

**MINUTES - REGULAR MEETING
BOONE TOWN COUNCIL APRIL
20, 2006**

A regular meeting of the Boone Town Council was called to order at 6:30 p.m., Thursday, April 20, 2006 in the Council Chambers, 1500 Blowing Rock Road. Mayor Loretta Clawson presided. Council members present were Mayor Pro Tem Lynne Mason, Rennie Brantz, Janet Pepin, Bunk Spann, and Dempsey Wilcox. Town Attorney Sam Furguele was also present. Staff members present were Town Manager Greg Young, Deputy Town Clerk Kim Tester, Special Assistant to the Town Manager Jim Byrne, Police Chief Bill Post, Fire Chief Reggie Hassler, Public Services Director Blake Brown, Public Utilities Director Rick Miller, Finance Director Amy Davis, Human Resources Director Peri Moretz, and Development Services Director John Spear.

ANNOUNCEMENTS

Mayor Clawson called the meeting to order and welcomed all in attendance.

Mayor Clawson expressed appreciation for the hard work of the Town employees in renovating the Council Chambers. She specifically thanked Peri Moretz for coordinating the effort and Todd Moody for the extensive electrical work performed.

Mayor Clawson recognized Brenda Henson, Administrative Support Specialist, and Marlene Crosby, Administrative Support Assistant, of the Development Services Department for their receipt of the 2006 Customer Service Award given by the Boone Area Chamber of Commerce. She thanked each of them for their hard work and positive presence on the job.

Mayor Clawson reminded the public that the Annual Boone Spring Clean-Up Day will be held on Saturday, April 22nd. She invited all to participate in this event.

Council member Pepin announced that the week of April 17-21 is National Volunteer Appreciation Week. She expressed appreciation for the dedication of all the volunteers serving on Town boards and nationwide.

TENTATIVE AGENDA ADOPTION

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

Item 4. E. - Addition to Surplus Property - Fire Department Tanker.

Deletion of Item 7. G. - Olga Jenson - Request permission to begin street closing procedures.

Addition to Closed Session (143-318.11a.3) - Property Acquisition.

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

VOTE: Aye - All
 Nay - None

CONSENT AGENDA ADOPTION

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

Minutes: March 15, 2006 – Special Meeting
 March 16, 2006 – Regular Meeting

Tax Releases: March 2006

TAXPAYER	YEAR	AMOUNT	DESCRIPTION
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BEQUETTE, BENJAMIN RYAN	2005	\$8.64	PLATE TURNED IN
DUVERNOIS, LINDA SMITH	2005	16.38	TURN IN TAG
HAYDEN, MICHAEL LAWRENCE HAYDEN, NEETA B	2005	4.40	BOAT DESTROYED
HIGH COUNTRY UNITED CHURCH OF CHRIST	2005	1330.80	EXEMPT
MARRO, RITA I	2005	61.90	TURN IN TAG
MILLAWAY, FRANKLIN MUNSEY MILLAWAY, JACQUELYN GRAYE	2005	38.04	SOLD IN 2004 MOVED OUT OF COUNTY
MORTON, HUGH MACRAE III	2005	31.14	INS PURCHASED VEHICLE TOTALED
PEPPER, JOHN WILLIAM	2005	152.44	INCORRECT FIRE DISTRICT
SIMPSON, ETHEL B	2005	13.44	BILL OF SALE
SPANN, KETURAH SHAREE	2005	7.84	TURN IN TAG
WARREN, WILLIAM SCOTT	2005	17.06	TURN IN TAG
TOTAL		\$1682.08	

Tax Refunds: March 2006

TAXPAYER	YEAR	AMOUNT	DESCRIPTION
HARRIS, ELIZABETH LUCILLE	2005	\$11.46	SOLD VEHICLE TURNED IN TAG
MOORE, ALAN EUGENE	2005	58.56	SOLD VEHICLE TURNED IN TAG
TOTAL		\$70.02	

Fire Protection Refunds: March 2006

**REFUND FOR FIRE PROTECTION ON PROPERTIES
ANNEXED BY TOWN OF BOONE**

NAME	PARCEL NUMBER	AMOUNT
Milhug LLC	2911-22-3936-000	9.03
Eggers, Graydon P. Jr. Trustee Eggers, Carolyn A. Trustee Carolyn A. Eggers Revocable Trust	2911-22-7855-000	5.63
Hughes, Larry V. Hughes, Kim	2911-22-6620-000	5.63
Miller, Joseph C. Miller, Lynda C.	2911-22-8574-000	5.78
		\$26.07

Adoption of Code Amendment: §30.07 Public Comment.

