MINUTES - REGULAR MEETING
BOONE TOWN COUNCIL APRIL
17, 2008

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

ANNOUNCEMENT

Mayor Clawson made the following announcement:

In conjunction with the statewide "Spring Litter Sweep" campaign issued by Governor Mike Easley for April 19 – May 3, 2008, the Town of Boone will hold a "Spring Boone Clean-Up Day" on Saturday, April 19, 2008. Interested participants may come by the Town of Boone Public Works Department located on 321 East King Street between 9:00am – 2:00pm to pick up cleaning supplies. For more information, contact Marsha Story at 268-6230.

TENTATIVE AGENDA ADOPTION

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

-Addition of Item 5.C.(A) - Adoption of Code Amendments - Attendance Policy.
-Addition of Item 5.M. - Discussion about banning smoking on Town property.
-Addition of Item 5.N. - Adoption of Resolution of Intent - Change method of town elections.
-Addition of Item 5.O. - Establishment of a Committee to develop procedures and standards for appointments to Town Boards, Task Forces & Committees.
-Addition of Item 8.D.; 8.E.; 8.F. & 8.G to Closed Session.
-Legal advice regarding Elk Motel Sewer line extension.
-Legal advice regarding Lowe's Hardware tree trimming penalties.
-Discussion of Community Garden lease.
-Legal advice concerning decision by Court of Appeals in City of Wilmington case

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

VOTE: Aye-All
Nay-None

CONSENT AGENDA ADOPTION

On a motion by Council member Brantz, seconded by Council member Mason, Council moved to adopt the following consent agenda items:

Minutes: March 3, 2008, Special Meeting.
March 3, 2008, Closed Session.
March 12, 2008, Special Meeting.
March 20, 2008, Regular Meeting.
March 31, 2008, Closed Session.
Tax Releases: February, 2008.

TAX RELEASES

FEBRUARY 2008

Taxpayer	Year	Amount	Description

PHAN, LEI S PHAN, KIET T	2007	5.05	TURN IN TAG
WESTERN YOUTH NETWORK	2007	7.88	EXEMPT
BURGIN, WILBURN G JR BURGIN, BARBARA POOVEY	2007	19.50	TURN IN TAG
HOWARD, PHILLIP WILLIAM	2007	51.47	DOES NOT LIVE IN TOWN
WEST JEFFERSON OFFICE EQUIPMENT	2007	27.75	IN BOONE FIRE DMV ADDRESS INCORRECT
MARTIN, JAMES WAYNE	2007	23.79	TRANSFERRED TAGS TAGS OVERLAPPED
WALLS, KRISTIN MICHELLE	2007	22.16	TURN IN TAG
KING, DONNA L	2007	3.66	TURN IN TAG
WARD, LARRY DOYLE	2007	1.11	INCORRECT FIRE DISTRICT
WARD, DONNA CAROL WARD, LARRY DOYLE	2007	55.50	INCORRECT FIRE DISTRICT
HUFF, WILLIAM TODD HUFF, PENNY WARD	2007	50.91	INCORRECT FIRE DISTRICT
HUFF, WILLIAM TODD	2007	3.26	INCORRECT FIRE DISTRICT
SMOKEY MOUNTAIN CENTER	2007	71.67	EXEMPT
PARDUE, NANCY LOUISE	2007	34.23	DOUBLE BILLED
FARMERS HARDWARE & SUPPLY CO	2007	6.88	TURN IN TAG
HIGH COUNTRY GOLDCRAFTERS	2007	10.25	BUSINESS CLOSED 2006
JOYCE, ROBERT C	2007	9.48	SOLD BOAT IN 2003
JOYCE, ROBERT C	2006	9.48	SOLD BOAT IN 2003
WARD, DONNA CAROL WARD, LARRY DOYLE	2006	29.93	INCORRECT FIRE DISTRICT
LEW, MARIA SIAN-ALESANDRA	2006	29.19	DOUBLE BILLED
JOYNCE, ROBERT C	2005	24.07	SOLD BOAT IN 2003
		497.22	

Adoption of Resolution:Tennessee Valley Authority.

A RESOLUTION TO HONOR AND CONGRATULATE THE BOARD OF DIRECTORS, STAFF, EMPLOYEES, RETIREES, AND SUPPORTERS OF THE TENNESSEE VALLEY AUTHORITY UPON ITS 75TH ANNIVERSARY

WHEREAS, it is fitting that the members of the Boone Town Council should recognize the Tennessee Valley Authority and its exemplary efforts since 1933 to improve the quality of life in its seven-state service area, touching millions of lives through its work in energy, the environment, and economic development; and

WHEREAS, TVA helps businesses and families prosper by providing more electricity than any other public utility in the nation with competitive rates and transmission services that have been 99.999 percent reliable for eight consecutive years; and

WHEREAS, TVA is exploring renewable energy sources and enhancing energy efficiency so that our children and grandchildren can enjoy the benefits of clean and reliable electric power for generations to come; and

WHEREAS, TVA has reduced its power plant emissions to their lowest levels in decades and is working aggressively to further improve air quality so we can have continued confidence

in the health of the Tennessee Valley region; and

WHEREAS, TVA helps our region thrive and enables residents to enjoy a higher quality of life by managing the Tennessee River system and other natural resources so the Valley is a healthier and safer place to live and work; and

WHEREAS, TVA's integrated management of the river system provides multiple stewardship benefits that include producing power, reducing floods, enabling transportation, supporting water quality and water supply, enhancing recreation, and protecting public land; and

WHEREAS, TVA builds business and community partnerships that foster economic prosperity, helping companies and communities attract investments that bring good jobs to our region and keep them here; and

WHEREAS, TVA provides these services -and many more-without taxpayer dollars by paying for all its activities through power sales and bond issues.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BOONE, NORTH CAROLINA that we honor and congratulate the Board of Directors, staff, employees, retirees, and supporters of the Tennessee Valley Authority on the occasion of the TVA's 75th anniversary and wish them all the best in their future endeavors.

ADOPTED this the 17th day of April, 2008.

ATTEST: Mayor

Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE 52)

Adoption of Closed Session Minutes: January 18, 2007-February 21, 2008.

Acceptance of Sewer Line Easement: Dirk & Sandra Krause.

DEED OF EASEMENT

Prepared by: *Samuel F. Furgiuele, Jr., Attorney at Law, P.O. Box 386, Boone, NC 28607*
Return to: *Town of Boone, Dept. Of Public Utilities, 321 East King Street, Boone, NC 28607*

STATE OF NORTH CAROLINA
COUNTY OF WATAUGA

THIS DEED OF EASEMENT, made this the 10th day of April, 2008, by and between **Dirk J. Lloyd Krause & Wife Sandra C. Krause**, hereinafter collectively referred to as Grantor, and the **Town of Boone**, hereinafter referred to as Grantee. The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors and assigns, and shall include singular, plural, masculine or feminine, as required by context.

WITNESSETH, that the Grantor, for and in consideration of the sum of One Dollar ($1.00), and other good and valuable consideration paid by the Grantee, the receipt and adequacy of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee, a **25-foot Permanent Sewer Line Easement** over and across the real property of the Grantor, for the purpose of installing, inspecting, operating, maintaining, repairing, and reconstructing, a sewer line's, and such pipes, manholes, fittings, fixtures, and other accessories as from time to time may be required, together with the full right of access to and egress from said Easement.

