

**MINUTES - REGULAR MEETING
BOONE TOWN COUNCIL MAY
15, 2008**

A regular meeting of the Boone Town Council was called to order at 6:30 p.m., Thursday, May 15, 2008, in the Council Chambers, 1500 Blowing Rock Road. Mayor Loretta Clawson presided. Council members present were Mayor Pro-Tem Lynne Mason, Janet Pepin, Liz Aycock, and Stephen Phillips. Town Attorney Sam Furguele was also present. Staff members present were Town Manager Greg Young, Deputy Town Clerk Kimberly Brown, Assistant to the Town Manager Jim Byrne, Police Chief Bill Post, Lieutenant Mike Norris, Fire Chief Reggie Hassler, Public Works Director Blake Brown, Public Utilities Director Rick Miller, Finance Director Amy Davis, Human Resources Director Peri Moretz, Development Services Director John Spear, Program Coordinator Andrea Gimlin, and Urban Design Specialist Brian Johnson.

ANNOUNCEMENTS

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

Public Utilities Director Rick Miller recognized the winners of the 2008 Water Conservation Post Contest:

- 1st Place - Matthew Harwell, Hardin Park School
- 2nd Place - Indy Holt, Two Rivers Community School
- 3rd Place - Holly Elizabeth Greene, Hardin Park School

Mayor Clawson and the members of the Town Council applauded the effort made by each student who contributed to the contest.

TENTATIVE AGENDA ADOPTION

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

1. Addition - Awarding of Bid for Tracy Circle Sewer Main Replacement.
2. Addition to Closed Session - Discussion of Bradford Park.
3. Request by Floyd Garrison to move his request to the last item on the agenda.

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

VOTE: Aye - All
 Nay - None

CONSENT AGENDA ADOPTION

Upon a motion by Council Member Mason, seconded by Council Member Aycock, Council moved to adopt the following consent agenda items:

Minutes: April 17, 2008 - Regular Meeting.
 April 24, 2008 - Special Meeting.
 April 28, 2008 - Special Meeting.

Adoption of Personnel Policy Amendments:

Proposed Amendment to Personnel Code, ARTICLE XI, “DISCIPLINARY ACTIONS”

To add a new section 15 to Article XI, Section 3, with new section in bold:

Section 3. Acts or Omissions Which Violate Expected Work Behavior

a. Definition of Acts or Omissions Which Violate Expected Work Behavior

An act or omission which violates expected work behavior is an act or a failure to act which, while not rising to the level of misconduct, violates established work rules or expectations. Such act or failure to act may be unintentional or negligent. Examples of such acts or omissions include, but are not limited to, the following:

...

15. Violation of the Town of Boone Municipal Code.

Adoption of Resolution - Recognition of 10th Anniversary - New River:

**RESOLUTION IN RECOGNITION OF THE TENTH ANNIVERSARY
OF THE NEW RIVER'S DESIGNATION
AS AN AMERICAN HERITAGE RIVER**

WHEREAS, the New River is regarded as the North American continent's oldest river, flowing 337 mile from its headwaters in North Carolina, through Virginia and to West Virginia, and joins the Kanawha, Ohio and Mississippi rivers flowing into the Gulf of Mexico; and

WHEREAS, the New River watershed comprises nearly 7,000 square miles and includes the following counties in North Carolina, Virginia and West Virginia: Alleghany, Ashe, Bland, Carroll, Craig, Fayette, Floyd, Giles, Grayson, Greenbrier, Mercer, Monroe, Montgomery, Pocahontas, Pulaski, Raleigh, Smyth, Summers, Tasewell, Watauga, Wythe, and the municipalities located therein, including the Cities of Galax and Radford; and

WHEREAS, the New River and its watershed is home to many natural treasures and unique historic and cultural assets; and

WHEREAS, the White House created the American Heritage Rivers Initiative in 1997 to recognize watershed communities that connect economic development with natural resources protection, cultural preservation and historic preservation; and

WHEREAS, over one hundred river communities across the United States sought the designation and distinction as an American Heritage River and only fourteen were chosen; and

WHEREAS, the President and Vice-President of the United States selected the New River as the first American Heritage River and visited the New River watershed on July 30, 1998 to establish the American Heritage Rivers Initiative; and

WHEREAS, the American Heritage River designation has led to the first-ever watershed-wide action plan and many project accomplishments for the benefit of the New River watershed and its people; and

WHEREAS, the tenth anniversary of the New River's designation will be celebrated on June 7, 2008 at New River State Park, on June 14, 2008 at Radford Heritage Days, and June 21, 2008 at the City of Hinton's West Virginia Days;

NOW, THEREFORE, BE IT RESOLVED THAT the Town of Boone commemorates the tenth anniversary of the New River's selection as an American Heritage River with this RESOLUTION.

Adopted this the 15th day of May, 2008.

ATTEST:

Mayor

Town Clerk

(RESOLUTION TO BY TYPED IN BOOK 3, PAGE 57)

Adoption of Resolution - Funding for Aerial Fire Truck:

**RESOLUTION REQUESTING APPROPRIATION OF FUNDING
TO PURCHASE A NEW AERIAL UNIT**

WHEREAS, Appalachian State University contributed to the purchase of a 1986 Bake Aerial Scope 95' Platform aerial unit for the Town of Boone in May of 1990; and

WHEREAS, the equipment has been in use by the Boone Fire Department for eighteen (18) years and is now in need of replacement; and

WHEREAS, Appalachian State University is the only property owner which has twelve (12) structures measuring over five (5) stories high and one (1) structure measuring over ten (10) stories high, of which eleven (11) of those structures provide on-campus residential housing for students, that are located within the Boone corporate limits; and

WHEREAS, the value of ASU properties protected is estimated at \$673,741,293.00 (2006 property valuation figures); and

WHEREAS, in 2007, the Boone Fire Department answered 169 calls to Appalachian State University which equates to twenty-six percent of the department call volume within the town limits; and

WHEREAS, it is essential to have an aerial ladder truck that will reach 100 feet in height to maintain a class 4 insurance rating for the Town of Boone;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of Boone, North Carolina, that the Town of Boone intends to seek special legislation from the North Carolina General Assembly for the appropriation of \$895,000.00 for the acquisition of a new 100' aerial platform unit in order to provide adequate fire protection to its citizens including the campus of Appalachian State University.

ADOPTED the 15th day of May, 2008.

Mayor

ATTEST:

Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE 58)

VOTE: Aye - All
 Nay - None

MICHAEL KIRK ANNEXATION PUBLIC HEARING

Mayor Clawson opened the public hearing at 6:39 p.m. With no one requesting to speak, she closed the public hearing.

RIVERSTONE CONDOMINIUMS ANNEXATION PUBLIC HEARING

Mayor Clawson opened the public hearing at 6:39 p.m. With no one requesting to speak, she declared the public hearing closed.

CDBG GRANT PUBLIC HEARING

Mayor Clawson opened the public hearing at 6:40 p.m. Assistant to the Town Manager Jim Byrne stated that the State requires two public hearings to be held prior to submission of a CDBG Grant application. Furthermore, he stated that the purpose of this public hearing is to announce that the Town is considering the submission of a CDBG Grant application to address our water supply needs.

CHANGE OF ELECTION METHOD PUBLIC HEARING

Mayor Clawson opened the public hearing at 6:40 p.m. With no one requesting to speak, she closed the public hearing.

DISCUSSION OF ALCOHOLIC BEVERAGE LAWS

Mr. Danny Sellers, Director of the Education and Training Division of the North Carolina Alcoholic Beverage Control Commission, presented a power-point presentation regarding Alcoholic Beverage Laws (**copy of presentation information permanently on file at Town Hall**). Mayor Clawson questioned the ratio of food sales and alcoholic beverage sales. Mr. Sellers stated that a ratio of 70% alcoholic beverages sales and 30% food sales is correct. He stated that percentage depends on the type of permit applied for and issued. Each type of permit, he explained, has certain standards with which the permit must comply. He informed the Council that the permitted establishment can be audited to determine compliance with those standards. In regard to private clubs, the State issues strict criteria with which the club must comply. He noted that a three-day waiting period for club membership is the current requirement. Council Member Phillips asked about fines for violations. Mr. Sellers stated that fines may be imposed or revocation of a permit may occur. He stated that most complaints of violations are competition-driven. Mayor Clawson questioned the effect of attracting larger chain restaurants on local eating establishments. Mr. Sellers stated that any type of restaurant can apply for a license and that there are currently several chain restaurants located in Boone with the option of liquor-by-the-drink. Council Member Mason asked if a program to train restaurant employees exists. Mr. Sellers stated that there are incentives offered to businesses that train employees but that it is not mandatory. Council Member Pepin asked about “brown-bagging”(bringing one’s own bottle of alcohol to a restaurant or site). Mr. Sellers stated that this situation is difficult to control since an individual can bring alcohol on-site in many cases without the issuance of an ABC Permit. Mr. Sellers indicated that the criteria for ABC Permits is established by the State; however, local jurisdictions can make recommendations concerning the issuance of such permits. Mayor Clawson and members of the Town Council thanked Mr. Sellers for his presentation.