WHEREAS, the North Carolina General Assembly has adopted, in N. C. Gen. Stat. § 160A-81.1, new rules governing public comment at regular meetings of municipal town councils; and

WHEREAS, the Town of Boone wishes to provide a regular forum for citizens of the Town and other persons to express their views on subjects of importance to them, and to provide the Town Council with a regular forum to hear the varied perspectives of persons on matters, whether or not they appear on the agenda of the regularly scheduled meetings;

NOW, THEREFORE, PURSUANT TO N.C. GEN. STAT. § 81.1, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BOONE, NORTH CAROLINA, THAT SECTION 30.07 OF THE TOWN OF BOONE, NORTH CAROLINA, CODE OF ORDINANCES, IS AMENDED, AS STATED BELOW, IN RELEVANT PART, WITH NEW

LANGUAGE IN BOLD AND LANGUAGE TO BE REMOVED WITH A STRIKE THROUGH:

§ 30.07 ORDER OF BUSINESS

...

(G) Any person wishing to address the Town Council **at any regular meeting of the Town Council** ~~but unable to give advance notice prior to the council meeting~~ shall fill out the card **place his or her name on a sign up sheet** available for this purpose. ~~and hand it to the Town Clerk.~~ Such person shall be entitled to speak under ~~“Unscheduled Appearances”~~ **“Public Comments,”** subject to the following rules and regulations:

(1) Speakers shall be recognized in the order in which they have signed up.

(2) No person shall be allowed to speak for more than five minutes unless the presiding officer allows an extension of time.

~~(2) No person shall speak about an item already on the agenda.~~

(3) Should more than one person wish to make substantially the same comments regarding the same subject, or where a group of persons supports or opposes the same positions, the presiding officer may require that all such persons designate a spokesperson for their group to address the Town Council, and the presiding officer may allot a larger amount of time for the presentation of the group position by the spokesperson.

(4) When the number of persons wishing to address the Town Council during the “Public Comment” period exceeds the number of people who can safely be accommodated within the Town Council chambers or other location of the meeting, the presiding officer may require that all such persons select delegates from the groups of persons supporting or opposing the same positions to address the Town Council, and the presiding officer may allot a larger amount of time for the presentation of the group position by each delegate.

(5) All persons addressing the Town Council during the public comment period shall be treated respectfully by other persons in attendance at the meeting, and all speakers shall conduct themselves with proper decorum. Should any person present during a public comment period substantially interfere with the ability of a person offering public comment or engage in behavior which violates norms of accepted decorum, or should a person offering public comment engage in behavior which violates norm of accepted decorum, after warning such person(s) and, except in a situation where there is risk of harm to any person present, providing such person(s) the opportunity to alter their behavior to bring it into conformity with norms of accepted behavior, the presiding officer may direct that such person(s) be removed from the meeting. However, a person expressing positions which are critical of Town policies or actions, or criticizing the Mayor, Town Council Members, Town staff, Town Officials, or Town policies or actions, shall not on that basis alone be considered to have engaged in behavior which violates norms of accepted decorum.

(6) Unless the agenda is amended in accordance with this ordinance so as to allow action on an item raised during the public comments period, ~~the matter presented by the speaker shall be for information.~~

(H) Items shall be placed on the agenda according to the Order of Business. The Order of Business for each regular meeting shall be, but not limited to, the following: adoption of agenda (regular and/or consent), approval of the minutes, public hearings, administrative reports, committee reports, unfinished business, new business, informal discussion **and public comment.**

THIS AMENDMENT IS EFFECTIVE WHEN ADOPTED.

Adopted this the 20th day of April, 2006.

Adoption of Resolution: Surplus Property Auction.

**RESOLUTION AUTHORIZING THE SALE OF CERTAIN
PERSONAL PROPERTY AT PUBLIC AUCTION**

WHEREAS, the Council of the Town of Boone desires to dispose of certain surplus property of the Town;

NOW, THEREFORE BE IT RESOLVED, by the Town Council that:

1.
- The following described property is hereby declared surplus to the needs of the Town:

ASSET #	DESCRIPTION
1076	KUBOTA TRACTOR 245 DT
1146	1986 FORD 555B BACKHOE
1389	1981 CHEVROLET VAN
2196	1999 CHEVROLET SUBURBAN
2312	1996 CHEVROLET LUMINA
2329	1997 FORD CROWN VICTORIA
2330	1998 FORD CROWN VICTORIA
2334	1998 FORD CROWN VICTORIA
2336	1998 FORD CROWN VICTORIA
2612	1991 CHEVY CAMARO
0577	1989 PONTIAC FIREBIRD
2722	1992 CHEVROLET S-10
2761	APC BATTERY BACK-UPS
2797	GATEWAY G6-2000
2799	HP DESKJET 1600
3325	GATEWAY 2000 CPU
3694	HP NETSERVER LC3
3762	PIONEX CPU
3874	HP NETSERVER E60
3626	COMPAQ AP200 CPU
	NOKIA CELL PHONE
	PRINCETON MONITOR
	GATEWAY MONITOR
	DELL CPU
	DELL MONITOR
	HP JET DIRECT EX PLUS 3
	IBM WHEELWRITER 3
	LEFT HAND DESK RETURN
	HP DESKJET 600 C
	WOODEN LECTURN
	HP OFFICE JET G-85
	MICROWAVE
	BACK UPS PRO 650
	SMART UPS 1400
	SMART UPS 1400
	BOX OF KEYBOARDS/PHONES
	WOODEN TABLE
	HYDRAULIC LIFT CYLINDER
	DESK
	DESK
	GE 2-LINE PHONE