The property of the Grantor that is subject to this Easement is described in the deed recorded in **Deed Book 19, Page 252**, Watauga County Registry. The location of the **Permanent Sewer Line Easement** is more particularly described on **Exhibit A** which is attached hereto and incorporated herein by reference.

IT IS UNDERSTOOD AND AGREED BETWEEN THE GRANTOR AND THE GRANTEE:

1. That the Grantor shall at all times, other than while the lines are under actual construction or repair, have the right to use said permanent Easement, provided such use shall in no manner interfere with or be inconsistent with the use thereof by Grantee as provided herein. Prohibited uses of the permanent Easement by the Grantor include, but are not limited to, the following: the erection of a shed, building, structure, or other permanent obstruction within the permanent Easement by the Grantor shall not be allowed; the planting of trees within the permanent Easement by the Grantor shall not be allowed; additional fill cannot be placed within the permanent Easement except after prior written consent from the Grantee; and other utility lines, including but not limited to, electric, gas, telephone, cable, or water lines, cannot be constructed within the permanent Easement except after prior written approval by the Grantee. The Grantor shall be entitled to landscape the area within the permanent Easement with flowers, grass and/or mulch, so long as Grantor does not damage the Grantee's or sewer line's.

2. That the Grantee agrees to restore the topography of said Easement area after installation of the line and accessories to approximately the same condition as existed before said installation. The Grantee agrees to repair any damage it causes to the Grantor's property.

3. The Grantor shall be entitled to use the easement area as part of any building setback, green area, and/or livability ratio, in order to comply with applicable Town of Boone Unified Development Ordinance regulations, in the event this property is further developed in the future. The Grantor retains the right to fully utilize the area within the permanent Easement as a portion of any development plan submitted to the Town of Boone.

The Grantee executes this deed for the purpose of indicating its consent to the terms and conditions set forth herein.

IN WITNESS THEREOF, the Grantor has hereunto set his hand and seal, the day and year first above written.

VOTE: Aye-All
Nay-None

ADOPTION OF RESOLUTION - FIXING DATE OF PUBLIC HEARING FOR RIVERSTONE CONDOMINIUMS ANNEXATION

Development Services Director John Spear said this is the second step in the annexation process. On a motion by Council member Mason, seconded by Council member Phillips, Council moved to adopt the following resolution:

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-31
(Smith Property/MV2 LLC Annexation)

WHEREAS, a petition requesting annexation of the area described herein has been received; and

WHEREAS, the Town Council has by resolution directed the Town Clerk to investigate the sufficiency of the petition; and

WHEREAS, certification by the Town Clerk as to the sufficiency of the petition has been made;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Boone, North Carolina that:

SECTION 1. A public hearing on the question of annexation of the area described herein will be held at Council Chambers at 6:30 on May 15, 2008.

SECTION 2. The area proposed for annexation is described as follows:

A parcel of land lying and being in New River Township, Watauga County, North Carolina,

being a portion of the Smith Property MV2, LLC, as shown on the plat thereof recorded in Plat Book 17, at Page 146, Watauga County Registry, also being a point in the Eastern boundary line of the Innkeepers of Boone, Inc. As described in Book of Records 832, at Page 569, Watauga County Registry; thence N.15E51'41"W. along the Eastern boundary line of said Innkeepers of Boone, Inc., 300.53'; thence N83E42'38"E., on a new line through the Smith Property MV2, LLC. as described in Book of Records 1039, at Page 188, Watauga County Registry, 452.70' to the Northwestern corner of the Future Development Tract as shown on the plat of Riverstone Townhomes recorded in Plat Book 20, at Page 208, Watauga County Registry; thence Easterly along the Northern boundary line of said Future Development Tract the following three courses and distances, (1) N83E42'38"E., 361.58' to a point in the centerline of Azor Court, (2) S86E46'28"E., 389.00, and (3) S76E31'48"E., 130.00' to a point in the Western boundary line of the Watauga County parcel as described in Book of Records 1134, at Page 15, Watauga County Registry; thence Southerly along the common boundary line between said Watauga County parcel and said Future Development Tract the following five courses and distances, (1) S10E02'04"W., 144.51, (2) S04E39'29"W., 119.82', (3) S07E13'33"W., 42.05', (4) S11E51'34"W., 53.89', and (5) S16E33'48"W., 165.41' to a point in the Northern boundary line of Mountaineer Village, LLC as per the plat thereof recorded in Plat Book 17, at Page 146, Watauga County Registry; thence Westerly along the common boundary line between said Mountaineer Village, LLC and said Future Development Tract the following four courses and distances, (1) N76E41'42"W., 438.02' to a point in the centerline of Eli Harley Drive (45.00' R/W), (2) thence continue N76E41'42"W., 210.42', (3) N85E08'57"W., 64.56', and (4) N85E40'27"W., 449.54' to the point of Beginning and containing 12.01 acres as computed by coordinate geometry according to a survey performed by Municipal Engineering Services Company, P.A. d/b/a Skyline Surveyors, in September 2006 under the direct supervision of Walter R. McCracken, III, PLS, L-3832, Drawing Dated 21 February 2008, Job No. B07031, Description Dated 21 February 2008.

Section 3. Notice of the public hearing shall be published in the Watauga Democrat, a newspaper having general circulation in the Town of Boone, at least ten (10) days prior to the date of the public hearing.

ATTEST: Mayor

Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE 53)

VOTE: Aye-All
Nay-None

ADOPTION OF RESOLUTION - FIXING DATE OF PUBLIC EHEARING FOR KIRK ANNEXATION

Development Services Director John Spear said this is the second step in the annexation process. On a motion by Council member Mason, seconded by Council member Aycock, Council moved to adopt the following resolution:

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-31
(Kirk Annexation)

WHEREAS, a petition requesting annexation of the area described herein has been received; and

WHEREAS, the Town Council has by resolution directed the Town Clerk to investigate the sufficiency of the petition; and

WHEREAS, certification by the Town Clerk as to the sufficiency of the petition has been made;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Boone, North Carolina that:

SECTION 1. A public hearing on the question of annexation of the area described herein will be held at Council Chambers at 6:30 on May 15, 2008.

SECTION 2. The area proposed for annexation is described as follows:

ALL THAT TRACT OR PARCEL OF LAND situate in the Township of New River, County of Watauga, and State of North Carolina being bounded and described as follows: COMMENCING at Geodetic Control Monument "Muriel" (NGS PID - FZ3037), having SPC 83 of N = 905205.00', E = 1203247.01' (combined scale factor - 0.99985856); thence from said Point of Commencement the following three bearings and distances: (1) South 87 degrees 17 minutes 24 seconds East a distance of 954.54 feet to a #5 re-bar found on the westerly bounds of Homespun Hills Road at the southeast corner of Lot 1 as recorded in Plat Book 18 at Page 193; (2) North 29 degrees 59 minutes 36 seconds East a distance of 85.39 feet to a 3/4" conduit found on the westerly bounds of Homespun Hills Road at the corner of Lot 1 and Lot 2; (3) North 29 degrees 59 minutes 36 seconds East a distance of 54.32 feet to a point on the westerly bounds of Homespun Hills Road and the easterly bounds of Lot 2, the Point of Beginning having SPC 83 of N = 905280.86', E = 1204270.17' (combined scale factor = 0.99985856); thence from said POINT OF BEGINNING, leaving the westerly bounds of Homespun Hills Road and along the current Corporate Limits of the Town of Boone as recorded in Plat Book 11 at Page 58, through Lot 2, North 58 degrees 48 minutes 53 seconds West a distance of 135.76' to a point on the easterly bounds of Highland Hills Avenue and the westerly bounds of Lot 2; thence along the aforementioned bounds of Highland Hills Avenue and Lot 2, North 40 degrees 01 minutes 28 seconds East a distance of 56.45 feet to a 3/4" conduit found on the easterly bounds of Highland Hills Avenue at the corner of Lot 2 and Lot 3; thence leaving the easterly bounds of Highland Hills Avenue and along the line between Lot 2 and Lot 3, South 56 degrees 14 minutes 25 seconds East a distance of 126.66 feet to a #5 re-bar found at the corner of Lot 2 and Lot 3 on the westerly bounds of Homespun Hills Road; thence along the easterly bounds of Lot 2 and the westerly bounds of Homespun Hills Road, South 32 degrees 54 minutes 28 West a distance of 9.67 feet; thence continuing along the aforementioned bounds of Lot 2 and Homespun Hills Road, South 29 degrees 59 minutes 36 West a distance of 40.43 feet to the point of beginning, containing 0.16 acres. All bearings are with reference to Grid North SPC 83 and all distances are horizontal ground distances. Description prepared by: Original signed and sealed on April 17, 2007 William F. Meyerhoff, PLS 3713.

