

**MINUTES – REGULAR MEETING
BOONE TOWN COUNCIL
May 15, 2018**

CALL TO ORDER

A regular meeting of the Boone Town Council was called to order at 6:00 p.m. Tuesday, May 15, 2018 in the Council Chambers located at 1500 Blowing Rock Road. Mayor Rennie Brantz presided. Council Members present were Mayor Pro-Tem Loretta Clawson, Lynne Mason, Sam Furgiuele, Connie Ulmer and Marshall Ashcraft. Staff in attendance were Town Manager John Ward, Police Captain Andy LeBeau, Cultural Resources Director Pilar Fotta and Planning Director Jane Shook. Town Attorney Allison Meade was also in attendance.

ANNOUNCEMENTS

Mayor Brantz welcomed all in attendance and asked anyone who wished to speak during the public comment period to sign up.

TENTATIVE AGENDA ADOPTION

Council Member Furgiuele suggested moving the proposed minutes under "Council Matters" for discussion on a proposed revision and to take action on the Sustainability Forum Event Date item. Upon a motion by Council Member Clawson, seconded by Council Member Furgiuele, Council voted to approve the agenda as amended. Council Member Ashcraft asked that Council add an agenda item so that Council may consider immediately funding \$14,000 in riot gear in the form of protective vests and E-Crash software for the Police Department. This request was added to the agenda as item eleven under "Council Matters".

VOTE:	Aye:	All
	Nay:	None

PUBLIC COMMENT

Justin Keiler of Eastview Drive addressed Council to ask that they uphold the court's rulings against his neighbor, Zhiyuan Chen for the bamboo which is encroaching onto Mr. Keiler's property. Mr. Keiler stated that he felt he should not have to spend \$10,000 to uproot his own lawn to get rid of the bamboo which has spread from his neighbor's property onto his own.

Deborah Greene of Boone provided Council with a memo given to her by Frank Packard regarding Town Attorney Allison Meade's opinion on noise issues at the water intake construction site and added that a family of short-term renters moved out of their rental home due to the noise from construction. Ms. Greene was concerned that the de-watering pump, which is located in a residential area, was lit up and drilling 24 hours a day. Ms. Greene noted that the Environmental Assessment completed for the Town indicated that noise would comply with local ordinances.

REQUESTED APPEARANCES

CONSENT AGENDA ADOPTION

Council Member Furgiuele asked that a change be made in the proposed minutes from April 19, 2018 in discussion regarding WK Dickson Change Order #6. The minutes were revised to read: "Member Furgiuele asked if Council approved the proposed change order if they would *not* be waiving recourse against WK Dickson to which Ms. Meade answered that she could not guarantee it, but believed that to be the case and that in any event, the Town would be in breach of its agreements with the USDA if Council chose not to proceed and pay for services required by the USDA". Mayor Brantz also asked that a default in the system be corrected to remove his vote from the minutes.

Upon a motion by Council Member Clawson, seconded by Council Member Mason, Council moved to approve the following items on the Consent Agenda:

1. Town Council Regular Meeting Minutes - April 19, 2018 as amended above.
2. Selection of Private Engineering Firm - Hunting Hills Lane Bridge
3. Award of Bid for Hauling and Placement of Asphalt
4. July 4th Parade Ordinance

5. Special Event Permit - Hunter's Heroes Memorial Run
6. Special Event Permit - 2018 ASU Homecoming Parade
7. Special Event Permit - ASU Homecoming Festival

COUNCIL MATTERS

DISCUSSION OF THE POLICE PUBLIC FORUM

Council Member Furguele presented an item for discussion in regards to the recent Police Department Public Forum. He thanked staff for their hard work on the project and suggested that the forum become a yearly event, with time for questions and comments from the public. He added that the forum should be scheduled on a standing date with questions presented by Council and information submitted by the Police Department, with one hour allocated for the presentation and one hour for questions from Council and the audience. Council Member Furguele stated that after speaking with officers afterward, he believed that the presentation instilled a stronger sense of pride within the department and boosted their commitment to the community. Mayor Brantz noted that in the future, he would like to see the department work with ASU Police Department and the Watauga County Sheriff's Department for a joint presentation. Council Members Clawson, Mason, Ulmer and Ashcraft echoed their appreciation for the Police Department and for their hard work on the presentation. Council Member Furguele made a motion, which was seconded by Council Member Clawson, to institutionalize the Police Department Public Forum and for the Town Manager to coordinate with the Police Department to set a meeting date and to discuss a manageable format so that the department could address issues that they see as key with flexibility and input from Council and to include public engagement.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Sam Furguele, Council Member
SECONDER:	Loretta Clawson, Mayor Pro-Tem
AYES:	Mason, Clawson, Furguele, Ulmer, Ashcraft