	SYMPLEX ROUTERS
	MOTOROLA MOBILE RADIO
	12-VOLT BOOSTER PAC
	ALTEC LANSING CPU SPEAKER
	BAY NETWORK 24-PORT HUB
	HITACHI TUNER
	2-DRAWER CARD FILE
	CYBERVISION MONITOR
	COMPAQ LAPTOP
	12/24 VOLT KWIKSTART CHARGER
	12/24 VOLT TRUCK PAC CHARGER
	ECHO CHAINSAW
	ECHO WEEDEATER
	HP 4550 COLOR LASERJET
	WHIRLPOOL REFRIGERATOR
	SMALL FLOOR CABINET
	DELL MONITOR
	JACK HAMMER
	PROJECTOR SCREEN
	OVERHEAD PROJECTOR
	DESK W/ HUTCH
	DELL DIMENSION L566 CX CPU
	HP DESKJET 850C
	BLACK OFFICE CHAIR
	COMPAQ V700 MONITOR
	APC BACK-UPS 300

2. The Finance Officer is authorized to receive in behalf of the Town Council bids at public auction for the purchase of the described property.
3. The public auction will be held on Saturday, May 20, 2006 at 8:00 a.m. at the Public Works Center, 832 East King Street. The terms of the sale shall be cash, cashier's check or money order.
4. The Town Clerk shall cause a notice of the public auction to be published in accordance with G.S. 160A-270(b).
5. The highest bid, if it complies with the terms of the sale, may be accepted by the Finance Officer and the sale consummated.

Adopted this the 20th day of April, 2006.

Mayor

ATTEST:

Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 2, PAGE 312-313)

Adoption of Resolution: Opposition to National Forest Land Sales.

RESOLUTION IN OPPOSITION TO NATIONAL FOREST LAND SALES

WHEREAS, the federal government has proposed to sell at public auction up to 200,000 acres of national forest land in order to raise \$800 million over the next five years as a one-time payment for rural school needs; and

WHEREAS, the federal government intends to auction off North Carolina and other state public lands in order to temporarily finance the Secure Rural Schools and Community Self-Determination Act, a program that the federal government has announced it will phase out in five years; and

WHEREAS, more than one-sixth of the land proposed for sale (55,862 acres) is located in the southeast of United States; and

WHEREAS, nearly 10,000 acres of national forest land proposed for sale is located in North Carolina, including 895 acres in the Croatan National Forest, 3,836 acres in the Nantahala National Forest, 2,780 acres in the Pisgah National Forest and 2,317 acres in the Uwharrie National Forest; and

WHEREAS, North Carolina has made a commitment to conserve land and add to the state’s system of public parks and forests; and

WHEREAS, we agree with North Carolina Governor Mike Easley that the proposed land sale “violates all tenets of good public policy. It disposes of valuable, sometimes priceless public resources, removing them from public access for all time to provide a modest, one-time infusion of funds for the ongoing needs of rural schools”; and

WHEREAS, Carolina would receive only \$103 per acre from the sale of its public lands; and

WHEREAS, the Boone Town Council does not believe that America must sell its public lands in order to temporarily balance its budget; and

WHEREAS, the United States Forest Service is seeking comments from all interested individuals and organizations regarding the President’s Budget proposal to sell our public lands.

NOW THEREFORE, BE IT RESOLVED that the Boone Town Council holds that the lands proposed for public auction by the federal governments are our national heritage and therefore opposes the sale of our state’s irreplaceable resources for future generations;

AND THEREFORE LET IT BE FURTHER RESOLVED that the Boone Town Council will submit this resolution of opposition to the USDA Forest Service.

ADOPTED this the 20th day of April, 2006.

ATTEST:

Mayor

Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 2, PAGE 314)

Adoption of Resolution: Disposition of Surplus Property

RESOLUTION

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

Now, therefore be it resolved by the Council that:

1. The following described property is hereby declared to be surplus to the needs of the Town:

Asset # 0177, Tanker #2 Serial # 1GBM7D162KV105146

2. The Fire Chief is authorized to dispose of the described property by private sale at a negotiated price.
3. The minimum price to be accepted for the property is \$5,000.
4. The Town Clerk shall publish notice summarizing this resolution in accordance with G.S. 160A-267.
5. The sale may be consummated not earlier than 10 days from the date of publication.

Adopted this the 20th day of April, 2006.

Mayor

ATTEST:

Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 2, PAGE 315)

VOTE: Aye - All
 Nay - None

PUBLIC HEARING ON SWEET WATER DRIVE STREET CLOSING

Mayor Clawson opened a public hearing at 6:38 p.m. on the closing of Sweet Water Drive. With no public testimony, she closed the public hearing at 6:39 p.m.