SECTION 3. Notice of the public hearing shall be published in the Watauga Democrat, a newspaper having general circulation in the Town of Boone, at least ten (10) days prior to the date of the public hearing.

ATTEST: Mayor

Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE 54)

VOTE: Aye-All
Nay-None

DISCUSSION OF POSSIBLE UDO TEXT AMENDMENT - ATTENDANCE LANGUAGE

Council member Pepin said Council had discussed an attendance policy at the retreat. Town Attorney Sam Furgiuele said the proposed UDO amendments are self explanatory in that if a board member misses more than half of the meeting or three meetings in a row the board member can be removed. Town Attorney Furgiuele said the UDO text amendments will be presented at the May quarterly public hearing. Council member Brantz agreed that participation is essential but felt that an exception should be made for job-related absences. Council member Pepin explained that job-related absences will be excused. On a motion by Council member Pepin, seconded by Council member Aycock, Council moved to send the proposed text amendments to the May 8th quarterly public hearing.

VOTE: Aye-All

Nay-None

ADOPTION OF CODE AMENDMENTS - ATTENDANCE POLICY

Town Attorney Sam Furgiuele said these code amendments relate to all other boards not covered by the UDO. Mr. Furgiuele said a public hearing is not required for Town code amendments. On a motion by Council member Pepin, seconded by Council member Aycock, Council moved to adopt the following code amendments:

Proposed Amendment to UDO ARTICLE III: Administrative Mechanisms

Part I: PLANNING COMMISSION

Section 21. Appointment and Terms of Planning Commission Members.
...
[d] **Unless the Town Council takes specific action to excuse the absences and reappoint a member after being informed by the Administrator or the member's removal, a** Planning Commission member~~s may~~ **shall** be **automatically** removed ~~by the council at any time~~ for failure to attend three (3) consecutive meetings or for failure to attend fifty percent (50%) ~~or more~~ of the meetings within **any twelve month period.** ~~a calendar year or for any other good cause related to performance of duties. Upon request of the member proposed for removal the council shall hold a hearing on the removal before it becomes effective.~~ Absence due to sickness, death, or other emergencies of like nature shall be recognized as excused absences, and shall not affect the ~~members~~ **member's** status on the **C**~~c~~ommission, except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced. **The Administrator shall notify in writing any member for whom one more absence will trigger removal. In addition, the Administrator or a member of the Town Council may propose removal of a member for other good cause related to the performance of Commission duties, but before removal on that basis, the member shall be given an opportunity to appear before the Town Council to address the issues involved.**
...

Section 26. Advisory Committees.

[a] From time to time the council may appoint one or more individuals to help the Planning Commission carry out its planning responsibilities with respect to a particular subject area. By way of illustration, without limitation, the council may appoint advisory committees to consider the thoroughfare plan, bikeway plans, community appearance plans, housing plans, economic development plans, etc.

[b] Members of such advisory committees shall sit as nonvoting members of the Planning Commission when such issues are being considered and lend their talents, energies, and expertise to the Planning Commission. However, all formal recommendations to the council shall be made by the Planning Commission. **As with Commission members, unless the Town Council takes specific action to excuse the absences and reappoints an advisory committee member after being informed by the Administrator of the member's removal, an advisory committee member shall be automatically removed for failure to attend three (3) consecutive meetings or for failure to attend fifty (50%) of the meetings within any twelve month period. Absence due to sickness, death, or other emergencies of like nature shall be recognized as excused absences, and shall not affect the member's status on the committee, except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced. The Administrator shall notify in writing any member for whom one more absence will trigger removal. In addition, the Administrator or a member of the Town Council may propose removal of a member for any other good cause related to the performance of committee duties, but before removal on that basis, the member shall be given an opportunity to appear before the Town Council to address the issues involved.**
...

Part II: COMMUNITY APPEARANCE COMMISSION
...

Section 29. Appointment and Terms of Community Appearance Commission Members.
...

[d] **Unless the Town Council takes specific action to excuse the absences and reappoints a member after being informed by the Administrator of the member's removal, a** Community Appearance Commission member~~s may~~ **shall** be **automatically** removed ~~by the council at any time~~ for failure to attend three (3) consecutive meetings or for failure to attend fifty percent (50%) ~~or more~~ of the meetings within **any twelve month period.** ~~a calendar year or for any other good cause related to performance of duties. Upon request of the members proposed for removal the council shall hold a hearing on the removal before it becomes effective.~~ Absence due to sickness, death, or other emergencies of like nature shall be recognized as excused absences, and shall not affect the ~~members~~ **member's** status on the **C**~~c~~ommission, except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced. **The Administrator shall notify in writing any member for whom one more absence would trigger removal. In addition, the Administrator or a member of the Town Council may propose removal of a member for any other good cause related to the performance of Commission duties, but before removal on that basis, the member shall be given an opportunity to appear before the Town Council to address the issues involved.**

...

Part III: TREE BOARD

Section 36. Appointment and Terms of the Tree Board Members.

...

[d] **Unless the Town Council takes specific action to excuse the absences and reappoints a member after being informed by the Administrator of the member's removal, a** Tree Board member~~s may~~ **shall** be **automatically** removed ~~by the council at any time~~ for failure to attend three (3) consecutive meetings or for failure to attend fifty percent (50%) ~~or more~~ of the meetings within **any twelve month period.** ~~a calendar year or for any other good cause related to performance of duties. Upon request of the member proposed for removal the council shall hold a hearing on the removal before it becomes effective.~~ Absences due to sickness, death, or other emergencies of like nature shall be recognized as excused absences, and shall not affect the ~~members~~ **member's** status on the **B**~~b~~oard, except that in the event of a long illness or other such cause of prolonged absence, the member shall be replaced. **The Administrator shall notify in writing any member for whom one more absence would trigger removal. In addition, the Administrator or a member of the Town Council may propose removal of a member for any good cause related to the performance of Board duties, but before removal on that basis, the member shall be given an opportunity to appear before the Town Council to address the issues involved.**

...

Part IV: BOARD OF ADJUSTMENT

...

Section 43. Appointment and Terms of Board of Adjustment.

...

