the tenant shall be considered the sole alarm user at the alarm site.

CANCELLATION. The process by which an alarm user or an alarm company providing monitoring verifies with the alarm user or responsible party that a false dispatch has occurred and that there is not an existing situation at the alarm site requiring law enforcement.

CHIEF OF POLICE. The Boone Police Chief or his or her designee.

~~***FALSE***~~
DURESS ALARM. ~~Activation of~~ An alarm system ~~eliciting a response by emergency personnel~~ signal generated by the manual activation of a device intended to signal a life threatening situation or a crime in progress requiring law enforcement response.

FALSE ALARM. An alarm signal or dispatch request to a law enforcement agency that elicits a police response when a situation requiring an immediate response does not in fact exist and the responding officer finds no evidence of a criminal offense or attempted criminal offense after having completed a timely investigation of the alarm site. An alarm will not be considered false if it is determined that the alarm was caused by:

(1) A natural or man-made catastrophe, or other "Act of God" such as a tornado, flood, earthquake, or other similarly violation conditions.

(2) Vandalism causing physical damage to the property.

(3) Attempted entry of a location causing visible, physical or other evidence of damage to the location which has caused the alarm to sound.

(4) Failure of electrical power not caused by the alarm user.

HOLDUP ALARM. A silent alarm signal generated by the manual activation of a device intended to signal a robbery in progress.

KEY HOLDER. An alarm user representative with full access to an alarm site and the alarm system contained therein and who is available to respond to the alarm site.

~~***FALSE ALARM DAY.*** Any 24-hour period that begins with the occurrence of a false alarm.~~

~~(B) (1) The alarm user applying for the permit required in division (A) of this section shall state on the permit application form: his or her name, the address of the residence or business in or upon which the alarm system has been or will be installed, his or her telephone number, the type of alarm system, the alarm system business selling, monitoring, inspecting, responding to and/or~~

~~maintaining the alarm system and the name, address and telephone number of at least two other~~ ***MONITORING.*** The process by which an alarm company receives signals from an alarm system and relays an alarm dispatch request to the municipality for the purpose of summoning law enforcement response to the alarm site.

VERIFICATION. Communication, by the alarm company or its representative, with the alarm site and/or alarm user by telephonic or other means before requesting law enforcement dispatch, in an attempt to determine the validity of an alarm.

VERIFIED RESPONSE. A specific status in which an alarm system is categorized wherein an alarm company must verify the validity of an alarm through video, audio, or a person on site before the alarm company may contact law enforcement and/or law enforcement will respond.

§90.03 DUTIES OF THE ALARM USER.

(A) An alarm user shall:
- (1) Maintain the premises and the alarm system in a manner that will minimize or elimination false alarms, and
- (2) Make every reasonable effort to have a key holder respond to the alarm system's location within thirty (30) minutes when notified to deactivate a malfunctioning alarm system, to provide access to the premises, or to provide alternative security for the premises.

(B) An alarm user shall have their alarm company inspect and/or repair the alarm system as needed and upon being places in "verified response" status as outlined in §90.04 Penalties, Enforcement, Appeal.

(C) An alarm user who is having an alarm system monitored shall:
- (1) Receive training from the alarm company on the proper use of the alarm system prior to the alarm user authorizing the alarm company to request the dispatch of law enforcement and insure that training is provided to all of the alarm user's employees;
- (2) Confirm with the alarm company and/or monitoring company that contact information for key holders are current;
- (3) Communicate with the alarm company and/or monitoring company to assure that the alarm dispatch requests to the municipality are being provided in a manner and form determined by the Chief of Police;
- (4) Communicate with the alarm company and/or monitoring company to assure that cancellations to the municipality are in a manner and form determined by the Chief of Police;
- (5) Shall be adequately trained as to the proper use of the duress or holdup alarm if so equipped.

§90.04 PENALIES, ENFORCEMENT, APPEAL.

(A) An alarm user shall be subject to warnings, fines and verified response status depending on the number of false alarms emitted from an alarm system within any rolling 180 day period based upon the following schedule:

(1) First and second false alarms, warning citation issued with no fine.
(2) Third false alarm, civil citation, $50 fine.
(3) Fourth false alarm, civil citation, $100 fine, alarm system placed on "verified response" status.
(4) Fifth and subsequent alarms must be verified before police notification, $100 if false.