ADOPTION OF ORDINANCE - KIRK ANNEXATION

Development Services Director John Spear stated that adoption of this ordinance is the last step in the annexation process. He stated the annexation will be effective June 30, 2008. Upon a motion by Council Member Mason, seconded by Council Member Pepin, Council moved to adopt the following ordinance:

Ordinance 08-01

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE TOWN OF BOONE, NORTH CAROLINA (Kirk Annexation)

WHEREAS, the Town Council has been petitioned under G.S. 160A-31 to annex the area described below; and

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

WHEREAS, the Town Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at Council Chamber at 1500 Blowing Rock Road at 6:30 p.m., May 15, 2008 after due notice by Watauga Democrat on May 2, 2008; and

WHEREAS, the Town Council finds that the petition meets the requirements of G.S. 160A-31;

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

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described territory is hereby annexed and made part of the Town of Boone as of June 30, 2008:

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:

- q 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,
- q North 29 degrees 59 minutes 36 seconds East a distance of 85.39 feet to a ¾" conduit found on the westerly bounds of Homespun Hills Road at the corner of Lot 1 and Lot 2,
- q 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 ¾" 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 2. Upon and after June 30, 2008, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the Town of Boone and shall be entitled to the same privileges and benefits as other parts of the Town of Boone. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the Town of Boone shall cause to be recorded in the office of Register of Deeds of Watauga County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Watauga County Board of Elections, as required by G.S. 163-288.1.

ATTEST:	
	Mayor
Town Clerk	

(ORDINANCE TO BY TYPED IN BOOK 3, PAGES 342-343)

VOTE: Aye - All
 Nay - None

ADOPTION OF ORDINANCE - RIVERSTONE CONDOMINIUMS ANNEXATION

Development Services Director John Spear stated that adoption of this ordinance is the final step in the annexation process. He stated that the annexation will be effective June 30, 2008. Upon a motion by Council Member Mason, seconded by Council Member Aycock, Council moved to adopt the following ordinance:

Ordinance 08-02

**AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE
TOWN OF BOONE, NORTH CAROLINA
(Riverstone Condominium Annexation)**

WHEREAS, the Town Council has been petitioned under G.S. 160A-31 to annex the area described below; and

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

WHEREAS, the Town Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at Council Chamber at 1500 Blowing Rock Road at 6:30 p.m., May 15, 2008 after due notice by Watauga Democrat on May 2, 2008; and

WHEREAS, the Town Council finds that the petition meets the requirements of G.S. 160A-31;

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

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described territory is hereby annexed and made part of the Town of Boone as of June 30, 2008:

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 described in Book of Records 1039, at Page 188, Watauga County Registry, and shown on the plat thereof and recorded in Plat Book 20, at Page 208, Watauga County Registry and being more particularly described as follows:

Begin at the Northwestern corner of the Mountaineer Village, 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.15°51'41"W. along the Eastern boundary line of said Innkeepers of Boone, Inc., 300.53'; thence N83°42'38"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) N83°42'38"E., 361.58' to a point in the centerline of Azor Court, (2) S86°46'28"E., 389.00, and (3) S.76°31'48"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) S.10°02'04"W., 144.51, (2) S.04°39'29"W., 119.82', (3) S.07°13'33"W., 42.05', (4) S.11°51'34"W., 53.89', and (5) S.16°33'48"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) N.76°41'42"W., 438.02' to a point in the centerline of Eli Harley Drive (45.00' R/W), (2) thence continue N.76°41'42"W., 210.42', (3) N.85°08'57"W., 64.56', and (4) N.85°40'27"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 2.

Upon and after June 30, 2008, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the Town of Boone and shall be entitled to the same privileges and benefits as other parts of the Town of Boone. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.
- Section 3.

The Mayor of the Town of Boone shall cause to be recorded in the office of Register of Deeds of Watauga County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Watauga County Board of Elections, as required by G.S. 163-288.1.

ATTEST:	
	Mayor
Town Clerk	

(ORDINANCE TO BE TYPED IN BOOK 3, PAGES 344-345)

VOTE: Aye - All
 Nay - None

ADOPTION OF ZONING AMENDMENTS

Case 20080114 - Community Event Sign Text
The Town of Boone has initiated a text amendment to UDO Article XVIII, Section 338, Temporary Sign Regulations. The purpose of the amendment is to add the Woolly Worm Festival as a Community Event recognized by the Town Council. Development Services Director John Spear stated that the Planning Commission has recommended approval of this request. Upon a motion by Council Member Mason, seconded by Council Member Pepin, Council moved that the application is consistent with all of the objectives and policies for growth contained in the 2006 Boone Comprehensive Plan.

VOTE: Aye - All
 Nay - None

Upon a motion by Council Member Mason, seconded by Council Member Pepin, Council moved that the application is both reasonable and in the public interest because the language is consistent with the other community events.

VOTE: Aye - All
 Nay - None

Upon a motion by Council Member Mason, seconded by Council Member Phillips, Council moved to adopt the following text amendment:

Section 338. Temporary Sign Regulations

1. Each community event is allowed to display no more than one (1) off-event site sign per lot is allowed with the permission of the property owner or registered agent. One (1) off-event site premise banner and one (1) banner at the event site are allowed. Each banner may not exceed twenty-four (24) square feet.

2. A community event may display allowable signage

3. The signs are not illuminated.

4. The signs may not be displayed earlier than seven (7)

- d. An event which does not take place in Watauga County may determine that the event nevertheless significantly contributes to the economic vitality and heritage of Boone.

- e. The Boone Town Council recognizes the following as

The Highland Games

The Blowing Rock Celtic Festival

Trade Days

Watauga High School Project Graduation

Boone Bluegrass Festival

Gospel Singing Jubilee

Sugar Grove Music Festival

Wooly Worm Festival

VOTE: Aye - All Nay - None

The Town of Boone has initiated a map amendment following the filing of an annexation petition for property owned by Smith Property/MV2 LLC. The Town is zoning the balance of the property being voluntarily annexed by the owner. The recommended zoning for the property is R-3, Multi-Family Residential. Mr. Spear stated that the Planning Commission has recommended approval of this request with the following condition:

1. The effective date shall be June 30, 2008, consistent with the effective date of the annexation.

Upon a motion by Council Member Mason, seconded by Council Member Pepin, Council moved that the application is consistent with all of the objectives and policies for growth and development contained in the 2006 Boone Comprehensive Plan.

VOTE: Aye - All
 Nay - None

Upon a motion by Council Member Mason, seconded by Council Member Pepin, Council moved that the application is both reasonable and in the public interest because the requested zoning classification is consistent with the zoning in the area and that multi-family housing is the principal use of the surrounding properties.

VOTE: Aye - All
 Nay - None

Upon a motion by Council Member Mason, seconded by Council Member Pepin, Council moved to approve the zoning for the property as R-3, Multi-Family Residential.

VOTE: Aye - All
 Nay - None

Case 20080180 - Naomi & Randy Johnson

Naomi and Randy Johnson have submitted a request to change the zoning classification of 169 Rogers Drive from CD/R-3, Conditional District Multi-Family Residential to R-1, Single-Family Residential. Mr. Spear noted that the Planning Commission has recommended approval of this request. Upon a motion by Council Member Mason, seconded by Council Member Pepin, Council moved that the application is consistent with all of the objectives and policies for growth and development contained in the 2006 Boone Comprehensive Plan.

VOTE: Aye - All
 Nay - None

Upon a motion by Council Member Mason, seconded by Council Member Pepin, Council moved that the application is both reasonable and in the public interest because the requested zoning classification is consistent with the zoning in the area being that single-family housing is the principal use of surrounding properties.

VOTE: Aye - All
 Nay - None

Upon a motion by Council Member Mason, seconded by Council Member Pepin, Council moved to approve the request to change the zoning classification of 169 Rogers Drive from (CD-R-3) conditional district multi-family residential to (R-1) single family residential.