[d] **Unless the Town Council takes specific action to excuse the absences and reappoints a member after being informed by the Administrator of the member's removal,** Regular Board of Adjustment members ~~may~~ **shall** be **automatically** removed ~~by the council at any time~~ for failure to attend three (3) consecutive meetings or for failure to attend fifty percent (50%) ~~or more~~ of the meetings within **any twelve month period.** ~~a calendar year or for any other good cause related to performance of duties. Upon request of the member proposed for removal the council shall hold a hearing on the removal before it becomes effective.~~ **Absence due to sickness, death, or other emergencies of like nature shall be recognized as excused absences, and shall not affect the member's** ~~members~~ **status on the board, except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced.** Alternates members ~~may~~ **shall likewise** be removed for ~~repeated~~ failure to attend or participate in **three (3) consecutive** meetings ~~when requested to do so in accordance with regularly established procedures.~~ **for which the member's attendance is requested. The Administrator shall notify in writing any member for whom one more absence will trigger removal of a member for any other good cause related to the performance of Board duties, but before removal on that basis, the member shall be given an opportunity to appear before the Town Council to address the issues involved.** ~~Upon request of the member proposed for removal, the council shall hold a hearing on the removal before it becomes effective.~~

§ 30.51 APPOINTMENTS.

. . .

(D) . . .

(10) Members of a committee, task force, or advisory body, except for membership on those boards, committees, task forces, or advisory bodies where a particular term of service is specified, are appointed for the duration of the committee, task force, or advisory body. However, if the duration of any committee, task force, or advisory body is indefinite, unless the Town Council specifies a different term of membership, membership will be for three years and may be renewed for one additional three-year term. Unless otherwise specified by the Town Council, no person may serve on such committee, task force or advisory body for more than six consecutive years but may be reappointed to such committee, task force, or advisory body following a one-year period of non-membership. U**nless the Town Council takes specific action to excuse the absences and reappoints a member of a board, committee, task force or advisory body after being informed by the Town Clerk of the member's removal, the member shall be automatically removed for failure to attend three (3) consecutive meetings or for failure to attend fifty percent (50%) of the meetings within any twelve month period. Absence due to sickness, death, or other emergencies of like nature shall be recognized as excused absences, and shall not affect the member's status on the committee, except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced. The Town Clerk shall notify any member who has been removed. In addition, a member of the Town Council may propose removal of a member for any other good cause related to the performance of official duties, but before removal on that basis, the member shall be given an opportunity to appear before the Town Council to address the issues involved.**

. . .

§ 111.09 CATV CITIZEN ADVISORY COMMITTEE.

(A) The Town Council shall appoint six residents of the town to the CATV Citizen Advisory Committee. The Town Council shall designate a chairperson of the committee and members of the committee shall represent a cross-section of the town's residents. Appointed members shall serve for a term of three years and any vacancy shall be filled by Town Council appointment. All expenses with respect to the CATV Citizen Advisory Committee shall be paid by the town. **Unless the Town Council takes specific action to excuse the absences and reappoints an advisory committee member after being informed by the Administrator of the member's removal, an advisory committee member shall be automatically removed for failure to attend three (3) consecutive meetings. Absence due to sickness, death, or other emergencies of like nature shall be recognized as excused absences, and shall not affect the member's status on the committee, except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced. The Town Clerk shall notify in writing any member for whom one more absence will trigger removal. In addition, a member of the Town Council may propose removal of a member for any other good cause related to the performance of committee duties, but before removal on that basis, the member shall be given an opportunity to appear before the Town Council to address the issues involved.**

. . .

§ 151.53 MINIMUM HOUSING APPEALS BOARD.

(A) *Creation.* There is hereby created a Minimum Housing Appeals Board, which board shall consist of five members to be appointed by the Town Council. Of the members of the Minimum Housing Appeals Board first appointed, two shall be for a term of one year, two for a term of two years, and three for a term of three years. The Town Council will also appoint two alternate members to serve two year terms. Each alternate member, while attending meetings of the Board and serving in the absence of any regular members shall have and may exercise all the powers and duties of a regular member. Thereafter, all members shall be appointed for terms of three years. Any vacancy shall be subject to reappointment by the Town Council. **Unless the Town Council takes specific action to excuse the absences and reappoints a board member after being informed by the Planning Director of the member's removal, a board member shall be automatically removed for failure to attend three (3) consecutive meetings or for failure**

to attend fifty percent (50%) of the meetings within any twelve month period. Alternate members shall likewise be removed for failure to attend or participate in three (3) consecutive meetings for which the member's attendance is requested. Absence due to sickness, death, or other emergencies of like nature shall be recognized as excused absences, and shall not affect the member's status on the board, except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced. The Planning Director shall notify in writing any member for whom one more absence will trigger removal. In addition, the Planning Director or a member of the Town Council may propose removal of a member for any other good cause related to the performance of committee duties, but before removal on that basis, the member shall be given an opportunity to appear before the Town Council to address the issues involved.

VOTE: Aye-All
Nay-None

Town Attorney Sam Furgiuele reported that he had researched State law regarding the ABC board and found that Council can change the terms of office and the actual number serving, but not the qualifications.

Council member Pepin reminded Staff that all committees, boards and task forces are public bodies and are required to submit notices of meetings and recorded minutes of same.

APPROVAL OF CONTRACT - ADOPT-A-FLOWERBED PROGRAM

Mr. Bunk Spann, Chair of the Gardens sub-committee, presented the following information:

I am pleased to be here on behalf of the Greenway, Parks and Gardens Committee to make the Council and the public more aware of new opportunities for the citizens of Boone to get involved in our Adopt-A-Flower Bed program.

Many of you may not know that the Town Public Works Department maintains more than 40 flower beds throughout the Town. This year the Gardens Committee is working with the Town to make several of these flower beds available for adoption by individuals or groups.

Persons adopting a flower bed would work with Brad Vines, the Town landscape specialist, in selecting from the Town's plant stock those plants most appropriate for a particular location. The Town will assist where needed in the preparation of the site including periodic watering during the growing season. Citizens would plant, weed, and mulch the adopted flower bed along with anything else needed to insure good plant growth.

Citizens adopting a flower bed would be required to sign a simple contract agreeing to the maintenance of the bed for one full growing season.

If anyone viewing tonight's program would like to find out how to become adoptive parents, please call Brad Vines at 964-9171 or me, Bunk Spann at 264-4331 or pick up a brochure on the program at the Public Works Department.

Two of the 8 gardens available for adoption have already been spoken for. The six remaining garden spots are eagerly awaiting garden parents.

Within two weeks all garden locations will appear on the Town of Boone website along with additional information on how to get involved. If any person or group wants to help make Boone even more beautiful, please call Brad Vines or Bunk Spann for details.

Council member Phillips asked who is responsible for buying the plants. Mr. Spann said the Town of Boone will purchase the plants. Council member Pepin asked if there will be signs of recognition. Mr. Spann said yes, about the size of a letter-size paper. On a motion by Council member Brantz, seconded by Council member Phillips, Council moved to adopt the following contract for use:

ADOPT-A-FLOWERBED CONTRACT

The Town of Boone Department of Public Works and

(Organization's Name)

recognize the need and the desirability for beautifully landscaped and maintained gardens in the Town of Boone. The stated organization hereby agrees to adopt

(Flowerbed Name)

at _____ as part of the Adopt-A-Flowerbed Program.

(Flowerbed Location)

The Adopt-A-Flowerbed Program has been established for community, civic, and student organizations as well as individuals and businesses, so that they may contribute toward the effort of maintaining beautiful public flowerbeds in the Town of Boone.