(B) If cancellation occurs prior to law enforcement arriving at the scene, this is not a false alarm for the purpose of warnings or fines and no fines will be assessed.

(C) Notifications of warnings and fines will be made via Town of Boone civil citation and left with an alarm user, responding key holder, posted on the alarm site, or delivered in a similar manner at a later date. Fines, when applicable, are payable thirty (30) days from the date of issuance.

(D) Notifications that an alarm system has been placed on "verified response" status will be delivered in the form of the citation as well as a notification letter delivered electronically, by regular mail, or in person, to the alarm user or a key holder. The associated fine is payable thirty (30) days from the date of citation issuance. An alarm user who receives notification that their alarm system is in verified response status must notify their alarm company of this condition in order to prevent the alarm company from contacting law enforcement unless the validity of the alarm is independently verified.

(E) An alarm system placed on "verified response" will remain in that status until all outstanding fines are paid and the alarm user delivers to the Chief of Police documentation of correction of any problem condition. Documentation may take the form of a letter from the alarm user and/or a letter from an alarm company that provided service in response to false alarms. The Chief of Police will review the provided documentation and notify the alarm user of additional steps necessary or of removal from verified response status.

(F) Any person violating and of the provisions of this chapter shall be subject to the civil penalties set forth. Any violation of this chapter shall be deemed a non-criminal violation and shall not be a misdemeanor or infraction pursuant to N.C.G.S. 14-4 or chapter § 10.99 of the Town of Boone Code of Ordinances.

(G) If payment is not received or equitable settlement reached within one hundred eighty (180) days after demand for payment is made, the matter shall be referred to the Town Attorney for initiation of a civil action in the name of the Town in the appropriate division of the general court of justice of Watauga County for recovery of the penalty. In the event it is necessary for the town to institute a civil action to collect a civil penalty for the violation of any provision of any town ordinance, the offender shall pay all court costs, including filing fees, fees for service of process, and other expenses incurred in the litigation, such as costs of depositions, copying expenses and charges, and reasonable attorney's fees incurred by the town.

(H) An alarm user may appeal the assessment of a fine or verified response status to the Chief of Police. The filing of an appeal with the Chief of Police stays the assessment of the fine or suspension until a final decision is made. The alarm user shall file a written appeal to the Chief of Police by setting forth the reasons for the appeal within ten (10) days after receipt of notification of a false alarm. The Chief of Police will deliver a decision to the alarm user in writing.

(I) Businesses, such as financial institutions and other establishments, which utilize robbery or panic alarms, will not be placed on "verified response" status. Established robbery alarm

response protocol will be followed. However, the civil fine schedule listed above will apply to false robbery, panic, and/or hold-up alarms.

§ 90.05 SEVERABILITY, ALLOCATION OF REVENUE.

(A) If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to this end the provisions of this ordinance are declared to be severable.

(B) ~~–~~All fees collected pursuant to this chapter shall be General Fund revenue of the ~~town~~Town Boone.

C. Approval of FY 2015/16 Façade Incentive Grant Program.
D. Approval of Planning Department Permit Tracking System – GovQA **(Copy of agreement permanently on file in Town Hall)**.
E. Approval of Special Event Permit – Annual Hunter's Heroes Memorial Run and Accompanying Budget Amendment.
F. Approval of Special Event Permit – Annual Boone Cyclo.Via Event and Accompanying Budget Amendment.
G. Direction for the Town Attorney to Propose Revisions to Chapter 30: Town Council regarding Voting Procedures and Requirements.
H. Approval of Budget Amendment – Insurance Reimbursement in connection with Mountaineer Towing Claim against the Town.
I. Approval of Budget Amendment – Credit for Overpayment of Systel's Annual Contracts for Previous Year.
J. Approval of Budget Amendment – Insurance Reimbursement for Repair of 2009 Dodge Charger.
K. Approval of Budget Amendment – Insurance Reimbursement for Repair of 2014 Dodge Charger.
L. Approval of Budget Amendment – Purchase of New Portacount Fit Test Equipment.
M. Approval of Budget Amendment – Fee in lieu of Sidewalk for Boy Scouts Troop.

Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to approve the Consent Agenda.

VOTE: Aye – All
Nay – None

DISCUSSION OF HOWARD STREET IMPROVEMENT PROJECT

Town Manager John Ward presented a traffic study submitted by Davenport Consulting for Howard Street in downtown Boone. He suggested that Council provide input and hold a public hearing to open this up for conversation. Several members of Council voiced their support to

receive public feedback. Council Member Mason suggested having the architect who did the initial renderings and the engineers in attendance at the workshop. Council came to the consensus to schedule a charrette-style workshop in order to hear from the public regarding the Howard Street Improvement Project. Council Member Mason asked that invitations to the meeting be extended to downtown businesses as well as the DBDA.

CONSIDERATION OF CODE AMENDMENTS – CHAPTER 93: NOISE CONTROL

Lengthy discussion ensued regarding proposed revisions to Chapter 93: Noise Control and the proposed increase in decibel limit, as well as the zoning factors involved. Council Member Hay suggested the decibel limit of 75 be from 10 p.m. to 2 a.m. seven days a week. Council Member Brantz stated he did not support the new recommendation to increase the decibel limit. Council Member David voiced that concern should be placed on noise complaints between residences, which had 600 last year, whereas those between residences and businesses only had approximately 20. Council Member Mason stated there needs to be viable music venues while also providing residential areas and neighborhoods with undisturbed sleep. Council Member Peña stated she was more in favor of adopting the initial revision of three days a week with the increased decibel limit to see how it works before going to seven days a week.

Upon a motion by Council Member Hay, seconded by Council Member David, Council moved to adopt the town attorney's revised draft of amendments with a decibel level increase to 75 dB seven days a week from 10 p.m. to 2 a.m.

VOTE: Aye – 2 (David, Hay)
Nay – 3 (Brantz, Mason, Peña)

Upon a motion by Council Member David, seconded by Council Member Hay, Council moved to approve the town attorney's initially proposed revisions with the inclusion of the B-2 and B-3 zoning districts:

CHAPTER 93: NOISE CONTROL

Section

93.01 Statement of policy; Interpretations.
93.02 Types of Noises Prohibited and Types of Noises Not Prohibited, Enforcement, Penalties.
93.03 Vicarious responsibility.
93.04 Responsibility of all persons present.
93.05 Limits on live, recorded or amplified music originating from commercial establishments and live music venues in the Town's B-1, B-2, B-3, and U-1 zoning districts.

. . .

§ 93.05 LIMITS ON LIVE, RECORDED OR AMPLIFIED MUSIC ORIGINATING FROM COMMERCIAL ESTABLISHMENTS AND LIVE MUSIC VENUES IN THE TOWN'S B-1, B-2, B-3, AND U-1 ZONING DISTRICTS.

(A) During the days and times set out ~~in the following table~~immediately below, a live music venue or commercial establishment ~~or live music venue~~ located in the Town's B-1, B-2, B-3 or U-1 zoning ~~districts~~district may emit live, recorded or amplified music not exceeding the stated decibel limits, subject to the rules for measurement provided. For purposes of this section, a "live music venue" is an establishment ~~within a business district which~~that has the legal right to present live performances of music or amplification of recorded music to members of the public, or an establishment located in the U-1 zoning district which has the permission of Appalachian State University to present live performances of music or amplification of recorded music.

	60 dB from 11 p.m. to 7 a.m.
Thursday through Saturday:	60 dB from 2 a.m. to 7 a.m.
	70 dB from 7 a.m. to 10 a.m.
	85 dB from 10 a.m. to 10 p.m.
	75 dB from 10 p.m. to 2 a.m.
Sunday:	60 dB from 2 a.m. to 10 a.m.
	85 dB from 10 a.m. to 8 p.m.
	70 dB from 8 p.m. to 2 a.m.