CAC ANNUAL REPORT PRESENTATION

Sean Krause, Chairman of the Community Appearance Commission presented the following annual report to the Council:

Summary of Activities

The Commission spent the first four months of 2005 completing the proposed amendment to the Unified Development Ordinance (hereafter "U.D.O.") of Article XXII, titled Commercial Development Appearance Standards. Subsequent to proposal of this Article, a joint meeting of the Planning Board and Community Appearance Commission was held, wherein the proposed text was amended. After the eventual passage of the Article, the Commission turned its focus to existing properties which demonstrate a detrimental appearance, and future appearance guidelines for "Big Box" retail.

Appearance problems with existing properties consist of outdoor storage of materials strewn about the property, outdoor display, moth-balled buildings, properties which are condemned or condemnable, and occupied buildings which meet Minimum Housing or NC Building Code, but are in poor condition. The Commission is preparing draft wording for proposal to Town Council for the inclusion in the U. D. O. to regulate outdoor storage and display. However, the problem of "eyesore" (vacant/abandoned/dilapidated) properties is very complex. The Commission has met with Tuesdae Rice of the Downtown Boone Development Association regarding incentives to renovate such properties. Regarding penalties, the Commission has discussed the NC Nuisance Law, but is aware of the delicate issues surrounding its use. The Commission is developing a list of offending properties. Members will contact these property owners with their concerns and all available positive incentives towards remedy. If the owners make no improvements, the Commission will refer them to Council as possible subjects for

action under the Nuisance Law. Tax Increment Financing (T.I.F.) was also discussed as a possible source of revenue available for the improvement of appearance in the Town. However, it seems that it is available only to historic structures or larger blighted community zones, rather than individual non-historic structures. Therefore, the Commission recommended that Council investigate T.I.F. as a possible source of funds to make improvements such as burial of power lines, creation/enlargement of sidewalks, and provision of street trees. This may be of special benefit to Howard Street.

“Big Box” retail establishments create a variety of challenges to our community. The Commission will explore these issues in the coming year, including a possible maximum square footage of such establishments.

During this year, membership of the Commission has changed. Mr. William A. Bake was assigned as a new member. Mrs. Joan McLaughlin was appointed for the remainder of Lila Petersen’s unexpired term. Mrs. Nan Chase requested to step down as Chair, and Mr. Sean P. Krause was elected as Chair. Mr. Terry Taylor was elected as Vice Chair.

Budget

The Commission expended no funds over the last year, and there is no expectation that a request for funding will be made for the 2007 budget year. However, the Commission feels that the Council may wish to make a budget allocation regarding Town Appearance in the following categories:

1. Demolition of properties under the Nuisance Law (owners may possibly be fined to recover demolition costs);
2. Acquisition of properties under the Nuisance Law;
3. Funding for acquisition of small properties or portions thereof for green space, public transportation nodes, or parks;
4. Provision and connection of walking trails throughout town;
5. Provision of small signage kiosks as places for handbills to be posted, rather than telephone poles, abandoned buildings, etc.

Respectfully Submitted,
Sean P. Krause, Chair, Town of Boone Community Appearance Commission

Mayor Clawson and members of the Council thanked Mr. Krause and the Community Appearance Commission for their hard work during the past year.

ADOPTION OF RESOLUTION - FIXING DATE OF PUBLIC HEARING - ASDREX ONE ANNEXATION

Development Services Director John Spear presented the staff report for this annexation procedure. He stated that a public hearing could be held at the next meeting of the Council on May 18th. Upon a motion by Council member Mason, seconded by Council member Brantz, Council moved to adopt the following resolution:

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-58.2 (Asdrex Annexation)

WHEREAS, a petition requesting annexation of the non-contiguous 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 to 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 non-contiguous area described herein will be held at Council Chambers on Blowing Rock Road at 6:30 p.m. on May 18, 2006.

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

Beginning at a point in the centerline of U.S. Highway 421 North, a corner with Roberts, said point being located N 55°15'10"W 81.25' from an existing iron pipe found being shown as an existing ½" conduit pipe in the margin of U.S. Highway 421 on the Annexation survey for the Snyder Family Limited Partnership recorded in Plat Book 17 Page 255, being a point on the Corporate Limits on the Town of Boone, thence N70°10'33"W 64.98' to a point center line of U.S. Highway 421 North, thence N68°45'33"W 134.74' to a point in the centerline of U.S. Highway 421 North, a common corner with Eggers, thence running with Eggers the following 9 calls, N 12°20'32"E 37.55' to an existing iron, thence N12°41'21"E 13.05' to a new iron in the R/W of U.S. Highway 421 North thence N12°41'21"E 11.47' to an existing iron, thence N22°12'13"E 26.43' to a new iron, thence N28°58'47"E 54.77' to a new iron, thence N41°51'47"E 79.00' to a new iron, thence N42°42'47" 121.00' to a new iron, thence N52°23'47"E 23.69' to a new iron, thence N58°35'47"E 53.81' to a new iron common corner with Eggers and Hodges, thence N70°22'41"E 50.94' with Hodges to a new iron, thence with Hodges N78°20'17"E 50.42' to a common corner with Hodges and Tennille Properties LLC, thence with Tennille Properties, LLC S00°06'70"W 215.81' to an existing iron, thence running with Tennille Properties, LLC S33°28'11"W 119.79' to an existing iron common corner with Tennille Properties, LLC and Roberts, thence with Roberts N78°56'31"W 67.48' to an existing iron pipe, thence S13°01'44"W 77.25' to a new iron in the R/W of U.S. Highway 421 North, thence with Roberts S13°01'44"W 34.74' to an existing iron (control corner), thence with Roberts S13°01'44" 15.61' to the point of beginning, containing 1.901 acres and being all of Lot 1. There is reserved a 20' R/W along the North to the Hodges and Tennille Properties, LLC's common line.