The duties that accompany the adoption of a flowerbed are as follows:

4. Inspect garden once a week during the spring, summer, and fall.
5. Perform initial weeding in spring and continue as necessary at least two weeks.
6. Plant annuals/perennials as necessary.
7. Provide own tools for garden maintenance.
8. Consult Town staff regarding horticultural advice and problems such as disease, insect infestation, etc.
9. Prune/pinch back dead foliage and perennial tops.
10. Keep garden free of litter or debris.
11. Clean garden edges and spread mulch as needed.

The duties of the Town of Boone are as follows:

12. The Town will provide and install recognition sign in or near the designated flowerbed exhibiting the above organization's name.
13. The Town will provide horticultural advice addressing garden related concerns.
14. The Town will provide a list of perennials and annuals for the group to chose from.
15. The Town will provide mulch for flowerbeds.
16. The Town will provide gloves upon request.
17. The Town will prepare (till) flowerbed for planting.
18. The Town will remove bagged litter or debris upon request.

As indicated by their signatures on the back of this agreement, the individual participants of the named entity are aware of the nature of the work that is to be performed and have agreed to follow the Town of Boone guidelines and requirements. Each participant has agreed to not hold the Town of Boone or property owners responsible for any injuries they may suffer or damages that they may cause or suffer as a result of participation in the program, and have agreed that a recognition sign bearing the group's name shall be installed solely at the discretion of the Town of Boone. Each party agrees that the duties listed in this contract for each party do not give rise to any claim for damages or specific performance, and that the only legal remedy for the failure of the other party to perform its listed duties is, upon written notice to the other party, early termination of this contract.

We understand all the requirements set forth for adopting a flowerbed and agree to adopt the flowerbed for a period of one year beginning _____, 20 through

_____, 20_____.

_____

Organization's Name Town Coordinator

VOTE: Aye-All
Nay-None

APPROVAL OF SIDEWALK PRIORITIZATION MODEL

Director of Public Services Blake Brown introduced Paul Anderson, Professional Engineer with HSMM. Mr. Anderson gave a powerpoint presentation **(EXHIBIT A - Permanently on file)** showing how his firm developed the sidewalk prioritization model. Council member Brantz asked if the existing width of street is a factor in the mode. Mr. Anderson said no, that width is not yet a factor but would be a nice addition within the model. Council member Phillips asked if the Town's GIS department will be able to alter any of the data. Mr. Anderson said yes. Council member Mason commented that the model was presented to the Transportation Committee and is a very flexible model. Council member Pepin asked the cost for the model. Mr. Brown said the

cost is $14,900. Council member Pepin requested that Staff make sure that the public is aware that the map is not a final copy. On a motion by Council member Brantz, seconded by Council member Phillips, Council moved to approve the sidewalk prioritization model software program as presented by HSMM.

VOTE: Aye-All
Nay-None

APPROVAL OF DOWNTOWN PARKING CHANGES

Public Services Director Blake Brown requested permission to change the loading zone in front of the old Helig-Meyers building to two parking spaces. Mr. Brown also requested moving the handicap space in front of the old Grapevine Music to a space in front of the Vetro building. Mr. Brown said the new handicap space will be easier to access. Council agreed. On a motion by Council member Mason, seconded by Council member Aycock, Council agreed to the proposed parking changes.

VOTE: Aye-All
Nay-None

REQUEST FOR FUNDING - CISTERN PROJECT GRANT

Public Services Director Blake Brown reported that the cistern project grant was awarded and that the building at the equipment yard would be perfect for the project. Mr. Brown explained that additional funding in the amount of $3,500 is needed to re-roof the building and to install new guttering and a concrete plan. Council member Pepin asked if the cistern is portable. Mr. Brown said yes, that it consists of a 500 or 1000 gallon tank with a pump. On a motion by Council member Mason, seconded by Council member Phillips, Council moved to approve the additional funding for the cistern grant.

VOTE: Aye-All
Nay-None

APPROVAL OF AGREEMENT - CLEAN WATER MANAGEMENT GRANT FUND

Special Assistant to the Manager Jim Byrne Jim reported that the Town had received a grant in the amount of $178,000 from the NC Clean Water Management Trust to construct more wetlands in the Hunting Lane and Elizabeth Drive area. Mr. Byrne said matching funds in the amount of $102,000 are required, with $22,000 of that match coming from the park fund budget. The remaining match is coming from in-kind services and funds from the NC State University/Watauga County Agricultural Extension service. Council member Phillips asked if the wetlands will interfere with the newly constructed soccer fields. Mr. Byrne said no, that this is a passive recreation park the Town is developing near the New River. On a motion by Council member Aycock, seconded by Council member Mason, Council moved to adopt the following agreement: **(Agreement on file in the office of the Town Clerk)**.

VOTE: Aye-All
Nay-None

SCHEDULING OF SPECIAL MEETINGS

On a motion by Council member Brantz, seconded by Council member Mason, Council moved to approve scheduling of the following special meetings:

Thursday, April 24th at 6:30 p.m., Watauga County Administration Building, Commissioners Board Room in order to hold a public hearing on the question of conducting a mixed-drink referendum.

Monday, April 28th at 5:00 p.m., Chetola Resort in order to meet with the Town of Blowing Rock and various other governmental agencies for an Inter-Governmental Retreat.

Friday, May 2nd at 10:00 a.m., Council Chambers in order to meet with DOT and local officials

regarding traffic issues in Boone.

Monday, May 5th at 5:00 p.m., Broyhill Inn and Conference Center in order to meet with ASU officials to discuss joint master planning.

VOTE: Aye-All
Nay-None

APPROVAL OF FIVE YEAR CAPITAL IMPROVEMENT PLAN

Public Utilities Director Rick Miller presented the following five-year capital improvement plan.

The Town of Boone Public Utilities Department has developed the following list of areas within the Town that are in need of replacement / rehabilitation of sewer main and apparatus.

1. A) Project Need: Orchard Street. are served by old four inch and six inch clay sewer mains and have no manholes..

B) Project Recommendation: This project has not been included in previous long range plans. Based on Old Bristol Road sewer project, I estimate that the entire project will cost $ 84,025.00 This project will consist of:

Mobilization =	*$ 5000.00*
955 lf eight-inch ductile iron pipe @ 55.00 per lf. =	*$ 52,525.00*
3 manholes @ $ 3000.00. =	*$ 9,000.00*
12 four-inch lateral replacements @ $ 900.00 =	*$ 10,800.00*
100 tons of gravel @ $ 19.00 per ton =	*$ 1,900.00*
80 tons of asphalt @ $ 60.00 per ton =	*$ 4,800.00*
	$ 84,025.00

All engineering, permitting, and asphalt overlay cost will be in addition to this total. This project should be scheduled and included in the 2008-2009 budget year.

2. A) Project Whitener Drive,. are served by old four inch and six inch clay sewer mains and have no manholes..

B) Project Recommendation: This project has not been included in previous long range plans. Based on Old Bristol Road sewer project, I estimate that the entire project will cost $ 92,210.00 This project will consist of:

Mobilization =	*$ 5000.00*
1022 lf eight-inch ductile iron pipe @ 55.00 per lf. =	*$ 56,210.00*
6 manholes @ $ 3000.00. =	*$ 18,000.00*
7 four-inch lateral replacements @ $ 900.00 =	*$ 6,300.00*
100 tons of gravel @ $ 19.00 per ton =	*$ 1,900.00*
80 tons of asphalt @ $ 60.00 per ton =	*$ 4,800.00*
	$ 92,210.00

All engineering, permitting, and asphalt over lay cost will be in addition to this total. This project should be scheduled and included in the 2009-2010 budget year.