VOTE: Aye - All
 Nay - None

Case 20080195 - Board Attendance Text

The Town of Boone has initiated a text amendment to UDO Article III. The purpose of the amendment is to revise the standards for member attendance on Town-appointed boards and

commissions. Mr. Spear stated that the Planning Commission has recommended approval for this text amendment with the following changes (in *italic type*):

1. Section 21[d] “....for failure to attend three (3) consecutive *regularly scheduled* meetings *or quarterly public hearings* or for failure to attend fifty percent (50%) ~~or more~~ of the meetings within **any twelve month period of the member’s appointed service....**”

Upon a motion by Council Member Mason, seconded by Council Member Pepin, Council moved to accept the recommended changes to the text by the Planning Commission.

VOTE: Aye - All
 Nay - None

Upon a motion by Council Member Mason, seconded by Council Member Phillips, Council moved that the application is consistent with all of the objectives and policies for growth contained in the 2006 Boone Comprehensive Plan.

VOTE: Aye - All
 Nay - None

Upon a motion by Council Member Mason, seconded by Council Member Phillips, Council finds that the application is both reasonable and in the public interest because it supports regular attendance and participation by appointed members of town boards and committees.

VOTE: Aye - All
 Nay - None

Upon a motion by Council Member Mason, seconded by Council Member Phillips, Council moved to approve the following text amendment:

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 of the member's removal, a** Planning Commission members ~~may~~ **shall** be **automatically** removed by the council at any time for failure to attend three (3) consecutive **regularly scheduled** meetings **or quarterly public hearings** or for failure to attend fifty percent (50%) ~~or more~~ of the meetings within **any twelve month period of the member’s appointed service.** ~~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-commission, 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 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 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.**

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Part II: Community Appearance Commission

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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 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 ~~members~~ **member's** status on the C-commission, 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 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 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 ~~members~~ **member's** status on the ~~B-board,~~ 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 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 ~~four (4)~~ **three (3)** consecutive meetings or for failure to attend ~~one fourth~~ **fifty percent (50%)** of the regular meetings in ~~a calendar year~~ **any twelve month period,** ~~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.** Alternate 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. 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 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.~~

VOTE: Aye - All
 Nay - None

Case 20080196 - Accessory Apartment Standards

As a direct result of a recent ruling by the North Carolina Court of Appeals in the case of the *City of Washington v. Broadus E. Hill*, the Town of Boone has initiated text amendments to UDO Article X and Article XI. The purpose of the amendments is to remove the owner occupancy provisions in Section 181 and to prohibit use 1.210, Single-Family Residence with Accessory Apartment, in the R-1 and R-1A zoning districts. Development Services Director John Spear noted that the Planning Commission has recommended approval of this request with the following conditions:

1.

That the owner occupancy provision in Section 181 be removed immediately upon Council action; and
2.

That Use 1.210 *Single-Family Residence with Accessory Apartment* be prohibited in the R-1 zoning district immediately upon Council action; and
3.

That Use 1.210 *Single Family Residence with Accessory Apartment* be prohibited in the R-1A zoning district effective July 14, 2008.

Upon a motion by Council Member Mason, seconded by Council Member Pepin, Council moved to accept the conditions recommended by the Planning Commission.

VOTE:

Aye - All

Nay - None

Discussion ensued concerning the need for further study of this issue since the Council feels that owner-occupancy is important in the protection of single-family neighborhoods when accessory apartments are allowed. It was the consensus of the Council that this issue warrants further study by both the Affordable Housing Task Force and the Planning Commission. Upon a motion by Council Member Mason, seconded by Council Member Pepin, Council moved that the application is not consistent with all the objectives and policies for growth and development contained in the 2006 Boone Comprehensive Plan.

VOTE:

Aye - All

Nay - None

Upon a motion by Council Member Mason, seconded by Council Member Pepin, Council moved that the application is not both reasonable and in the public interest since the Town is compelled to comply with the recent ruling by the North Carolina Court of Appeals in the case of the *City of Washington v. Broadus E. Hill*.

VOTE:

Aye - All

Nay - None

Upon a motion by Council Member Mason, seconded by Council Member Pepin, Council moved to approve the following text amendment:

Article X Permissible Uses

ction 165. Table of Permissible Uses

Uses Description	R-1	R-1A	R-R	R-2	R-3	R-4	R-A	M-H	O/I	B-1	B-2	B-3	U-1	M-1
1.0 RESIDENTIAL														
1.100 Single-Family Residences														
1.110 Single-family detached, one dwelling unit per lot.														
1.111 Site built or modular structures	Z	Z	Z	Z	Z	Z	Z		Z	Z	Z	Z	Z	
1.112 Class "A" mobile home			Z	Z	Z	Z	Z	Z		Z	Z	Z	Z	
1.113 Class "B" mobile home						Z	Z	Z						
1.120 Single-family detached, more than one dwelling unit per lot														
1.121 Site built and modular structures					ZS	ZS								

1.122 Class A or B mobile homes (manufactured home park)								Z						
1.200 Two-family Residences														
1.210 Single family residence with accessory apartment	Z	Z	Z	Z	Z	Z	Z		Z	Z	Z	Z	Z	
1.220 Duplex				Z	Z	Z	Z		Z	Z	Z	Z	Z	
1.300 Multi-Family Residences														
1.310 Multi-family conversion					ZS	ZS			ZS	ZS	ZS	ZS	Z	
1.320 Multi-family town homes					ZS	ZS			ZS	ZS	ZS	ZS	Z	
1.330 Multi-family apartments					ZS				ZS	ZS	ZS	ZS	Z	
1.400 Homes emphasizing special services, treatment or supervision														
1.410 Homes for handicapped or infirm	Z	Z	Z	Z	Z	Z	Z		Z	Z	Z	Z	Z	
1.420 Nursing care, intermediate care homes			S	S	Z	S	S		Z		Z	Z	Z	
1.430 Shelter for Homeless (short term, long term or permanent housing)					S				S	S	S	S	Z	Z
1.440 Halfway houses					S				S	S	S	S	Z	
1.500 Miscellaneous, rooms for rent situations														
1.510 Rooming houses, boarding houses					Z					S	S	Z	Z	
1.520 Tourist homes and other temporary rooms renting by the day or week					Z					Z	Z	Z		

le XI Supplementary Use Regulations

ction 181. Primary Residence with Accessory Apartment

- [a] A single family residence which contains an accessory apartment (land use 1.210) shall have no more than one single family residence and one accessory apartment on a single lot. The accessory apartment may either be attached to or detached from the single family residence.
- [b] ~~In the R 1 and the R 1A zoning districts, an owner of the lot shall reside in the single family residence or accessory apartment at least 90 (ninety) percent of the year.~~
- [c] The occupancy of an accessory apartment shall be limited to no more than 2 unrelated persons or 4 related persons.
- [d] Adequate off-street parking shall be provided to the side or to the rear of the single family residence. In no case shall a front yard area be converted to or used to satisfy off-street parking requirements.
- [e] The accessory apartment shall not be served by a separate driveway.

[f] An attached accessory apartment shall be designed so that the appearance of the single family residence remains that of a one family dwelling. The accessory apartment entrance shall be located on the side or in the rear of the single family residence.

[g] An accessory apartment shall be clearly subordinate to the single family residence. The square footage of the floor area of an attached accessory apartment may not be more than 50 (fifty) percent of the square footage of the floor area of the associated single family residence, and the square footage of an attached accessory apartment's floor area may never exceed 800 (eight hundred) square feet.

[h] Detached accessory apartments may be located over a garage, workshop, studio or similar structure or built as a free standing cottage. Every detached accessory apartment must be architecturally compatible with the associated single family residence. Free standing cottages shall not contain a floor area exceeding 600 (six hundred) square feet. Detached accessory apartments will not be approved or permitted until they have been reviewed and approved for architectural compatibility by the Community Appearance Commission.

[i] The detached accessory apartment shall be located to the side or rear of the single family residence and no closer to the fronting street than the front most point of the single family residence.

[j] A two story detached accessory apartment shall be allowed only when the single family residence is 1 ½ stories or more. Alternatives will only be permitted when reviewed and approved for architectural compatibility by the Community Appearance Commission.

[k] A single family residence which contains an accessory apartment (land use 1.210) shall observe applicable land use intensity ratios. The exemption in Section 200 [a] of this ordinance shall not apply to this land use.

VOTE: Aye - All
 Nay - None

Mayor Clawson declared a break at 8:01 p.m. Council reconvened at 8:13 p.m.