Section 3. Notice of public hearing shall be published once 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.

Adopted this the 20th day of April, 2006.

Mayor

ATTEST:

Town Clerk

(RESOLUTION TO BY TYPED IN BOOK 2, PAGE 316)

VOTE: Aye-All
Nay-None

ADOPTION OF RESOLUTION - FIXING DATE OF PUBLIC HEARING - DUNBAR ANNEXATION

Development Services Director John Spear presented the staff report for this annexation procedure. He stated that a public hearing could be held at the next meeting of the Council on May 18th. Upon a motion by Council member Mason, seconded by Council member Brantz, Council moved to adopt the following resolution:

**RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION
OF ANNEXATION PURSUANT TO G.S. 160A-31
(Dunbar 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 18, 2006.

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

Beginning at an existing iron (control corner) the common corner of Dunbar and Brown, thence the common line with Brown S77°00'30"E 58.28' to an existing iron, common corner of Brown and Bulla, thence the common line with Bulla S18°07'37"W 238.77" to an existing iron, common corner with Bulla and Osborne, thence with the common line of Osborne N75°29'37"W 117.35' to an existing iron (control corer), common corner of Osborne and Dunbar, thence with the common line of Dunbar N31°15'34"E 248.10' to the point of beginning containing 0.47 acres.

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.

Adopted this the 20th day of April, 2006.

Mayor

ATTEST:

Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 2, PAGE 317)

VOTE: Aye - All

Nay - None

REQUEST PERMISSION TO APPLY FOR A GRANT

Fire Chief Reggie Hassler presented a request to apply for the FIRE ACT grant through the Department of Homeland Security which would allow for the purchase of personal protection equipment (PPE). If awarded, the grant will be \$109,550.00 with a match of \$10,955.00 which will be absorbed by the Fire Department and Rural Fire fund budgets. Upon a motion by Council member Pepin, seconded by Council member Mason, Council moved to grant Chief Hassler's request to apply for this grant.

VOTE: Aye - All

Nay - None

ADOPTION OF STREET CLOSING ORDER - SWEET WATER DRIVE

Town Manager Greg Young noted that this is the last step in the street closing process for the closure of Sweet Water Drive. Upon a motion by Council member Brantz, seconded by Council member Mason, Council moved to adopt the following street closure order:

STREET CLOSING ORDER

A RESOLUTION ORDERING THE CLOSING OF SWEET WATER DRIVE

WHEREAS, on the 16th day of March, 2006, the Council of the Town of Boone directed the Town Clerk to publish the Resolution of Intent of the Council to consider closing Sweet Water Drive in the Watauga Democrat once each week for four successive weeks, such resolution advising the public that a meeting would be conducted in the Council Chambers on April 20, 2006; and

WHEREAS, the Town Council on the 16th day of March, 2006, ordered the Town Clerk to notify all persons owning property abutting on Sweet Water Drive as shown on county tax records by registered or certified mail, enclosing with such notification a copy of the Resolution of Intent; and

WHEREAS, the Town Clerk has advised the Council that she sent a letter to each of the abutting property owners advising them of the day, time, and place of the meeting, enclosing a copy of the Resolution of Intent, and advising the abutting property owners that the question as to closing Sweet Water Drive would be acted upon, said letters having been sent by registered or certified mail; and

WHEREAS, the Town Clerk has advised the Council that adequate notices were posted on the applicable street as required by G.S. 160A-299; and

WHEREAS, after full and complete consideration of the matter and after having granted full and complete opportunity for all interested persons to appear and register any objections that they might have with respect to the closing of Sweet Water Drive in the public hearing held on April 20, 2006; and

WHEREAS, it now appears to the satisfaction of the Council that the closing of said street is not contrary to the public interest, and that no individual owning property, either abutting the street or in the vicinity of the street or in the subdivision in which the street is located, will as a result of the closing be thereby deprived of a reasonable means of ingress and egress to his property;

NOW, THEREFORE, subject to the reservation of easement to the Town of Boone for utility purposes as shown on a map recorded in the Book of Maps _____, page _____ in the office of the Watauga County Register of Deeds, Sweet Water Drive is hereby ordered closed and all right, title and interest that may be vested in the public to said area for street purposes is hereby released and quitclaimed to the abutting property owners in accordance with the provisions of G.S. 160A-299.

The Mayor and the Town Clerk are hereby authorized to execute quitclaim deeds or other necessary documents in order to evidence vesting of all right, title and interest in those persons owning lots or parcels of land adjacent to the street or alley, such title for the width of the abutting land owned by them, to extend to the centerline of the herein closed street (with provision for reservation of easements to the Town of Boone for utility purposes) in accordance with the provision of G.S. 160A-299(c).