3. A) Project Need: Pinnacle Drive,. are served by old four inch and six inch clay sewer mains and have no manholes.

B) Project Recommendation: This project has not been included in previous long range plans. Based on Old Bristol Road sewer project, I estimate that the entire project will cost $ 116,860.00 This project will consist of:

Mobilization =	*$ 5000.00*
1,500 lf eight-inch ductile iron pipe @ 55.00 per lf. =	*$ 82,500.00*
5 manholes @ $ 3000.00. =	*$ 15,000.00*
8 four-inch lateral replacements @ $ 900.00 =	*$ 7,200.00*
140 tons of gravel @ $ 19.00 per ton =	*$2,660.00*
75 tons of asphalt @ $ 60.00 per ton =	*$ 4,500.00*
	$ 116,860.00

All engineering, permitting, and asphalt overlay cost will be in addition to this total. This project should be scheduled and included in the 2010-2011 budget year.

4 A) Project Need: Crest Drive,Mac Street, and Arbor Lane. are served by old four inch and six inch clay sewer mains and have no manholes..

B) Project Recommendation: This project has not been included in previous long range plans. Based on Old Bristol Road sewer project, I estimate that the entire project will cost $ 175,875.00 This project will consist of:

Mobilization =	*$ 5000.00*
2000 lf eight-inch ductile iron pipe @ 55.00 per lf. =	*$110,000.00*
10 manholes @ $ 3000.00. =	*$ 30,000.00*
25 four-inch lateral replacements @ $ 900.00 =	*$ 22,500.00*
125 tons of gravel @ $ 19.00 per ton =	*$ 2,375.00*
100 tons of asphalt @ $ 60.00 per ton =	*$ 6,000.00*
	$ 175,875.00

All engineering, permitting, and asphalt overlay cost will be in addition to this total. This project should be scheduled and included in the 2011-2012 budget year.

5. A) Project Need: Pine Street, Woodland Drive, and Blanwood Drive,. are served by old four inch and six inch clay sewer mains and have no manholes..

B) Project Recommendation: This project has not been included in previous long range plans. Based on Old Bristol Road sewer project, I estimate that the entire project will cost $ 215,765.00 This project will consist of:

Mobilization =	*$ 5000.00*
2718 lf eight-inch ductile iron pipe @ 55.00 per lf. =	*$ 149,490.00*
10 manholes @ $ 3000.00. =	*$ 30,000.00*
20 four-inch lateral replacements @ $ 900.00 =	*$ 18,000.00*
225 tons of gravel @ $ 19.00 per ton =	*$ 4,275.00*
150 tons of asphalt @ $ 60.00 per ton =	*$ 9,000.00*
	$ 215,765.00

All engineering, permitting, and asphalt overlay cost will be in addition to this total. This project should be scheduled and included in the 2012-2013 budget year.

Council member Mason asked if the Town is compromising any particular area by adopting this plan. Public Utilities Director said no, that this plan is needed in order to maintain the Town's wastewater permit. On a motion by Council member Mason, seconded by Council member Brantz, Council moved to adopt the above five-year capital improvement plan.

VOTE: Aye-All
Nay-None

MONTHLY WATER USE STATUS REPORT

Public Utilities Director Rick Miller presented the following monthly water use status report:

As requested by Town Council, staff and I have compiled the following information concerning water use for the month of March. The Water Treatment Plant recorded a maximum daily demand of 2.023 million gallons on Tuesday, March 04, 2008, and the average daily demand was 1.770 million gallons for the entire month. The total amount of water treated was 54.87 million gallons. This is a 5.1 percent decrease over the total amount of water treated in March 2007.

Attached you will find a chart that depicts a comparison of the maximum daily demands for the month of March since 1995. Included is an average trend line that illustrates the extent the maximum daily demand has increased during the last thirteen years.

Originally the Boone Town Council appropriated for 25,000 gallons per day usage for allocation to
customers over a five year period. In November 2007 the Water Use Committee met and after careful

review of predicted vs actual water usage numbers, recommended to Council that the allocation amount be increased to 50,000 gallons per day until 2012.

At the last Town Council meeting, Council chose to allocate 5,850 gallons per day from the 2008 allotment for two projects. Since the last Town Council meeting the Public Utilities Department has
approved one project that subtracted 162 gallons per day from the 2008 allotment. The total water
allotment remaining for the year 2008 has broken the sixty percent threshold and all future water service requests in excess of 500 gallons per day will be forwarded to Town Council as required in
Ordinance 05-01.

As you can see in the attached "Approved Water Connections" chart, the Public Utilities Department
now has 7,751 gallons per day remaining for allotment in 2008 and 8,907 gallons remaining for 2009.

			2008			
Staff Approved	**Date**	**Projected Usage**	**Council Approved**	**Date**	**Projected Usage**	**Remaining Gallons**
						50000
			Mega Builders	11/15/2007	14400	35600
			Anne Henning	11/15/2007	795	34805
			Katrina Callio	11/15/2007	90	34715
Brad Moretz	1/2/2008	916				33799
Park Street Subdivision	1/2/2008	810				32989
Bob Buyce	1/2/2008	2043				30946
James Bates	1/2/2008	270				30676
Beth Postlewait	1/2/2008	270				30406
John Winkler	1/2/2008	252				30154
Pat Carroll	1/2/2008	936				29218
WWWC LLC	1/2/2008	2682				26536
Carroll Companies	1/2/2008	2730				23806
WWWC LLC	1/2/2008	936				22870
WWWC LLC	1/2/2008	2982				19888
			Oscorp Investment	1/717/2008	6750	13138
Salvation Army	1/7/2008	176				12962
			Adam Upchurch	2/21/2008	7452	5510
			Jamus FLP	**2/16/2006**	**4209**	**9719**
			Jamus FLP	**2/16/2006**	**4209**	**13928**
Thomas McGowan	1/24/2008	90				13838
Phillip Cresman	2/8/2008	30				13808
John Winkler	2/11/2008	30				13778
Den-Mac	3/4/2008	15				13763
			John Winkler	3/20/2008	3450	10313
			Michael Brown	3/20/2008	2400	7913
Boone Drug	3/27/2008	162				7751
			2009			
Staff Approved	**Date**	**Projected Usage**	**Council Approved**	**Date**	**Projected Usage**	**Remaining Gallons**

						50000
			Leanord Soloman	11/15/2007	8100	41900
			Oscorp Investment	1/717/2008	4225	37675
			Adam Upchurch	2/21/2008	20350	17325
			Boone Five LLC	2/21/2008	8418	8907

APPROVAL OF BUDGET AMENDMENTS

On a motion by Council member Phillips, seconded by Council member Brantz, Council moved to adopt the following budget amendments:

DESCRIPTION	ACCOUNT #	TO:	FROM:
Maintenance & Repair-Vehicles (Fire Department)	010-500-350-525301	$3,524.00	
Miscellaneous Revenue (General Fund)	010-000-000-489900		($3,524.00)
Maintenance & Repair-Bldg. & Grounds	010-408-000-525101	$3,500.00	
Appropriated Fund Balance-General Fund	010-000-000-499900		($3,500.00)

VOTE: Aye-All
Nay-None

DISCUSSION ABOUT BANNING OF SMOKING ON TOWN PROPERTY

Council member Aycock said citizens have contacted her about excess cigarette butts on the Jones House lawn, in the Town planters on King Street, and in Town playgrounds. Ms. Aycock proposed that the Town limit smoking on certain Town properties. Council member Mason agreed and said Watauga County, ASU, and Watauga Medical Center have prohibited smoking on their properties. Council member Mason suggested prohibiting smoking at all outdoor public spaces, and in and around all Town buildings and Town vehicles, too. Council member Mason said the Town should offer smoking cessation programs to its employees, just as the County did when it implemented a no-smoking policy. Council member Pepin felt the Town should provide some location for smokers to go. Council members Aycock and Pepin agreed to work with Town Attorney Sam Furgiuele on possible code amendments. On a motion by Council member Brantz, seconded by Council memeber Mason, Council moved to direct the Town Attorney to prepare code amendments regarding the prohibition of smoking on certain Town properties.