PERMISSION TO APPLY FOR GRANT - REAFFIRMATION OF 2009 URBAN FORESTRY GRANT

Development Services Director John Spear explained that the request is for the Council to affirm permission to apply for the 2009 NC Urban & Community Forestry Grant for the creation of an Urban Forestry Master Management Plan. Urban Design Specialist Brian Johnson further explained that in March of this year, Staff received permission to apply for the 2009 NC Urban Forestry Grant that would partially fund the creation of an overall Urban Forestry Master Management Plan. He stated that this Master Plan will serve as a long-range document for the Town's overall urban forest. Mr. Johnson further noted that the cash match from the Town was initially planned to be derived from recent tree pruning violation funds with the remaining funds being budgeted in the 2008-2009 budget; however, one of the penalties, in the amount of \$7,400, was waived by the Board of Adjustment. He stated that the dismissal of the penalty will require the Town to provide \$10,400 for the cash match instead of \$3,000. He stated that the Town will

be notified by July 1, 2008, on the outcome of the grant application. Council Member Pepin questioned using a portion of funds from the Town's tree fund. Mayor Clawson stated that there is currently \$2,000 remaining in the tree fund. It was the consensus of the Council to use \$2,000 from the tree fund and the remainder of the amount be appropriated from the general fund balance. Upon a motion by Council Member Mason, seconded by Council Member Aycock, Council moved to affirm permission to apply for the 2009 NC Urban & Community Forestry Grant.

VOTE: Aye - All
 Nay - None

PERMISSION TO APPLY FOR GRANT - FIRE ACT GRANT

Fire Chief Reggie Hassler stated that the Boone Fire Department is requesting permission to apply for the Fire Act Grant in the amount of \$15,400.00. He explained that if the grant is awarded, the money will be used to purchase exercise equipment for Stations I & II. He further noted that the ten percent cash match amount of \$1,540.00 will be paid for from the Rural Fire Budget. Upon a motion by Council Member Mason, seconded by Council Member Aycock, Council moved to grant permission to apply for the Fire Act Grant.

VOTE: Aye - All
 Nay - None

APPROVAL OF CONTRACT - THE LAWRENCE GROUP

Development Services Director John Spear presented the contract proposal from The Lawrence Group for the development of a Land Use Master Plan. He pointed out the scope of services and the fee schedule contained in the contract proposal. Discussion ensued concerning the inclusion of the following items: affordable housing, the protection of historical structures, and a statement regarding the needs of the Town being the priority for those employees from The Lawrence Group who are tasked with working for the Town of Boone since ASU is exploring contracting with The Lawrence Group for the same purpose. Upon a motion by Council Member Phillips, seconded by Council Member Mason, Council moved to approve the following contracts with conditions as set forth below:

1. The Town of Boone shall be allowed further negotiations on specific items such as the inclusion of further study of affordable housing and the protection of historical structures within the Town.
2. Language shall be included to prevent any conflict of interest by The Lawrence Group when contracted to perform services for both the Town of Boone and Appalachian State University.

PROPOSAL FOR PLANNING SERVICES

Project: Town of Boone, NC Land Use Plan
Proposal Date: May 13, 2008

Owner: Town of Boone ("Client")
 Attn: Mr. John Spear, Planning Director
 1510 Blowing Rock Road
 Boone, NC 28607

Planner: The Lawrence Group Architects of the Carolinas, Inc. ("Planner")
 P.O. Box 1836
 Davidson, North Carolina 28036

Thank you for this opportunity to present this proposal for master planning and design services. This document is intended to serve as an agreement between the Lawrence Group and the Client to ensure that all expectations are agreed to and understood by both parties.

1.0. GENERAL PROJECT DESCRIPTION

We will be providing professional planning and design services to the Town of Boone, North Carolina to assist in the preparation of a Strategic Land Use Master Plan. The planning process will follow the National Charrette Institute's Dynamic Planning Process model for the development and delivery of the master plan. The master plan land use classification system will follow the TransectMap land classification methodology and the plan will incorporate the principles of Smart Growth presented in Boone's recent Smart Growth Audit. The Plan will include the following elements:

- 3 Land Development & Redevelopment Policies & Map
- 3 Transportation Network Enhancements & Multi-Modal Conceptual Plan
- 3 Transect-based Framework Plan
- 3 Conceptual/Schematic Planning in 3 dimensions for key parcels/locations in different contexts (best practices)
- 3 Retrofit Plan for Key Suburban Corridors at Parcel Level (e.g. 105 & 321)
- 3 Downtown and Surrounding Neighborhoods Urban Design/Urban Infill Plan (parcel level)
- 3 Financing Strategies, Public-Private Partnerships programs, and key parcel development pro-forma analysis
- 3 Downtown development and suburban corridor fiscal impact analysis
- 3 Strategic Initiatives for Environmental Sustainability

In furtherance of this process we expect to complete the following key tasks:

- % Work directly with diverse stakeholder groups, including government officials, property owners, real estate agents, potential developers/institutions, citizens, other interested parties, and the general public.
- % Directly engage Appalachian State University through a series of focus group meetings and interviews with key University officials.
- % Thoroughly analyze an area's existing conditions.
- % Direct a detailed public charrette and consensus building sessions among stakeholders resulting in feasible, realistic development/redevelopment plans.
- % Create conceptual design plans using exemplary new urbanist/sustainable design principles.
- % Integrate high-quality architectural designs/standards that promote a mixing of uses, as well as enhance the existing fabric.
- % Recommend development strategies, best practices, and regulations to implement the plans.

2.0. SCOPE OF WORK

Our proposed methodology uses a community charrette-based design philosophy to guide the overall Land Use Master Plan process. Like the National Charrette Institute (NCI), our process incorporates three major phases: Reconnaissance (Research, Education and Charrette Preparation), the Charrette; and Deliverables/Plan Implementation.

2.1 PHASE I: RESEARCH, EDUCATION AND CHARRETTE PREPARATION

2.1.1 PROJECT MANAGEMENT TEAM MEETING & ADVISORY COMMITTEE MEETING: We will conduct an initial Project Management Team Meeting with all

appropriate staff and elected officials to finalize the study area, understand the existing development/political/economic climate, and gather all appropriate digital data and materials such as GIS mapping, previous plans, existing ordinances, etc. In addition, we will tour the community with the Town's project team and any appropriate people to help us gather any institutional knowledge specific to the community.

We will work with an Advisory Committee to serve as a resource for our team and the Town throughout the project. The Lawrence Group will conduct a kickoff meeting with the Committee. The purpose of this meeting will be to introduce the committee to our team to introduce our methodology and solicit preliminary feedback and thoughts regarding the growth and development issues facing the community as well as begin to create a set of guiding principles for the plan process.

At this time we will finalize the plan schedule, which will outline pre-charrette and charrette events and activities; as well as a Charrette Products List, which will outline drawings, studies and documents that describe a feasible plan that to be completed by the end of the charrette. This includes but is not limited to: preliminary briefing materials, public presentations, final project report and feasible land use master plan. Trip #1

2.1.2 CHARRETTE SCHEDULE: We will work with the Town to produce a specific charrette schedule that includes the appropriate representation of key stakeholders over a multi-day period. The schedule will be in table format and will indicate the charrette events, such as open house hours, meetings, meals and production targets. It will also list the times when each charrette team member will be present at the

	DESIGN	Thursday	DESIGN	Friday	DESIGN	Monday
		Breakfast		Breakfast		
		9:00 Interest group meetings and interviews		9:00 Interest group meetings and interviews		
		Lunch		Lunch		
		1:00 Interest group meetings and interviews		DESIGN		
		5:30 Pin-Up Session and Project Update		5:30 Pin-Up Session and Project Update		
		Dinner		Dinner		
		DESIGN				Reception and Closing Presentation

charrette. A framework for the charrette schedule is below.

Deliverables: Charrette Schedule

2.1.3 STAKEHOLDER IDENTIFICATION AND ANALYSIS: Working with the project Advisory Committee, we will develop a list of primary and secondary stakeholders that should be interviewed and engaged prior to and throughout the charrette. These stakeholders should include many of the individuals and organizations interviewed during the *Smart Growth Audit* process, but would also include others such as large property owners, County school administrators, and emergency service providers.

2.1.4 STAKEHOLDER OUTREACH AND ENGAGEMENT: We will lead a series of focused interviews with key staff members, elected and appointed officials, and interest group members such as developers, area property and business owners, environmental interests, community activists, economic developers, and neighborhood leaders, as identified by the Advisory Committee, over a two-day period.