DISCUSSION OF COMMUNICATION POLICY

Council Member Furguele began discussion of the Town's communication policy following a memo which was sent to Watauga County Attorney Tony diSanti by Town Attorney Allison Meade regarding noise issues at the water intake construction site. Council Member Furguele stated that the tone of the memo disturbed him and that the position of the memo was not something he wished to be associated with. He expressed concern that a direct communication with the County was made without Council knowing, and continued to say that he believed the memo to be extraordinarily short sighted and may come with potential consequences. Council Member Furguele asked in the future that there never be communication with another government entity without Council's knowledge and asked that Council adopt a policy to that effect. He also questions who authorized the memo that was sent to the County through Mr. diSanti. Mayor Brantz and Council Member Ulmer expressed that they felt the Town and County should work together. Town Attorney Allison Meade stated Mr. diSanti reached out to her in January after receiving a complaint about noise at the water intake construction site and that after the two discussed the matter, she offered her legal opinion as to the Watauga County Sheriff's Department's lack of authority and the fact that in her opinion, the Town was not bound by the Watauga County noise ordinance in the memo to which Council Member Furguele was referring to. Ms. Meade added that she believed she had an independent responsibility to protect the Town and felt she had the right to send the memo to the County. Council Member Furguele stated that he felt Ms. Meade had not thought through the consequences of her legal analysis and that he had concerns with the tone of the memo and that some might perceive the memo as being hostile in nature. Council Member Ashcraft stated that he believed the memo was created with staff exercising their professional judgment. Council Member Mason added that she didn't believe Council should micro-manage staff on such matters. Council Member Clawson stated that she believed Council should be made aware of communications that are sent out and expressed concern that although several people in the community have mentioned the memo to her, Council was unaware of the memo. Council Member Furguele made a motion, which was seconded by Council Member Clawson that the Town adopt a policy that any written communications which could be perceived as hostile should not be utilized without the

opportunity for Council to weigh in. Council Member Mason expressed concern that it would be difficult to know how the recipient of such communications would interpret it in terms of tone.

VOTE: Aye: Furguele, Clawson
 Nay: Mason, Ashcraft
 Abstain: Ulmer

RESULT:	APPROVED [2 TO 2]
MOVER:	Sam Furguele, Council Member
SECONDER:	Loretta Clawson, Mayor Pro-Tem
AYES:	Clawson, Furguele
NAYS:	Mason, Ashcraft
ABSTAIN:	Ulmer

RENEWAL OF DBDA AGREEMENT

Town Attorney Allison Meade presented Council with a revised contract between the Town of Boone and the Downtown Boone Development Association. Changes included revising the language to reflect the fact that the Downtown Boone Development Association was not a contractor that carried out MSD services. The length of the contract was also changed to five years, with the option for Council to revisit every year if they wish. Council Member Furguele stated that he agreed with the changes proposed, except for the term due to the fact that members may not be aware of the termination clause if the agreement is not reviewed each year. Council agreed upon the following changes to the DBDA contract:

-Agreement term will begin on July1, 2018 and end on June 30, 2019

-Section D will be amended to read: "At least 30% of MSD funds are utilized for tangible improvements to the MSD, such as streetscape improvements".

-The DBDA will be charged with addressing activities such as: "2. Administration of any MSD revitalization project specifically requested by the Town".

-"E. The DBDA will maintain a written policy requiring that a fund accounting system is created and maintained that ensures that any non-MSD funds are used only in accordance with State law and this contract, to the extent applicable".

-"9. ...United States Internal Revenue Service or otherwise, the DBDA shall immediately notify the Town, and the *Town Council* may in its discretion declare this Agreement immediately terminated".

Upon a motion by Council Member Clawson, seconded by Council Member Ulmer, Council voted to approve the Downtown Boone Development Association agreement as amended.