…

VOTE: Aye – 3 (David, Hay, Peña)
Nay – 2 (Brantz, Mason)

Town Attorney Allison Meade advised the vote was sufficient, and therefore, the motion passes.

Mayor Ball declared a break at 7:41 p.m. Council reconvened at 7:53 p.m.

GREENWAY, PARKS & GARDENS COMMITTEE REQUEST – HIGH COUNTRY PATHWAYS/MIDDLE FORK GREENWAY REPRESENTATIVE

Randy McDonough, chair of the Greenway, Parks and Gardens Committee, presented a request by the committee that the board have a representative of High Country Pathways/Middle Fork Greenway. Upon a motion by Council Member David, seconded by Council Member Brantz,

Council moved to make one of the upcoming vacant positions on the committee to include a High Country Pathways/Middle Fork Greenway representative for nomination.

VOTE: Aye – All
Nay – None

TOWN MANAGER UPDATE:

Town Manager John Ward provided Council with the following updates:

- Of the 26 items directed from Council during the annual retreat, 15 have been completed and the other 11 are in process. Of these 11, he noted that staff are working on a vehicle improvement plan; instead of upgrading laser fiche, staff will be utilizing a meeting management system that also allows the public to word search through all meeting minutes; a wellness program option is in the works; and, Jim Byrne, the assistant to the town manager, has been relocated to Town Hall, saving the Town money on rental costs as well as efficiency.
- The Clement Street sewer project has begun.
- Initial preparations are in place for the Jones House/Grand Boulevard streetscape improvements.
- Pay stations will be installed on approximately June 1. Additional banners directing visitors to longer-term parking are also being installed.
- The water tank restoration project involving Junaluska is underway.
- Outside Agency funding applications are due by April 30.
- Earth Week 2015 events are ongoing.
- The US Army Corps of Engineers advised the Town that they will be receiving an additional $100,000 to study aquatic restoration, which requires no match by the Town, to assess from the second bridge downstream along the Greenway, which will ultimately result in plans to complete the next segment of the streambank restoration.

ANNOUNCEMENT OF BOARD VACANCIES

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

BOARD APPOINTMENTS

Mayor Ball noted that the lodging seat and restaurant seat on the Tourism Development Authority board are now vacant and Ben McKethan, the former seat for lodging, would like to be transferred to the restaurant seat. Mayor Ball advised that they will first be advertising for these vacancies before appointing to these open positions.

Before deliberating on the quasi-judicial requests, Town Attorney Allison Meade questioned the members of Council on whether or not they had contact with any of the applicants regarding the requests. All Council members stated that they had not had any significant contact with any of the applicants for any of the requests.

WATER & SEWER REQUEST – BOONE DEVELOPMENT

Town Attorney Allison Meade opened a public hearing at 8:12 p.m. to hear sworn testimony on a request for water and sewer service to property located on Eagle Drive. Mr. Tucker Deal, being duly sworn, stated he was representing the client. Mr. Deal provided Council with documentation **(letter permanently on file in the April 2015 meeting file)** from the Appalachian District Health Department acknowledging that a system could not be put on the property. He also noted that the health department put the wrong property PIN number at the top of the letter, but it was for the property being discussed. He stated they have done what they can in terms of due diligence, but they can only fit a septic system on the property, not water. The applicant, Tom Adams, being duly sworn, stated that they initially thought they had two tracts of land, and found a location on one, but it was not this specific property. Public Works Director Rick Miller, being duly sworn, stated this request is being presented as a request for water and sewer service in accordance with code requirements, and the Town does not have sewer service in this area, but could provide water service. Brief discussion ensued regarding the ability to connect to water in a secondary pressure zone, but could not provide an extension. Town Attorney Allison Meade questioned if the health department only looked at a specific location on the property, noting the language used in their letter. Mr. Miller stated that the health department looks at everything on the property when making such a determination. Planning Director Bill Bailey, being duly sworn, noted that the property appears to be part of a subdivision, so annexation is likely not feasible. Mr. Miller stated that when the area was developed, it was planned to be part of Boone, but was never annexed. Mr. Bailey stated that Council may want to make a condition of approval that the applicant must finish creating this lot through the planning process. With no other testimony, Ms. Meade closed the public hearing at 8:20 p.m.