On the evening of the first day we will conduct a public workshop. Similar to our work in Task 1.1 with the Advisory Committee, the purpose of this meeting will be to introduce the public to our team, to introduce our methodology and solicit preliminary feedback and thoughts regarding the growth and development issues facing the community as well as begin to create a shared vision.

WE ALSO PROPOSE TO DEVELOP A COMMUNITY SURVEY THAT CAN BE ADMINISTERED VIA THE INTERNET AND DISTRIBUTED THROUGH OTHER MEANS THROUGHOUT THE COMMUNITY TO GAUGE THE GENERAL PUBLIC'S PRIORITIES FOR THE LAND USE MASTER PLAN. TRIP #2

2.1.5 PROJECT OBJECTIVES AND VISION DEVELOPMENT: Based on the feedback from stakeholder interviews, community surveys, the kick off meeting, the project team will develop a project vision statement and measurable project objectives. These objectives will also be informed by the good work that the Town has already done in its *2006 Comprehensive Plan Update* and recommendations of the *Smart Growth Audit*.

2.1.6 PUBLIC OUTREACH: For maximum public notification and involvement, we will assist the Town with the public relations necessary for the project's overall success, including the production of high quality press releases, posters, mailers, and information for web and e-mail posting. We will assist the Town in the preparation of information for a project website and a project newsletter. The intent is to be able to generate a high level of public interest and participation which ultimately ensures a more successful charrette.

Deliverables: PR materials as needed

2.1.7 BASE DATA RESEARCH AND GATHERING: Through the development of the Smart Growth Audit, the Lawrence Group completed significant research and background data gathering needed for the land use plan effort, especially regarding local planning and development policy and regulations. In addition to this body of material, we will thoroughly review the study area's existing conditions, including: site conditions and natural resources; pertinent public records and surveys; traffic patterns and transportation networks; historic infrastructure and settlement patterns; and surrounding public and private development trends which may affect the future development and redevelopment of the area.

Using readily available baseline data, including but not limited to: housing and site conditions, ownership patterns, 1990 and 2000 Census data and other data sets promulgated by the US Census Bureau, we will

develop summaries of current demographic data. We analyze this data

trends. This analysis will be included in the Preliminary Market Analysis.

2.1.8 Physical Form Analysis: As part of the Base Data Research & Gathering, we will also complete a "Ripe and Firm" evaluation of the properties in the downtown and specific commercial corridors as appropriate. From this survey, we make a preliminary determination which areas are firm and not likely to develop or need change and which areas are ready or currently under pressure for change. This survey will be constantly evaluated during the planning process and will serve as a primary parameter that will guide our proposed development/redevelopment strategies.

2.1.9 DRAFT PHYSICAL FRAMEWORK PLAN: We propose to use a Rural-Urban Transect-based planning method called Transect Mapping for the creation of the Land Use Master Plan. There are six basic zones that will be used in the delineation of the planning areas. These are as follows:

- 3 Preserved Open Space: Permanent protected open space; sensitive environmental areas
- 3 Reserved Open Space: Open space for agriculture, conservation, and recreation not currently protected
- 3 Restricted Growth Areas: low density-development in cluster developments or hamlets
- 3 Controlled Growth Areas: Traditional neighborhood developments and neighborhood centers
- 3 Intended Growth Areas: Regional centers for commercial and/or higher density residential development
- 3 Infill & redevelopment Areas: Neighborhoods, urban villages, mixed-use commercial areas, including downtown Boone

As part of the pre-charrette efforts, we will work with Town staff to gather the necessary GIS data for preparation of the draft framework plan layers. It will be useful, prior to the charrette, to work with staff and the Advisory Committee to map at least some of the Transect sectors. Detailed map delineation and refinement of the sector locations should occur during the charrette. Trip #3

Deliverables: Draft Framework Plan map

2.1.10 Economic & Market Study for Downtown and Commercial Corridors: We will complete a market analysis for the downtown area and key commercial corridors to review and evaluate the existing and potential areas of commercial and residential development throughout the study area. This evaluation will include a thorough analysis of current demographic and land use data to produce various forecasts or "scenarios" for future development. This analysis will identify potential development opportunities, prioritize critical land use elements and highlight potential constraints.

We will collect and analyze demographic and economic data to determine market potential for all market segments appropriate for Boone. A minimum of four methodologies will be used in the analysis: Economic Base Analysis is used to determine real estate demand, utilizing employment, income and other data. Highest and Best Use is used to determine most appropriate use of land, including any adaptive reuse of the project, given the physical and legal constraints, if any, and the underlying economic base. Central Place Theory is utilized to evaluate commercial feasibility and market area. The synthesis of these concepts results in a thorough analysis of the plan area.

develop summaries of current demographic data. We analyze this data

This analysis will identify potential opportunities, prioritize critical land use elements for retail and/or other uses, and identify potential constraints. Data gathered will identify estimated real estate demand, which together with a limited supply analysis of competitive products/projects will determine market gaps to quantify the highest and best uses along with the type and scope of uses within the community.

The Market Study will focus on development strategies and alternatives for economic development. This will include strategies which will reinforce or serve as catalysts for the commercial areas, and provide integration and opportunities for the adjacent residential neighborhoods. Commercial analysis will include detailed retail leakage and/or surplus for a variety of categories within the trade area, alternative uses; capture and absorption. The report will provide economic development guidelines and strategies for the community.

Deliverables: A preliminary Market Analysis summary memo (PDF and/or Powerpoint) will be provided to client and/or stakeholders to assist in setting scope and standards of the Plan. A final written report, to include appendix of demographic reports/data, will be provided in both bound hardcopy and electronic (PDF) formats.

2.1.11 CHARRETTE LOGISTICS: We will work with Town staff and Advisory Committee members to identify an appropriate charrette location that will provide easy access for the public as well as serving as adequate studio space for the charrette effort. A listing of charrette studio needs and recommended Town responsibilities is included at the end of this document.

Our intent in preparing for and conducting the charrette is to involve staff and Advisory Committee members to the greatest extent possible in order to make the process cost-effective for Boone, but also to insure an intimate level of participation from those who will be most involved in implementing the plan.

2.2 PHASE II: CHARRETTE

We have four guiding principles for any charrette-based master planning effort:

- % Involve Everyone from the Start
- % Work Concurrently and Cross-Functionally
- % Work in Short Feedback Loops
- % Work in Detail

' Public Planning & Design Charrette: We will conduct a five (5) day planning and design charrette to complete the detailed work necessary for the Plan. (NOTE: For Charrette Coordination and Supplies needed, please refer to Appendix A.)

- θ NCI Charrette Format: The charrette will be conducted in a manner consistent with the format and techniques established by the National Charrette Institute.

- θ Charrette Team Members: We will have approximately 12-14 planners and designers including individuals with areas of specific expertise in transportation, conservation design, and natural resource planning. The charrette team will be managed by Craig Lewis of The Lawrence Group and will include the following sub-consultants: Kubilins Transportation Group, Civitech, and New Urban Water Works. Other consultants may be added as project details require and will be at the discretion of The Lawrence Group.

presentation during the evening of the first day of the charrette. The purpose of this presentation will be to introduce the public to the planning process, present stakeholder feedback and analyses, present a survey of best practices that may be appropriate for incorporation in the community, and to gather general and specific public comments/suggestions for the project.

Ø Closing presentation: The team will deliver a closing presentation in the last evening of the charrette to present the preliminary findings and recommendations for the Land Use Plan.

Ø Charrette Document Preparation: Where the geography is defined and limited in scope we will prepare detailed plans and perspective drawings to convey conceptual design intent in implementing various initiatives/best practices. Study areas that cover larger geographies will be illustrated in diagrammatic form with conceptual plans prepared for typical situations. A list of expected drawings is listed in Appendix B.

Ø TRANSPORTATION NETWORK RECOMMENDATIONS: As part of the charrette effort, the planning team can provide a qualitative evaluation of the existing street network and make conceptual recommendations for a potential transportation network including a collector street framework. Our team will help identify locations, policies, guidelines, and recommendations for reinforcing the vision of the community for the transportation network—including traffic calming, increasing network connectivity, providing mobility options, and reinforcing community character. This plan will include concept plans for all major transportation modes including automobile, public transit, biking, and walking.

In addition the plan will make recommendations for the retrofit of the public infrastructure of certain commercial corridors including details for appropriate laneage, landscaping, utilities, and pedestrian/bicycle infrastructure. This plan will also make recommendations for the appropriate response for private investment as it relates to the public realm include potential design standards, reduced setback, parking area relocation, etc.