The Town Clerk is hereby ordered and directed to file in the Office of the Register of Deeds of Watauga County a certified copy of this resolution and order.

Upon a motion by Council member Brantz, and duly seconded by Council member Mason, the above resolution was adopted by the Town Council at a meeting held on April 20, 2006 in the Council Chambers.

VOTE: Aye - All
 Nay - None

Mayor

ATTEST:

Town Clerk

VOTE: Aye - All
 Nay - None

WATER STUDY COMMITTEE APPOINTMENT

Council member Spann moved to appoint Joseph Montemurnmo to serve on the Water Study Committee.
Council member Mason seconded the motion.

VOTE: Aye - All
 Nay - None

POSSIBLE UDO AMENDMENT - SPECIAL PROCEDURES FOR SIGN ENFORCEMENT

Town Attorney Sam Furgiuele asked permission to draft a UDO amendment concerning the time period for enforcement of violation of the UDO sign ordinance regulations. He asked permission to draft an amendment to be presented at the May Quarterly Public Hearing. Upon a motion by Council member Spann, seconded by Council member Mason, Council moved to authorize Mr. Furgiuele to draft an amendment to the UDO concerning the time period for enforcement of violating the sign ordinance.

VOTE: Aye - All
 Nay - None

MONTHLY WATER USE STATUS REPORT

Public Utilities Director Rick Miller presented the following status report:

As requested by Town Council, staff and I have compiled the following information concerning water use for the month March. The Water Treatment Plant recorded a maximum daily demand of 1.904 million gallons on Wednesday, March 29, 2006, and the average daily demand was 1.688 million gallons for the entire month. **If all allocated projects were online and utilizing the amounts of water calculated, the total for the month would be 2.184 million gallons for the maximum daily demand and 1.968 million gallons for the average daily demand.**

As adopted in Ordinance 05-01, the Town of Boone Council has appropriated for 25,000 gallons per day usage for year 2006 for allocation to customers. Council chose to allocate 16,441 gallons from 2006 leaving a balance of 8,559 gallons for allocation. Eight previously approved allocations did not contact us within the one year period and did not acquire all necessary permits, as required in Ordinance 05-01. These water allocations totaled 16,965 gallons per day and combined with the 2006 balance, created a total of 25,752 gallons per day that can be allocated for use in 2006. The total water allotment remaining for the year 2006 has not broken the sixty percent threshold. All future water service requests in excess of 3000 gallons per day usage will be forwarded to Town Council as required in Ordinance 05-01. Since the last Town Council Meeting the Utilities Department has approved five projects that subtracted from the 2006 allotment.

As you can see in the attached chart, the Public Utilities Department now has 17,085 gallons per day remaining for allotment in 2006. Also, be reminded that all calculations are based on 60% of the North Carolina Discharge Rate Schedule.

			Approved Water Connections			
			2006			
Staff Approved	Date	Projected Usage	Council Approved	Date	Projected Usage	Remaining Gallons
						25000
		4165	John Cook	May-05	8038	16962

			CataCorner Investments	Jul-05	7296	9666
			CAT Tractor	Oct-05	1107	8559
			2005 Balance Carry Over	Jan-06	228	8787
**Relinquished		Previously	Approved Allocations	Feb-06	16965	25752
Bob Young	Feb-06	450				25302
Sarvos Properties	Feb-06	2100				23202
William Klein	Feb-06	540				22662
Andy Garrett	Feb-06	90				22572
Charles Ulerey	Feb-06	2985				19587
Eric Woolridge	Feb-06	540				19047
Ray Howell	Feb-06	104				18943
			Lynhill Daycare	Mar-06	693	18250
Gene Jensen	Mar-06	180				18070
BREMCO	Mar-06	15				18055
Mels Diner	Mar-06	360				17695
Raymond Verling	Mar-06	430				17265
Jeff Nichols	Mar-06	180				17085

ADOPTION OF BUDGET AMENDMENTS

Finance Director Amy Davis presented the budget amendments. Upon a motion by Council member Mason, seconded by Council member Brantz, Council adopted the following budget amendments:

DESCRIPTION	ACCOUNT #	TO:	FROM:
Misc. Supplies - Governing Body	010-400-000-519900	\$1,500.00	
Misc. Expense - Governing Body	010-400-000-539901	\$13,469.00	
Appropriated Fund Balance	010-000-000-499900		(\$14,969.00)
Maint. & Repair Vehicles Police	010-500-300-525301	\$3,036.00	
Miscellaneous Revenue	010-000-000-489900		(\$3,036.00)
Professional Services - Development Services	010-500-360-509100	\$25,000.00	
Appropriated Fund Balance	010-000-000-499900		(\$25,000.00)
Community Appear. - Development Services	010-500-360-525100	\$3,500.00	
Appropriated Fund Balance	010-000-000-499900		(\$3,500.00)
Miscellaneous Supplies - Street	010-600-401-519900	\$7,000.00	
Appropriated Fund Balance	010-000-000-499900		(\$7,000.00)
Capital Outlay - Oak St. Project	010-600-401-574802	\$119,131.00	
Appropriated Fund Balance	010-000-000-499900		(\$119,131.00)

VOTE: Aye – All
 Nay – None

Upon a motion by Council member Brantz, seconded by Council member Spann, Council moved to excuse Council member Pepin from the next case because of financial interests.