VOTE: Aye: All
 Nay: None

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Loretta Clawson, Mayor Pro-Tem
SECONDER:	Connie Ulmer, Council Member
AYES:	Mason, Clawson, Furguele, Ulmer, Ashcraft

REQUEST TO REDUCE THE FREQUENCY OF PUBLIC HEARINGS

Council Member Clawson requested that Council consider reducing the frequency of their monthly public hearings, stating that she has difficulty recruiting people to serve on the Planning Commission due to the heavy meeting schedule. Town Manager John Ward outlined changes to the meeting schedule which were made at the request of previous members, and added that with a monthly meeting, Council had the authority to cancel meetings as appropriate. He stated that with the current volume of Planning related requests from Council, he believed that an additional one or two Council meetings would be needed to adjust for the volume of requests.

Council Member Clawson disagreed, with Council Member Furguele adding that he believed the bi-monthly approach should at least be attempted. Council Member Clawson clarified that the Planning Commission would still meet monthly, but that public hearings would be held on a bi-monthly basis. Council Member Furguele disagreed, saying that he believed the Planning Commission could meet bi-monthly as well. After discussion on the topic and upon a motion by Council Member Clawson, seconded by Council Member Furguele, Council voted to adopt a meeting schedule for one year which would allow the Planning Commission meeting/Public Hearing to be held every other month beginning in July 2018 and to have a set end time of 10:00 p.m. with the option of scheduling a special meeting if needed to conclude the Planning Commission meeting/Public Hearing. Council Member Furguele added clarification that if the Planning Commission Chair and the Mayor believe that a case can be concluded within a short amount of time that they would be able to continue the meeting past the 10:00 p.m. end time. Council Member Clawson accepted this amendment as a part of her original motion.

VOTE: Aye: All
Nay: None

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Loretta Clawson, Mayor Pro-Tem
SECONDER:	Sam Furguele, Council Member
AYES:	Mason, Clawson, Furguele, Ulmer, Ashcraft

ALLOCATION OF FUNDS FROM HISTORIC PRESERVATION COMMISSION ACCOUNT TO WATAUGA DIGITAL

Mayor Brantz declared a break at 8:07 p.m. Council reconvened at 8:16 p.m.

Upon a motion by Council Member Clawson, seconded by Council Member Ashcraft, Council moved to allocate funds from the Historic Preservation Commission account to the Watauga Digital project in the amount of \$5,000.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Loretta Clawson, Mayor Pro-Tem
SECONDER:	Marshall Ashcraft, Council Member
AYES:	Mason, Clawson, Furguele, Ulmer, Ashcraft

CONSIDERATION OF AMENDMENT TO THE UDO TO CREATE STANDARDS FOR HOTELS

Council Member Furguele presented a request for Council to consider an amendment to the UDO to create detailed standards for hotels. Council Member Furguele referenced the converted hotel on Blowing Rock Road which is now used for student housing. Town Attorney Allison Meade stated that additional standards for hotels were unnecessary due to the fact that the UDO allows for the use of standard dictionary definitions when terms within the UDO are undefined and that a court would be able to determine what is and what isn't a hotel. Council Member Furguele replied that he did not believe Council would want a court to have to interpret the Town's UDO. After discussion and upon a motion by Council Member Furguele, seconded by Council Member Clawson, Council voted to direct staff to review and address UDO language to create specific standards for hotels, but with the understanding that staff could also recommend upon review that no changes be made.

VOTE: Aye: All
Nay: None

PROPOSED ORDINANCE LANGUAGE - BICYCLES, SKATEBOARDS, INLINE SKATES

Town Attorney Allison Meade outlined proposed changes to Chapter 110 of the Town Code in regards to wheel based transportation, including a requirement that in order to use these various modes of transportation on Town property, one would be required to wear a helmet. Council Member Furguele added that non-motorized scooters should be added to the list of different types of wheel based transportation and that he believed a public hearing should be held on the matter. Ms. Meade proposed that a public hearing on the changes be held at the June Council meeting. Upon a motion by Council Member Furguele, seconded by Council Member Mason, Council voted to approve the proposed ordinance language as amended, and that a draft of the language be presented at the regular June Council meeting with an opportunity for a dedicated public comment period on the particular proposal.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Sam Furguele, Council Member
SECONDER:	Lynne Mason, Council Member
AYES:	Mason, Clawson, Furguele, Ulmer, Ashcraft

SCHEDULE MEETING TO DISCUSS COMPREHENSIVE PLAN AND OTHER ADOPTED PLANS

Upon a motion by Council Member Furguele, seconded by Council Member Clawson, Council voted to schedule a meeting to discuss the Comprehensive Plan and other adopted plans on July 18, 2018 beginning at 6:00 p.m. in the Council Chambers located at 1500 Blowing Rock Road.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Sam Furguele, Council Member
SECONDER:	Loretta Clawson, Mayor Pro-Tem
AYES:	Mason, Clawson, Furguele, Ulmer, Ashcraft