The process for developing a collector street plan starts with an inventory of existing designated collector streets (as well as those that function like collectors) and an evaluation of future year traffic demands based on known development activity and/or future growth areas.

Ø PLAN DEVELOPMENT & REFINEMENT: During and following the charrette, we will continuously refine the proposed alternative(s) and complete any related analysis or graphic work based on comments from key stakeholders, staff, elected officials, and the general public.

Ø PRESENTATION OF CONCEPTUAL LAND USE MASTER PLAN: At the conclusion of the charrette, a presentation of the draft Plan will be made to community. This will be a PowerPoint Presentation restating the goals of the process, illustrating in detail the proposed plan, and permitting the team to suggest strategies for implementation. Because of the digital nature of our presentations, we are able to provide our clients with both the final PowerPoint presentation illustrating the draft Master Plan as well as a majority of the illustrations in high-resolution digital form as a press package, suitable for posting on the web.

① Kickoff Public Presentation: We will conduct a public *Deliverables: Charrette Drawings and Closing PowerPoint Presentation for printing and posting on the Web including, but not limited to: detailed site plans, perspective drawings, streetscape and other infrastructure improvements, and implementation strategies. For a detailed list, please refer to Appendix B.*

2.2.1 ADVISORY COMMITTEE-POST CHARRETTE FOLLOW-UP: Within two weeks of the charrette, we recommend reconvening the Advisory Committee to debrief on what occurred at the charrette and begin formal discussion about the preliminary recommendations. Trip #4

2.3 PHASE III: FINAL DOCUMENTS & PLAN IMPLEMENTATION

2.3.1 PHASE III MEETINGS & PRESENTATIONS: We have allocated up to four (4) additional meetings/on-site presentations. For the purposes of this contract a trip is inclusive of one (1) business day.

2.3.2 DOCUMENT PREPARATION: Following the completion of the charrette, we will complete a draft of the Land Use Master Plan. The Plan will be richly illustrated and easy to read. It will be modeled using the best practices in urban design and mixed-use planning from across the country.

In addition to the Plan elements discussed previously, we will also include a matrix that will summarize all recommendations and prioritize their implementation.

Upon completing the first draft of the documents, we will meet with the Advisory Committee to present the initial recommendations. We are also able to make an additional public presentation during this trip as well.

Deliverable(s): Draft Land Use Master Plan with Implementation Matrix

2.3.3 FINAL PROJECT PUBLIC MEETING(S): Upon acceptance of the preliminary draft for public comment by the Advisory Committee and the Town project manager we can conduct a third community workshop. The purpose of this workshop will be to re-state the recommendations of the charrette along with all appropriate additional detail. In addition, we will supplement this information with the key implementation tasks needed for successful implementation.

2.3.4 FINAL PLAN REPORT: Following a complete review and editing of the draft by the public, Advisory Committee and the Town project manager we will finalize the document for approval by the Town. The document will be prepared as a print-ready document, but files will also be made that are web-friendly.

2.3.5 PLANNING COMMISSION AND TOWN COUNCIL PRESENTATION: We will be available to make presentations (up to 1 each) to the Planning Commission and Town Council in furtherance of the plan's adoption.

2.3.6 DELIVERABLES & PROJECT CLOSEOUT: All documents will be submitted to the client in digital format in their native format, in high-resolution .pdf format (for printing and publishing) and in low-resolution .pdf format (for posting on the Web). We use Adobe InDesign for reports, ArcView GIS latest version for GIS mapping, and Photoshop for images. All images and files will become the property of the Town upon payment of the final invoice.

2.3.7 EDUCATION AND TRAINING: As an additional service, we can conduct one or more training sessions with Town staff, Planning Commission or elected officials to assure that those who are responsible for the day-to-day administration of the plan have a clear understanding of its purpose and process.

2.3.8 PROJECT SCHEDULE: The project will be completed within 12 months of the notice to proceed. An increase in the project schedule by either party will be mutually agreed to in advance.

1.3 TERMS AND CONDITIONS

1.3.1 Proposed Fee: The Lawrence Group (including all sub-consultant fees) shall provide the services listed for a fee of \$153,600 plus regular and customary expenses. Note that we are estimating a credit to the Town for overlapping services between the Town and ASU in the amount of \$15,000. This will be subject to final contract negotiations between The Lawrence Group and ASU and is not reflected in the proposed fee above. *Note: Regular and Customary Expenses are estimated at approximately 12% of the total fee.*

1.3.2 Other Costs to the Client: The cost of food during the charrette is not included in the proposed fee structure in 3.1 above.

1.3.3 Compensation Terms

Compensation shall be paid to the Lawrence Group in accordance with the following provisions:

‰ Payment shall be rendered monthly based upon a percentage of work completed.

‰ Payment of each invoice will be due within 30 days of receipt. If the Client fails to make payment when due The Lawrence Group for services and expenses, The Lawrence Group may, upon 7 days written notice to the Client, suspend performance of services under this agreement. Unless payment in full is received by The Lawrence Group within 7 days of the date of the notice of the suspension of services, The Lawrence Group shall have no liability to the Client for delay or damages caused because of such suspension of services.

‰ The Client must notify The Lawrence Group of any questions or concerns regarding invoices within a reasonable time after receipt. Where corrections or adjustments are necessary, a revised invoice shall be promptly issued by The Lawrence Group. Any disputes regarding invoice charges must be resolved within 60 days of the date of invoice using the procedure prescribed below:

- (i) In the event that a dispute arises from this agreement or in the event that one of the parties breaches or allegedly breaches the terms of this agreement, the parties agree that such dispute or question be resolved, to the extent possible through mediation. Unless the parties agree otherwise, they shall refer such dispute for mediation to the local third-party mediation center. Should the parties not resolve such dispute or question through mediation, they may exercise any legal or equitable rights or remedies available to them.

1.3.4 Additional Services

The Lawrence Group, if requested by the Client, will:

-] Assist the Client in producing additional Documents to assist in the approval process or as a means of facilitating public education and/or involvement.
-] Make additional public or private presentations of the Master Plan to assist in the approval and/or development process.
-] Incorporate additional changes to the Documents.
-] Prepare revisions or "test-fits" for specific programmatic or client opportunities.
-] Prepare Code revisions to facilitate development/redevelopment in furtherance of the Master Plan.

- 3 Review drawings or designs by other design professionals for adherence to the Documents.
- 3 Complete any other services mutually agreed upon by the Client and The Lawrence Group.

Additional Services will be billed at the following hourly rates:

Principal	\$ 160.00
Associate Principal	\$ 140.00
Senior Associate II	\$ 130.00
Senior Associate I	\$ 120.00
Senior Designer	\$ 130.00
Associate II / Planner II	\$ 110.00
Associate I / Planner I	\$ 100.00
Designer II	\$ 90.00
Designer I	\$ 75.00
Technical/Clerical	\$ 60.00
Intern	\$ 50.00

Additional Services for charrette participation will be billed at the following minimum daily rates:

Principal	\$ 1600.00
Associate Principal	\$ 1400.00
Senior Associate II	\$ 1300.00
Senior Associate I	\$ 1200.00
Senior Designer	\$ 1300.00
Associate II / Planner II	\$ 1100.00
Associate I / Planner I	\$ 1000.00
Designer II	\$ 900.00
Designer I	\$ 750.00
Technical/Clerical	\$ 600.00
Intern	\$ 500.00

Note that these rates may be adjusted on an annual basis with 30 days written notice to the Client.

1.3.5 Regular and Customary Expenses: The Lawrence Group will be reimbursed for all regular and customary expenses related to additional services incurred at a rate of one and one-tenth (1.1) their direct cost, including, but not limited to:

- 3 Printing, plotting, and reproductions
- 3 Expense of long distance telephone calls.
- 3 Postage and Delivery expenses.
- 3 Travel and Transportation expenses

1.3.6 Insurance: We (including all subcontractors) will maintain throughout the term of this Agreement the following insurance limits and coverage

and shall, upon executing this Agreement, provide the Client a certificate(s) of insurance evidencing same, showing the Client as an Additional Insured on all coverage except workers' compensation and professional liability:

- 1.1.1.1 WORKERS' COMPENSATION Insurance in amounts required by state law including Employer's Liability Insurance with limits of not less than \$1,000,000.00 per accident, \$1,000,000.00 per disease, and \$1,000,000.00 policy limit on disease.
- 1.1.1.2 COMMERCIAL GENERAL LIABILITY Insurance including Bodily Injury, Property Damage, Personal Injury, Blanket Contractual, and Broad Form Property Damage Coverage, including Products and Completed Operations, and XCU exposure with combined single limits of not less than \$1,000,000.00 per occurrence.
- 1.1.1.3 COMMERCIAL AUTOMOBILE LIABILITY Insurance including owned, non-owned, leased, and hired motor vehicle coverage with limits of not less than \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage.
- 1.1.1.4 PROFESSIONAL LIABILITY Insurance with a limit of not less than \$1,000,000.00 per claim.