VOTE: Aye- All
 Nay - None

REQUESTED APPEARANCE - KATHY PARHAM, THE CHILDREN'S PLAYHOUSE

Ann Keifert, on behalf of The Children's Playhouse, presented an informational Powerpoint presentation concerning the purpose and activities of the organization **(permanently on file)**. Council member Spann reminded the Council of the need for criteria to be developed with which to consider the applications for funding from non-profit organizations as voiced by Council member Mason during the previous budget year deliberations. Upon a motion by Council member Brantz, seconded by Council member Mason, Council moved to accept the application for funding from The Children's Playhouse and to place the organization on the yearly non-profit funding application list.

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

Mayor Clawson stated a need for two Council members to serve on a committee to review applications for funding from non-profit organizations. Council members Pepin and Mason agreed to serve.

REQUESTED APPEARANCE – DAN BURKE, MOUNTAIN ALLIANCE

Dan Burke, representing the Mountain Alliance organization, presented a request for funding which would be used for transportation needs such as fuel, insurance, a driver, and upkeep for a bus. Upon a motion by Council member Mason, seconded by Council member Brantz, Council moved to accept an application for funding from this organization.

VOTE: Aye – Aye
 Nay – None

REQUESTED APPEARANCE – JEFF TURNER, FIRST BAPTIST CHURCH

Ken Scholl, on behalf of the First Baptist Church of Boone, appeared before the Council to request approval for a Special Events Permit for the First Annual First Baptist Church Boone Spring Fling. He explained that this event is to be held on Saturday, May 6, 2006, from 8:00 a.m. until 5:00 p.m. and will include fun and games, bands, and giveaways. Mr. Scholl requested permission to close a portion of College Street adjacent to the church for the duration of the event and to waive the \$1,500.00 event fee. Council discussed the effect of the closure of College Street for that day which coincides with ASU graduation ceremonies also on that day. Upon a motion by Council member Spann, seconded by Council member Mason, Council moved to grant the Special Events Permit with the following conditions:

- § College Street will remain open to allow for access for emergency vehicles and AppalCART buses.
- § First Baptist Church will be responsible for the direct cost of utilizing additional Boone Police Department personnel to ensure safe passage across College Street during the event.

Council member Brantz voiced a concern about the impact of parking for the event. Mr. Scholl stated that the church has two parking lots and that the lower parking lot will be available for parking for the event.

VOTE: Aye – 4 (Spann, Wilcox, Mason, Pepin)
 Nay – 1 (Brantz)

Mayor Clawson declared a 10-minute break at 7:35 p.m. Council reconvened at 7:45 p.m.

REQUESTED APPEARANCE - NAN CHASE, DANIEL BOONE NATIVE GARDENS

Lila Petersen, on behalf of the Daniel Boone Native Gardens Board of Governors, appeared before the Town Council to request a total of \$4000 which includes the following:

\$ 12 hours of labor a week for 26 weeks (May-October) at \$12 per hour
\$ \$256 for fuel for power tools

After a brief discussion of the need for assistance in the maintenance of the gardens, Council member Pepin moved to accept an application for funding from this group. Council member Brantz seconded the motion.

VOTE: Aye - All
Nay - None

REQUESTED APPEARANCE - GRAYDON EGGERS

Graydon Eggers appeared before the Town Council to reiterate his concern about stormwater regulations for single-family development. Mr. Eggers' contention is that these regulations place an unfair burden on developers and property owners of small subdivisions. After a lengthy discussion concerning this issue, it was the consensus of the Council that, although this issue needs to be addressed, action should be considered after results of the current study of stormwater matters are received.

Upon a motion by Council member Wilcox, seconded by Council member Mason, Council moved to excuse Council member Pepin from the next case because of financial interest.

VOTE: Aye- All
Nay - None

REQUESTED APPEARANCE - SUE COUNTS, HIGH COUNTRY AMIGOS

Sue Counts, on behalf of the High Country Amigos, appeared before the Town Council to request funding of \$3,000 and to be included on the non-profits yearly application list. Upon a motion by Council member Wilcox, seconded by Council member Brantz, Council moved to accept an application for funding for consideration and to place the organization on the yearly non-profit funding application list.

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

REQUESTED APPEARANCE - JASMINE SHOSHANNA

Jasmine Shoshanna appeared before the Council to present information on zero-waste initiatives. Ms. Shoshanna, along with Jack Martin and Andy Bryant of ASU, discussed the benefits of utilizing zero-waste initiatives. They asked that the Council consider this proposal as a town-wide initiative. Council member Spann asked the group to create a practical plan utilizing low-cost options that the Council could consider. Mr. Martin agreed to collect information from other communities using this program and to present the information to the Council at a later date.