APPROVAL OF THE SUSTAINABILITY FORUM EVENT DATE AND FUNDING

Planning Director Jane Shook presented Council with a request to approve the date and funds proposed for the Sustainability Forum requested by the Sustainability, Economics and Environment Committee. The committee recommended Friday, September 7, 2018 and funding in the amount of \$1,500 to go toward refreshments, entertainment and complimentary items. Council Member Furguele suggested that Council approve this funding so that the committee could begin planning for the event. Town Manager John Ward noted that the funding would be encumbered this fiscal year and carried over to next fiscal year. The event would begin at approximately 5:00 to coincide with First Friday events. Council Member Furguele made a motion to approve Friday, September 7, 2018 at 5:00 p.m. as the date of the event and funding in the amount of \$1,500 for the Sustainability Forum.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Sam Furguele, Council Member
SECONDER:	Loretta Clawson, Mayor Pro-Tem
AYES:	Mason, Clawson, Furguele, Ulmer, Ashcraft

POTENTIAL CREATION OF SUSTAINABILITY POSITION FOR THE TOWN OF BOONE

Planning Director Jane Shook presented a request from the Sustainability, Economic and Environment Committee for the creation of a permanent sustainability position. Council Member Furguele, Council liaison to the Sustainability, Economic and Environment Committee added that the position would have authority across departments and would work toward energy conservation and more sustainable, environmentally conscious actions on the part of the Town of Boone. Town Manager John Ward expressed concern that

members have requested the creation of between five and seven positions and that if Council chose to move forward, funding may have to come from a tax increase. It was the consensus of Council to table this discussion until after budget discussions are completed.

RESULT:	CONSENSUS
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CONSIDERATION OF FUNDING FOR PROTECTIVE VESTS AND E-CRASH SOFTWARE

Council Member Ashcraft asked that Council consider funding protective vests and E-Crash software for the police department in the amount of \$17,500. He stated that he viewed the protective vests as a basic public and personal safety item for the department and that the cost for vests and riot training in partnership with other jurisdictions would cost \$14,000. Council Member Ashcraft continued saying that while E-crash software was not a direct safety item, it would improve efficiency within the department and would reduce paper transfers. This item would cost \$3,500. Council Member Furguele stated that he did not want law enforcement officers from other jurisdictions coming into Boone, except pursuant to duly authorized mutual aid agreements for riot control. Police Captain Andy LeBeau added that a Memorandum of Understanding was being drafted in regards to the training component of the protective vest request and that outside departments would not be coming to Boone without mutual aid agreements and that any action taken by Council on this item would not authorize such. Upon a motion by Council Member Ashcraft, seconded by Council Member Mason, Council voted to approve the funding of protective vests and riot training in the amount of \$14,000 and E-crash software in the amount of \$3,500.

CLOSED SESSION

Upon a motion by Council Member Clawson, seconded by Council Member Furguele, Council voted to enter into closed session at 9:28 p.m. pursuant to:

1. N.C.Gen.Stat. § 143-318.11(a)(1) and 21 143-318.10(e), to review, approve and seal closed session minutes from Council's prior closed session(s).
2. N.C.Gen.Stat. § 143-318.11(a)(3), to consult with the Town Attorney in order to preserve the attorney-client privilege between the attorney and the Town Council and obtain legal advice, consider and/or give instructions to the attorney concerning one or more potential legal claims.
3. N.C.Gen.Stat. § 143-318.11(a)(3), to consult with the Town Attorney in order to preserve the attorney-client privilege between the attorney and the Town Council and obtain legal advice, consider and/or give instructions to the attorney concerning the matter involving Zhiyuan Chen.

EXITING CLOSED SESSION

Upon a motion by Council Member Mason, seconded by Council Member Clawson, Council voted to exit closed session at 10:40 p.m.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Lynne Mason, Council Member
SECONDER:	Loretta Clawson, Mayor Pro-Tem
AYES:	Mason, Clawson, Furguele, Ulmer, Ashcraft

POSSIBLE ACTION FOLLOWING CLOSED SESSION

ADJOURNMENT

Upon a motion by Council Member Ashcraft, seconded by Council Member Clawson, Council voted to adjourn the meeting at 10:44 p.m.

Nicole Worley, Town Clerk

Rennie Brantz, Mayor