VOTE: Aye-All
Nay-None

ADOPTION OF RESOLUTION - CHANGE METHOD OF TOWN ELECTIONS

Mayor Loretta Clawson said changing the election to coincide with other municipal elections will save the Town of Boone money. Mayor Clawson pointed out that the last runoff election cost the Town of Boone an extra $11,000. Council member Pepin agreed that most citizens are confused about the Town's election. Town Attorney Sam Furgiuele explained that the Town currently uses the runoff method (election in October and runoff in November) and is proposing a non-partisan plurality method (one election on the second Tuesday in November - winner takes all). Mayor Clawson pointed out this change has nothing to do with an upcoming election. On a motion by Council member Mason, seconded by Council member Brantz, Council moved to adopt the following resolution of intent:

RESOLUTION OF INTENT

WHEREAS, the Town Council of the Town of Boone, North Carolina is currently elected under the "election and runnoff" method permitted by North Carolina General Statute

160A-101(7)(c) on a nonpartisan basis; and

WHEREAS, under that method, an election is held in October of odd-numbered years for Mayor and for seats on the Town Council and that candidates receiving a majority at that time are elected. For any offices for which no candidates receives a majority, there is a runoff in November between the two candidates who received the highest numbers of votes; and

WHEREAS, it is the intent of the Boone Town Council to consider changing the method of election of the Mayor and Town Council members so that elections are held under the "nonpartisan plurality" method as permitted by North Carolina General Statute 160A-101(7)(b). Under this method, one election is held on election day in November, and candidates with the highest number of votes are elected. A majority is not required for election, and there is no runoff;

THEREFORE, BE IT RESOLVED by the Town Council of Boone, North Carolina, that a public hearing on the change under consideration will be held during the regular meeting of the Boone Town Council in the Council Chambers, 1500 Blowing Rock Road, on Thursday, May 15, 2008 at 6:30 p.m.

Adopted this the 17th day of April, 2008.

Mayor

ATTEST:

Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE 55)

VOTE: Aye-All
Nay-None

ESTABLISHMENT OF COMMITTEE TO DEVELOP PROCEDURES AND STANDARDS FOR APPOINTMENTS TO TOWN BOARDS, TASK FORCES & COMMITTEES

Council member Mason requested establishment of a committee to develop procedures and standards for appointments to Town boards, task forces and committees. On a motion by Council member Brantz, seconded by Council member Aycock, Council moved to appoint Council members Mason and Pepin, along with Town Attorney Sam Furgiuele to develop procedures for appointments.

VOTE: Aye-All
Nay-None

Mayor Clawson declared a break at 7:50 p.m. Council reconvened at 8:01 p.m.

REQUESTED APPEARANCE - MARY BAKER

Ms. Mary Baker, Public Art Program Coordinator for the Downtown Boone Development Association, appeared before Council to request in-kind services for the gateway project on the west end of Town. Ms. Baker said the DBDA has received generous community support for the project and has requested that the Town provide the installation of concrete pads for a sculpture and three benches and installation of a concrete sidewalk. Public Services Director Blake Brown said he has reviewed the proposed project and has no problem with performing the work since the DBDA is paying for all materials. Mr. Brown did point out that the Town would need a hold-harmless agreement signed by the County before Town crews can work on Country property. Council member Mason asked if the County will allow the Town to work on its property. Town Manager Greg Young said he had received a letter from the County Manager granting permission, but that a hold-harmless agreement was not included. On a motion by

Council member Pepin, seconded by Council member Mason, Council moved to grant permission for the Public Services Department to perform the in-kind work for the gateway project, as long as a hold-harmless agreement is received from Watauga County.

VOTE: Aye-All
Nay-None

REQUESTED APPEARANCE - KAY BORKOWSKI

On a motion by Council member Pepin, seconded by Council member Brantz, Council moved to excuse Council member Lynne Mason from voting on this case since she is the Director of the Hospitality House.

VOTE: Aye-All
Nay-None

Town Attorney Sam Furgiuele opened a public hearing at 8:06 p.m. in order to hear sworn testimony from Kay Borkowski, Clayton Cook, Development Services Director John Spear and Public Utilities Director Rick Miller on a request for water and sewer service to property located off Bamboo Road. Ms. Kay Borkowski, Chair of the Board of Directors for Hospitality House, said the Town needs this new shelter since the current Hospitality House was constructed in 1917 and the two transitional shelters were constructed in 1940 and 1950. Ms. Borkowsk said all the current shelters are very costly to maintain because of security, safety and fire concerns. Ms. Borkowski said none of the current shelters are ADA compliant and not energy efficient. Ms. Borkowski said one new shelter will centralize operations and avoid duplication of staff and services. Ms. Borkowski presented an artist's rendering and said the new shelter will consist of 62 beds. Twenty-four beds will serve in the emergency shelter, 30 beds will serve the transitional population and 8 beds will be used for long-term residents. Ms. Borkowski said there will also be a commercial soup kitchen and space for supportive services for the residents. Ms. Borkowski said the Public Utilities Department estimated water use at 4,629 gallons per day; however, Ms. Borkowski felt that estimate was high because the three current shelters use only 2,338 gallons per day, serving on average 38 persons a day. Ms. Borkowski said even if an increase in current water useage is factored in, she estimated the new facility would use only 3,250 gallons per day. Ms. Borkowski said the new facility will be utilizing many green technologies and incorporating water-saving features including low-flow toilets, showers and faucets. Mr. Clayton Cook, Treasurer of the Hospitality House, said the Hospitality House goals are to ensure that clients return to the workforce as soon as possible. Ms. Borkowski hopes that construction will begin in fall 2008 with completion by January 2010. Council member Pepin asked if the property must be annexed.. Development Services Director John Spear said since the Hospitality House property is a portion of subdivided property, the other property owner must agree to annexation also. Council member Brantz asked if water allocations can be made from the 2010 allocation. Public Utilities Director Rick Miller said yes. Council member Pepin asked how long Ordinance 05-01 is in effect. Public Utilities Director Rick Miller said until 2011. Town Attorney Sam Furgiuele explained that Section 6-6 of the Water and Sewer Ordinance requires annexation if the property requesting services is located within the ETJ, unless it is owned by a non-profit agency; therefore, Council does not have to insist upon annexation of the Hospitality House. There being no further testimony, the public hearing closed at 8:25 p.m. Mr. Clayton Cook pointed out that there is actually only a small increase in water useage since the Hospitality House currently receives Town water. On a motion by Council member Brantz, seconded by Council member Aycock, Council moved to grant the water and sewer request, by allocating 4,629 gallons per day from the 2010 water allocation.