REQUESTED APPEARANCE - DAVID COOK

David Cook appeared before the Town Council to request sewer service only to Lots 1 & 2 of the Junaluska Overlook subdivision located off Junaluska Road. Town Attorney Sam Furguele opened the public hearing at 8:54 p.m. to hear sworn testimony from David Cook, Public Utilities Director Rick Miller, and Development Services Director John Spear. Mr. Cook stated his plans to build a single-family residence on each of the properties with one being his personal residence. He noted that he was denied water and sewer service at the January 2006 meeting of the Council. Mr. Cook stated that the property would not perk and referenced the information provided in a letter by Christopher Brantley of the Appalachian District Health Department

contained in the Council's information packet. Public Utilities Director Rick Miller stated that since the request for water and sewer was denied, the applicant is eligible to request sewer service only. Development Services Director John Spear pointed out that this property is in the rural growth area which encourages low-density residential and agricultural uses. Mr. Spear stated that in order to annex the two properties, all three lots of the subdivision must be annexed. With no other testimony, Mr. Furgiuele closed the public hearing at 9:08 p.m. Upon a motion by Council member Mason, seconded by Council member Spann, Council moved to grant the request for sewer service only since the applicant was previously denied water and has a hardship situation due to the property is not being able to perk with the condition that the applicant pursue the possibility of annexation with the other property owner in the subdivision.

VOTE: Aye - All
 Nay - None

REQUESTED APPEARANCE - SABINE GREER

This case was not considered due to the absence of the applicant.

REQUESTED APPEARANCE - DAVID RISK

David Risk appeared before the Town Council to request water and sewer service to four properties within a five-lot subdivision located off Deerfield Road. Town Attorney Sam Furgiuele opened the public hearing at 9:16 p.m. to hear sworn testimony from David Risk, Public Utilities Director Rick Miller, and Development Services Director John Spear. Mr. Risk explained that this subdivision includes four vacant lots along with a lot on which his private residence is located. He stated that the property has not been able to perk and that if he is not granted water service, he would be happy to dig wells for each of the lots and connect to the Town's sewer system. Development Services Director John Spear stated that although the Planning Commission, acting as the watershed review authority, has approved the subdivision, the final plat has not been recorded at the office of the Register of Deeds. Furthermore, Mr. Spear stated that if the subdivision is annexed, all five lots, including Mr. Risk's lot, would be subject to annexation. Public Utilities Director Rick Miller stated that the property is located in the primary pressure zone. With no further testimony, Mr. Furgiuele closed the public hearing at 9:26 p.m. Council member Mason voiced a concern about granting water to these properties with the current water situation. Upon a motion by Council member Wilcox, seconded by Council member Brantz, Council moved to deny the water request but to grant the request for sewer service with the following conditions:

- § Annexation of the five-lot subdivision
- § Connection to Town water service if it becomes available in the future

VOTE: Aye - All
 Nay - None

REQUESTED APPEARANCE - FRANK BOLICK

Ed Street, representing Frank Bolick, appeared before the Council to request water reallocation to property located off Highway 421. Town Attorney Sam Furgiuele opened the public hearing at 9:31 p.m. to hear sworn testimony from Ed Street, Public Utilities Director Rick Miller, and Development Services Director John Spear. Mr. Street began by stating that the lead tenant has visited the property several times and that a site plan could possibly be presented to the Development Services Department within six months. He also requested an extension of the water allocation. Council member Wilcox pointed out that Ordinance 05-01 requires the payment of a non-refundable availability fee with water allocation extension. Public Utilities Director Rick Miller stated the amount of the water allocation previously granted to be 5000 gallons per day. Development Services Director John Spear stated that this property is located in the ETJ. Upon a motion by Council member Brantz, seconded by Council member Wilcox, Council moved to grant the water reallocation subject to the payment of the non-refundable availability fee. Council member Spann voiced a concern with the project citing the desire of town citizens to see more mixed-use development.

VOTE: Aye - 2 (Wilcox, Brantz)

Nay- 3 (Spann, Mason, Pepin)

The motion fails.

PUBLIC COMMENT

No one had signed to speak during the public comment period.
Mayor Clawson declared a break at 9:45 p.m. Council reconvened at 9:52 p.m.

CLOSED SESSION

Upon a motion by Council member Wilcox, seconded by Council member Brantz, Council moved to enter Closed Session at 9:54 p.m. pursuant to NCGS 143-318.11a)3) in order to discuss the following matters:

- ASU Violations
 - Liberty Tax Service Violations .
 - Radford Quarries Violations
- \$ Property Acquisition

VOTE: Aye - All
 Nay - None

Upon a motion by Council member Mason, seconded by Council member Spann, Council moved to exit Closed Session at 10:42 p.m.

VOTE: Aye - All
 Nay - None

ADJOURNMENT

On a motion by Council member Mason, seconded by Council member Brantz, Council moved to adjourn the meeting at 10:43 p.m.

VOTE: Aye - All
 Nay - None

Deputy Town Clerk

Mayor