Upon a motion by Council Member Brantz, seconded by Council Member Peña, Council moved to approve Boone Development's request for water service to property located on Eagle Drive with the predicted usage of 360 gallons per day with the condition that the applicant legally subdivide the property in compliance with the requirements of the UDO and supply a corrected letter from the health department.

VOTE: Aye – All
Nay – None

WATER & SEWER REQUEST – JUSTIN ROGERS/ROGERS MECHANICAL

Town Attorney Allison Meade opened a public hearing at 8:21 p.m. to hear sworn testimony on a request for water and sewer service to property located on IJ Bingham Place. Justin Rogers, being duly sworn, presented his request for a hardship connection for water and sewer service. He stated the properties across the street have tied into city water and sewer, and they are requesting permission to tie in as well. He indicated that the property will not perk for a septic tank and the water level is about 3.5 feet below grade, which is not suitable for a system. Mr. Rogers provided Council with a letter from the health department completed three years ago, showing that several locations were looked at, but none were deemed suitable **(letter permanently on file in April 2015 meeting file)**. He stated that the gentleman who initially supplied the letter is no longer with the health department, but the interim in his position, Mr. Barefoot, submitted a cover letter after looking over the initial notes. Mr. Rogers advised that the conditions have not changed, and the perk holes are still on the property. Public Works Director Rick Miller, being duly sworn, stated that the conditions rarely change from the health department's assessment. He advised that he would ask Mr. Barefoot to date the cover letter supplied indicating it is current with the conditions. Mr. Miller noted that the Town could bring service only up to the state's right-of-way, from which the applicant would be required to obtain all necessary easements to extend the service to the property. Mr. Rogers stated he was willing to pay for the cost to tap onto the Town's system. With no further testimony, Ms. Meade closed the public hearing at 8:27 p.m.

Council Member Mason wondered if the Town could stipulate that the use of the water would be for business only. Ms. Meade reopened the public hearing at 8:28 p.m. Mr. Miller stated that Ordinance #11-01 allows the Town Council to put in any stipulations for the connections deemed necessary, but he was not sure how it could be enforced. Planning Director Bill Bailey, being duly sworn, stated the Town could attach certain conditions to approval requiring the applicant to meet certain standards. Ms. Meade advised that the Town can stipulate conditions of compliance with designated development policies of the town. With no further testimony, Ms. Meade closed the hearing at 8:35 p.m.

Upon a motion by Council Member Mason, seconded by Council Member Peña, Council moved to approve Justin Rogers-Rogers Mechanical's request for water and sewer service to property located on IJ Bingham Place with the predicted usage of 45 gallons per day due to hardship with the following stipulations:

1. Applicant must obtain the easements necessary to connect to the Town's water and sewer system.
2. Applicant must obtain a letter from the health department dated within the past 30 days.
3. Applicant must comply with the UDO requirements for a HVAC/plumbing shop and the use of water to be limited for that application.

VOTE: Aye – All
Nay – None

CLOSED SESSION

Upon a motion by Council Member Brantz, seconded by Council Member Peña, Council moved to enter Closed Session at 8:37 p.m. pursuant to NCGS § 143-318-11(a)(3)(5) 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 the claim by the Town of Boone against the State of North Carolina.

B. Pursuant to N.C. Gen. Stat. §143-318.11(a)(3) and (a)(5), 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 terms of possible acquisition of easements from Watauga County related to the water intake project.

C. Pursuant to N.C. Gen. Stat. §143-318.11(a)(3) and (a)(5), 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 terms of possible acquisition of property related to the Boone Cemetery.

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 in order to confer with the attorney regarding certain legal matters.

VOTE: Aye – All
Nay – None

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to exit Closed Session at 9:12 p.m.

VOTE: Aye – All
Nay – None

ADJOURNMENT

Upon a motion by Council Member Peña, seconded by Council Member Mason, Council moved to adjourn the meeting at 9:17 p.m.

VOTE: Aye – All
Nay – None

Christine Pope, Town Clerk

Andy Ball, Mayor