1.1.2 Early Termination: If, at any point along the process, the Client chooses to discontinue the project, The Lawrence Group will discontinue services. In addition, if the project has, in the opinion of The Lawrence Group, deviated in project scope in such a way as to be inconsistent with the professional values of The Lawrence Group, we will discontinue the project. Upon early termination, a final invoice will be issued that reflects total hours dedicated to the project by The Lawrence Group and The Lawrence Group's consultants up to the point that the project was discontinued, plus all reimbursable expenses.

1.1.3 Use of Documents: The Lawrence Group retains an interest in all documents and information generated in connection with the performance of services and may use these documents for the purposes of other similar projects or marketing efforts. Upon satisfaction of this contract The Lawrence Group shall transfer a copy of all original digital files to the Client for unrestricted ownership and use.

VOTE: Aye - All
 Nay - None

APPROVAL OF CONTRACT - NCDOT KING STREET WIDENING PROJECT

Town Manager Greg Young presented a municipal agreement (**copy on file at Town Hall**) between the Town of Boone and the NC Department of Transportation for the King Street Widening project (Project U-4020). He stated this is the standard contract for an enhancement project with the cost based on preliminary plans. Council Member Mason stated that the Council needs more information in order to make a decision on approval of the contract. She indicated that such needs as bike lanes, landscaped medians, and retaining walls have yet to be addressed on the preliminary plans. Upon a motion by Council Member Mason, seconded by Council Member Phillips, Council moved to table the approval of the contract until the next meeting in order to address the following issues: sidewalks, bike lanes, medians, retaining walls, landscaping, and the burial of all overhead utilities.

VOTE: Aye - All
 Nay - None

APPROVAL OF CONTRACT - NC STATE UNIVERSITY

Assistant to the Town Manager Jim Byrne stated that this request is for approval of a contract

with North Carolina State University for design and construction services related to the proposed wetlands located off Hunting Lane in the town park (**contract permanently on file at Town Hall**). Upon a motion by Council Member Aycock, seconded by Council Member Mason, Council moved to approve the contract.

VOTE: Aye - All
 Nay - None

PLANNING COMMISSION APPOINTMENT

Development Services Director John Spear stated that Mary Kate Wise, currently the ASU representative on the Planning Commission, will graduate in May, leaving a vacancy on the board. He indicated that each year Garry Cooper identifies qualified students for this position and has recommended Caylen Beaty for Ms. Wise's position. If appointed, Ms. Beaty's term will expire August 31, 2009. Upon a motion by Council Member Phillips, seconded by Council Member Aycock, Council moved to appoint Caylen Beaty as the ASU representative to the Planning Commission for a one-year term which will expire on August 31, 2009.

VOTE: Aye - All
 Nay - None

COMMUNITY APPEARANCE COMMISSION APPOINTMENT

Development Services Director John Spear stated that there is currently a vacant position on the Community Appearance Commission. He stated that Bob de Camera has applied to fill the vacant term which is due to expire on June 30, 2009. Council Member Mason suggested accepting additional applications since Mr. de Camera already serves on both the Board of Adjustment and the Town/Gown Committee. Upon a motion by Council Member Mason, seconded by Council Member Aycock, Council moved to defer action on the appointment until the next regular meeting in June.

VOTE: Aye - All
 Nay - None

ADOPTION OF CODE AMENDMENTS - CHAPTER 97: SMOKING

Town Attorney Sam Furguele stated that changes to the municipal code section on smoking have been studied by a subcommittee consisting of Council Members Aycock and Pepin and himself. He noted the following changes to the code:

Additions - **Bold type**
Deletions - ~~Strike out~~

§97.03 PROHIBITION OF SMOKING IN PUBLIC PLACES

(A) (21) All Town parks, playgrounds and sidewalks in front of Town buildings.

§97.04 SMOKING IN PUBLIC VEHICLES

Smoking is prohibited in municipal vehicles. ~~whenever a nonsmoker is present.~~ Penalty, see §97.99

§97.08 SMOKING REFUSE

It shall be unlawful for anyone to deposit any portion of a cigarette, cigar, smoking device, or any refuse related to smoking on Town property, except in designated receptacle.

§97.99 PENALTY

(A) Violation of §97.08 shall subject the offender to a civil penalty in the amount of \$100.00 to be recovered by the Town.

Mr. Furguele noted that the Town does have the power to impose criminal penalties also. Discussion ensued concerning amending the proposed language to include reference to the Jones

House property and the Horn in the West property, as well as signage indicating designated smoking areas and proposed penalties. Upon a motion by Council Member Mason, seconded by Council Member Phillips, Council moved to table the matter pending further consideration by the subcommittee regarding the abovementioned issues.

VOTE: Aye - All
 Nay - None

ADOPTION OF ORDINANCE - AMEND CHARTER FOR CHANGE OF ELECTION METHOD

Upon a motion by Council Member Phillips, seconded by Council Member Pepin, Council moved to adopt the following ordinance:

ORDINANCE

PURSUANT to N.C. Gen. Stat. § 160A-102, the Charter of the Town of Boone, North Carolina is hereby amended to change the method of election of the Mayor and Town Council from the Nonpartisan Election and Runoff Election method authorized by N.C. Gen. State. § 160A-101(7)(c) to the Nonpartisan Plurality method authorized by N.G. Gen Stat. § 160A-101(7)(b).

Adopted this the 15th day of May, 2008.

Mayor

ATTEST:

Town Clerk

(ORDINANCE TO BE TYPED IN BOOK 3, PAGE 346)

VOTE: Aye - All
 Nay - None

SCHEDULING OF SPECIAL MEETINGS

Mayor Clawson announced the following meetings tentatively scheduled for the month of June:

- \$ Monday, June 9, 1:00 p.m. - 5:00 p.m. - budget workshop
- \$ Tuesday, June 10, 2:00 p.m. - 6:00 p.m. - budget workshop
- \$ Thursday, June 12, 3:00 p.m. - 5:00 p.m. - meeting with Howard Street property owners
- \$ Tuesday, June 17, 6:30 p.m. - budget public hearing and possible public hearing on water and sewer code amendments

Meetings are to be held in the Council Chambers. Council Member Pepin suggested that the budget workshop scheduled for Monday, June 9th may last a bit longer than two hours since several large budget items are to be considered during that meeting. Upon a motion by Council Member Mason, seconded by Council Member Aycock, Council moved to approve the scheduling of four special Council meetings in June.

VOTE: Aye - All
 Nay - None

MONTHLY WATER 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 of April. The Water Treatment Plant recorded a maximum daily demand of 2.3 million gallons on Thursday, April 10, 2008, and the average daily demand was 1.86 million gallons for the entire month. The total amount of water treated was 55.80 million gallons. This is a 4.2 percent increase over the total amount of water treated in April 2007.

Attached you will find a chart that depicts a comparison of the maximum daily demands for the month of April 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 390 gallons per day from the 2008 allotment for two projects, 4,176 gallons per day from the 2009 allotment to one project, and 4,629 gallons per day from the 2010 allotment to another.. Since the last Town Council meeting the Public Utilities Department has approved one project that subtracted 150 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 7,211 gallons per day remaining for allotment in 2008, 4,731 gallons remaining for 2009 and 45,371 gallons remaining for 2010.

			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
			Warren Shepherd	4/17/2008	30	7721
			Hollar & Greene	4/17/2008	360	7361
Ethan Anderson	4/30/2008	150				7211
			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
			Charisma Partners	4/17/2008	4176	4731
			2010			
Staff Approved	Date	Projected Usage	Council Approved	Date	Projected Usage	Remaining Gallons
						50000
			Hospitality House	4/17/2008	4629	45371

AWARDING OF BID - TRACY CIRCLE SEWER MAIN REPLACEMENT

Public Utilities Director Rick Miller presented the following memo detailing information about this item:

To: Mayor Clawson, Town Council and Town Manager
From: Ricky L. Miller, Public Utilities Director
Date: May 9, 2008
Re: Tracy Circle Phase I Sewer Main Replacement Project

Boone Town Council members officially adopted a five-year wastewater capital improvement plan in February 2003 that included a sewer main replacement project for the Tracy Circle area. The estimated cost for the project at that time was \$86,796.00 and did not include engineering, permitting, or asphalt cost. This estimated cost was reevaluated in 2006 at a cost of \$415,665.00.