VOTE: Aye-All
Nay-None
Excused-1 (Mason)

REQUESTED APPEARANCE - RICHARD WARRINER

Town Attorney Sam Furgiuele opened a public hearing at 8:29 p.m. to hear sworn testimony from Richard Warriner and Public Utilities Director Rick Miller on a request for water and sewer service to property located off Highway 105, adjacent to the Super 8 motel. Mr. Richard Warriner, of Charisma Partners, LLC, said he has the property under contract and would like to develop the property as a mixed-use project. Mr. Warriner said he plans to construct the buildings as LLED certified and will be using STAR-rated appliances and mechanicals. Mr.

Warriner said it will be a small project consisting of 12 units and will be one of the first mixed-use LEED projects in Boone. Council member Brantz asked what the time-frame for the project will be. Mr. Warriner said he hopes to begin construction once approval for water and sewer service is received and that construction should be complete within nine months. Council member Brantz asked if the units will be for rent or for sale. Mr. Warriner said either way. Council member Phillips asked how the buildings will be located on the site. Mr. Warriner said the two separate buildings will be located at the back of the property. Council member Mason asked in what pressure zone the property is located. Public Utilities Director Rick Miller said it is the main pressure zone. There being no further comments, the public hearing closed at 8:40 p.m. On a motion by Council member Mason, seconded by Council member Aycock, Council moved to grant the water and sewer request, by allocating 4, 176 gallons of water per day from the 2009 allocation.

VOTE: Aye-All
Nay-None

REQUESTED APPEARANCE - WARREN SHEPHERD

Town Attorney Sam Furgiuele opened a public hearing at 8:41 p.m. to hear sworn testimony from Warren Shepherd and Public Utilities Director Rick Miller for a temporary water request for property located off Winklers Creek Road. Mr. Warren Shepherd, project manager for Cape Fear Land Managers, requested a 30-gallon-per-day water allocation for the use of a construction trailer. Mr. Shepherd said this property formerly had four residential structures on it which were served by Town water. Mr. Shepherd said there would be a reduction in water useage since the construction trailer will house only two individuals. Council member Brantz asked how long the temporary tap will be needed. Mr. Shepherd said once the community wells are drilled and in service, he will connect the construction trailer to a well; however, he should need the tap no longer than three years. Council member Brantz asked if the project is for residential home construction. Mr. Shepherd said no, that the development is for townhomes; however, since the project is located outside a pressure zone connecting up to the Town water system is not an option at this time. Council member Mason asked what the water will be used for. Mr. Shepherd said the water will be used in a bathroom. Council member Brantz asked if this construction trailer could be easily connected. Public Utilities Director Rick Miller said yes, that a six-inch line is already in place. Council member Phillips asked if this line has been recently maintained. Public Utilities Director Miller said the line is in working order. There being no further comments, the public hearing closed at 8:52 p.m. On a motion by Council member Brantz, seconded by Council member Aycock, Council moved to grant the 30-gallon-per- day water request from the 2009 allocation contingent upon the following:

1. Any variation noted from the 30-gallon-per-day allocation will be reported to Council immediately.

2. The temporary connection will expire 4/17/11.

3. No annexation is required at this time.

VOTE: Aye-All
Nay-None

REQUESTED APPEARANCE - HOLLAR & GREENE PRODUCE

Town Attorney Sam Furgiuele opened a public hearing at 8:55 p.m. to hear sworn testimony from Tony Greene and Public Utilities Director Rick Miller on a request for water and sewer service to property located at 276 Cabbage Row. Mr. Tony Greene testified that the property is located off old Highway 421 and is known as the Hollar & Greene produce facility. Mr. Greene said he is requesting water because of the low water supply at the office building. Council member Aycock asked what the wash bay building is used for. Mr. Greene said for washing trucks, but that he is not requesting water service for the wash bay building since it is supplied by a well. Council member Mason pointed out that Section 6-6(e) of the Water and Sewer ordinance requires annexation unless one meets one of the three exceptions. Mr. Greene said he does not want to annex at this time; however, he feels a hardship because of the low water supply. Council member Mason pointed out that was not an exception to the annexation criteria. Council member Brantz asked if there would be difficulty in providing water to this facility. Public Utilities Director Rick Miller said no, that he could provide water service, but that sewer

service would present a problem. Council member Phillips asked how unreliable water service will affect the produce business. Mr. Greene said he will have to drill a better well, but that it will be difficult since the site is adjacent to the New River. There being no further comments, the public hearing closed at 9:07 p.m. Council member Pepin said she understands Mr. Greene's position of not wanting to annex since the business taxes would far outweigh double water charges. After a little discussion, on a motion by Council member Pepin, seconded by Council member Aycock, Council moved to deny the water and sewer request. After some discussion, Council members Pepin withdrew the motion and second. On a motion by Council member Pepin, seconded by Council member Aycock, Council moved to grant the water and sewer request, by allocating 360 gallons of water per day from the 2008 allocation, as long as the applicant petitions annexation before connection. Before voting, Council member Brantz felt the Council may want to review hardship cases since he expects them to be more frequent in the future.

VOTE: Aye-All
Nay-None

CLOSED SESSION

On a motion by Council member Brantz, seconded by Council member Pepin, Council moved to enter Closed Session at 9:13 p.m., pursuant to NCGS 143-318.11.a) 3)5)6) in order to discuss property acquisition on water; Howard Street and the Downtown Post Office; personnel matters; CHS/ASU, LLC litigation; legal advice regarding Elk Motel Sewer line extension; legal advice regarding Lowe's Hardware tree trimming penalties; discussion of Community Garden lease; and legal advice concerning the decision by Court of Appeals in the City of Wilmington case.

VOTE: Aye-All
Nay-None

On a motion by Council member Aycock, seconded by Council member Brantz, Council moved to exit Closed Session at 12:36 a.m, Friday April 17, 2008.

VOTE: Aye-All
Nay-None

ACTION FOLLOWING CLOSED SESSION

On a motion by Council member Aycock, seconded by Council member Mason, Council moved to adopt the following resolution and begin the upset bid process for the community garden property:

RESOLUTION

Whereas, the Council of the Town of Boone desires to lease certain property of the Town;

Now, Therefore Be it Resolved by the Council that:

1. The following described property is hereby being proposed for lease:

   Community Garden property located off Leola Street.

2. The Council has received an offer to lease the property for a 45-year term for the sum of $60,000 per year for the property described above.

3. The Council proposes to accept the lease offer unless an upset bid shall be made.

4. The person making the upset bid must deposit with the Town Clerk a sum equal to five percent (5%) of his or her offer.

5. The Town Clerk shall cause a notice of such offer to be published in accordance with G.S. 160A-269.

6. The Town Clerk is directed, should a qualifying upset bid and deposit be received

within ten (10) days from the publication of said notice in accordance with G.S. 160A-269, to re-advertise the offer at the increased upset bid amount.

Adopted this the 17th day of April, 2008.

_____
Mayor

ATTEST:

_____
Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE 56)

VOTE: Aye-All
Nay-None

On a motion by Council member Aycock, seconded by Council member Brantz, Council moved to propose amendments to the UDO that would amend the table of uses in the UDO to remove accessory structures from the R-1 and R-1A zoning districts. These amendments will be presented at the May 8th quarterly public hearing.

VOTE: Aye-All
Nay-None

ADJOURNMENT

On a motion by Council member Brantz, seconded by Council member Aycock, Council moved to adjourn at 12:39 a.m.

VOTE: Aye-All
Nay-None

_____ _____
Town Clerk Mayor