Bids were received for this project on Thursday, May 8, 2008 at the Town Hall conference room. Attached you will find the bid tabulations sheets for the Tracy Circle sewer main replacement project , including a recommendation from Hobbs, Upchurch and Associates. As you can see the low bid was \$365,821.00, submitted by Carolina Grading and Utilities, Inc. The engineers recommend the Town award the Tracy Circle sewer main replacement project to the low bidder. If approved, this project will be funded with monies appropriated within the 2007-2008 FY budget.

Based on the information above, I concur with our engineer’s recommendation and recommend that Carolina Grading and Utilities, Inc. be awarded the bid for replacement of the Tracy Circle Phase I sewer main replacement project in the amount of \$365,281.00

Upon a motion by Council Member Mason, seconded by Council Member Aycock, Council moved to award the bid for the Tracy Circle sewer main replacement to Carolina Grading and Utilities Inc. in the amount of \$365,821.00

VOTE: Aye - All
 Nay - None

REQUESTED APPEARANCE - STEPHEN SINANIAN

Mr. Stephen Sinanian appeared before the Council to update the Town Council on the Liquor-by-the-Drink referendum. He stated that the ABC Task Force is targeting September for the mixed drink referendum and that an affirmative vote by the Council in June would accommodate the process in regard to the standpoint of the Board of Elections and various laws concerning this referendum.

REQUESTED APPEARANCE – BRENT DAVIS

Town Attorney Sam Furguele opened a public hearing at 9:11 p.m. to hear sworn testimony from Brent Davis, Public Utilities Director Rick Miller, and Development Services Director John Spear regarding a request for sewer service for property located at 1397 Highway 105 Bypass. Mr. Davis entered into evidence a site plan depicting his property (**Exhibit permanently on file at Town Hall**). He stated that he has used this property as an office since 1997 and that the septic system failed in April of this year. He stated that he intends to use the front portion of the property for parking in the future. Council Member Mason indicated that the current provisions in the Water & Sewer Ordinance do not allow Council to grant sewer-only connections. Mr. Davis requested to amend his request to include water service. In regard to a question about pressure zone, Public Utilities Director Rick Miller stated that the property is located in a primary pressure zone but is served by a tank in a secondary pressure zone. Mr. Miller further stated that the property is located adjacent to water lines. In regard to a question about Comprehensive Plan policies, Development Services Director John Spear pointed out the following policy:

2.2.2 UTILITIES

A. *Extensions of water and/or sewer services that could result in scattered, non-directed development and costly provision of other urban services shall be prohibited.*

Mr. Spear stated that he does not feel this is an extension of service since there are utility lines adjacent to the property. With no other testimony offered, Mr. Furguele closed the public hearing at 9:26 p.m. Upon a motion by Council Member Mason, seconded by Council Member Pepin, Council moved to grant a request for water and sewer service in the amount of 60 gallons per day for the property located at 13937 Highway 105 Bypass with the following conditions:

1. The property must be annexed.
2. Immediate connection to the sewer system is allowed since the septic system currently serving the business has failed.

VOTE: Aye - All
 Nay - None

Upon a motion by Council Member Aycock, seconded by Council Member Mason, Council moved to excuse Mayor Clawson for the consideration of this case since she is a member of the Board of Directors for the High Country Council of Governments.

VOTE: Aye - All
 Nay - None

REQUESTED APPEARANCE - HIGH COUNTRY COUNCIL OF GOVERNMENTS

Town Attorney Sam Furguele opened a public hearing at 9:32 p.m. to hear sworn testimony from Development Services Director John Spear for water and sewer service to property located

off Candy Lane. Attorney Jeff Hedrick was present to represent the High Country Council of Governments. He began by asking the Council to consider this application as a new use that will use less water than the previous amount allocated to Leonard Solomon in November, 2007. Mr. Furgiuele advised that Mr. Solomon's water rights are vested for one year. He further advised that the water allocation belongs to the land, not to the individual owner. Mr. Furgiuele suggested considering this request a modification instead of a new request. Mr. Hedrick stated that the sale of the property is contingent on the approval of the water request. Council Member Mason stated that the property is not located in the town limits or the ETJ but is located in the floodway and the Town's watershed. Mr. Hedrick stated that the property, if owned by the High Country Council of Governments, will be tax-exempt. Council Member Mason stated it would be beneficial for the property to be annexed so that any development would be subject to Town development standards. She inquired as to the zoning designation if the property were to be annexed. Development Services Director John Spear stated that the Comprehensive Plan does not advocate B-3 zoning in that area but that surrounding properties are zoned B-3, General Business. With no further public testimony, Mr. Furgiuele closed the public hearing at 9:57 p.m. It was the consensus of the Council members that the property should be annexed in order to be developed per Town regulations. Council Member Pepin voiced a concern about the water allocation amount initially granted to the property not being used for one year before the amount can be relinquished to the Town. Council Member Mason stated that she is concerned about development in the floodway and floodplain areas throughout the Town. Upon a motion by Council Member Aycock, seconded by Council Member Phillips, Council moved to grant the water allocation request for 465 gallons per day with the following conditions:

1. The property must be annexed, prior to issuing of permits.
2. Upon the completion of the sale of the property, the balance of the water allocation granted to the property (7,635 gpd) shall be relinquished to the Town of Boone by way of a letter from Leonard Solomon.
3. This modification shall be contingent on the sale of the property to the High Country Council of Governments.

VOTE: Aye - All
 Nay - None

REQUESTED APPEARANCE - FLOYD GARRISON

Floyd Garrison appeared before the Council to inquire as to the status of the sewer line extension to the Elk Motel. He stated that he had initially provided the Council with his financial information and was not willing to provide further information regarding his property holdings and other financial documentation. Mr. Garrison asked if the Council is planning to honor the agreement to extend sewer service to the Elk Motel due to the failed septic system. Council Member Mason stated that there is no question concerning the need for the sewer extension; however, the Council is tasked with the stewardship of public funds. She stated the requested financial information is needed regarding the use of tax money for the extension of the line. Mr. Garrison stated that if the sewer line is not extended, then he will be forced to close the Elk Motel since he cannot afford to pay for the extension. Council Member Pepin stated that although the Council appreciates the verbal information given, financial facts are needed to make a decision on the project. Mayor Clawson stated that the matter is scheduled to be discussed in Closed Session. She thanked Mr. Garrison for his comments.

PUBLIC COMMENT

There were no persons requesting to appear during public comment.

CLOSED SESSION

Upon a motion by Council Member Aycock, seconded by Council Member Pepin, Council moved to enter Closed Session at 10:34 p.m. pursuant to NCGS 143-318.11a)3)5)6) in order to discuss the following matters:

- Property Acquisition:
 - Howard Street
 - Raw Water
 - Brown property
 - Legal advice - Tweetsie Railroad resolution.
 - Settlement proposal - Preserve at Winkler's Creek.
- § Legal Advice - Elk Motel Sewer Line project.
- § Personnel.
- § Discussion of Bradford Park.

VOTE: Aye - All
 Nay - None

Upon a motion by Council Member Pepin, seconded by Council Member Aycock, Council moved to exit Closed Session at 12:33 a. m.

VOTE: Aye - All
 Nay - None

POSSIBLE ACTION FOLLOWING CLOSED SESSION

Upon a motion by Council Member Aycock, seconded by Council Member Pepin, Council moved to rescind the offer of a contract for sewer extension due to a failure to provide financial data as requested by the Council.

VOTE: Aye - All
 Nay - None

Upon a motion by Council Member Aycock, seconded by Council Member Mason, Council moved to extend sewer service to the Elk Motel provided that all costs incurred be paid for by Floyd Garrison.

VOTE: Aye - All
 Nay - None

Upon a motion by Council Member Mason, seconded by Council Member Pepin, Council moved to amend the agenda for the June 9, 2008 meeting to provide for closed session at the end of the budget workshop to consider personnel issues.

VOTE: Aye - All
 Nay - None

ADJOURNMENT

On a motion by Council Member Aycock, seconded by Council Member Mason, Council moved to adjourn the meeting at 12:38 a. m.

VOTE: Aye - All
 Nay - None

Deputy Town Clerk

Mayor