

**MINUTES – REGULAR MEETING
BOONE TOWN COUNCIL
MAY 21, 2015**

A regular meeting of the Boone Town Council was called to order at 5:38 p.m., Thursday, May 21, 2015, in the Council Chambers, 1500 Blowing Rock Road. Mayor Andy Ball presided. Council members present were Lynne Mason, Fred Hay, Quint David and Jennifer Peña. Town Attorney Allison Meade was also present. Staff members present were Town Manager John Ward, Town Clerk Christine Pope, Assistant to the Manager Jim Byrne, Police Chief Dana Crawford, Fire Chief Jimmy Isaacs, Finance Director Amy Davis, Planning Director Bill Bailey, Public Works Director Rick Miller, Program Coordinator Lane Weiss and Cultural Resources Director Pilar Fotta.

CALL TO ORDER

Mayor Ball called the meeting to order and welcomed all in attendance. Mayor Ball, along with Public Works Director Rick Miller and Program Coordinator Lane Weiss, recognized the 2015 “Every Drop Counts” poster contest winners:

2015 Town of Boone “Every Drop Counts” Poster Contest

1st Place Winner – Abbey Pulliam
(Hardin Park Elementary School)

2nd Place Winner – Charlotte Crees
(Hardin Park Elementary School)

3rd Place Winner – Taif Aljahimah
(Hardin Park Elementary School)

Honorable Mention – Coco Mente
(Two Rivers Community School)

- ❖ During the month of April, the second graders at Two Rivers Community School and Hardin Park Elementary School participated in the Town of Boone’s “Every Drop Counts” 2nd Grade Poster Contest. This is an annual contest that is coordinated with National Drinking Water Week to help promote water conservation and protection.

- ❖ This year, each class had 100% participation, so each student will be rewarded with a field trip to the Water Treatment Plant as well as a pizza party picnic at the Clawson-Burnley Park.

Mayor Ball noted that anyone wanting to sign up to speak during the public comment session would need to sign the public comment sign-up sheet.

Council Member Peña announced that her family will be moving out of the area, and therefore, she will be resigning with her last meeting being the June 18, 2015, regular Town Council meeting.

TENTATIVE AGENDA ADOPTION

Town Manager John Ward noted that an item would need to be added to discuss the possible appointment of a Council Member to replace Council Member Peña's upcoming vacancy at the end of June. Upon a motion by Council Member Mason, seconded by Council Member David, Council moved to adopt the agenda, as amended.

VOTE: Aye – All
 Nay – None
 Absent – 1 (Brantz)

PUBLIC COMMENT

Kathy LaMar of Beverly Heights Drive voiced her concern with the construction work being completed on the Zaxby's location and sidewalks around her neighborhood causing homeowners to be trapped and unable to leave. She stated that the construction workers, according to their special use permit, are not allowed to make a left turn into the neighborhood but continue to do so. She stated the neighborhood was not sure what the next step should be to protect the neighborhood. Council asked the town manager to follow up on this matter.

Rob Holton of Boone thanked Council for the sidewalks along State Farm Road due to it being a major connector road.

CRYSTAL WINEBARGER/HUNGER AND HEALTH COALITION – REQUESTED APPEARANCE

Elizabeth Young spoke on behalf of the Hunger and Health Coalition to request an unusual circumstances waiver for the recent utility bill they received totaling \$3,482.20. She indicated that there was a pipe that burst at the vacant Caldwell Community College building, but since they share a meter, it affected their utility bill. She added that Robert Marsh and others have since fixed

the issue, and their organization got a separate meter to keep this issue from happening again. Upon a motion by Council Member Mason, seconded by Council Member Peña, Council moved to grant the fee waiver for unusual circumstances in order to bring the bill in question back to the Hunger and Health Coalition's normal monthly usage bill totaling \$91.30.

VOTE: Aye – All
 Nay – None
 Absent – 1 (Brantz)

CONSENT AGENDA ADOPTION

- A. Minutes: April 13, 2015 – Special Meeting/Wellness District Workshop.
 April 16, 2015 – Regular Meeting.
 April 27, 2015 – Special Meeting.
- B. Approval of Tax Releases and Refunds:

**Tax Refunds
CO2
September, 2013**

Taxpayer	Year	Amount	Description
KADYK, J MARC & P SANDRA	2013	.74	PLATE TURNED IN
		.74	

July, 2014

Taxpayer	Year	Amount	Description
ARNETTE, SANDRA L	2013	2.83	PLATE TURNED IN
ARNOLD, RICHARD CHARLES	2013	3.74	INCORRECT VALUE
MILLER, SUSIE L.	2013	4.94	PLATE TURNED IN
		11.51	

**Tax Releases
CO2
March, 2015**

Taxpayer	Year	Amount	Description
YOUNT, HELEN WINKLER-RENTAL	2014	5.24	OUT OF BUSINESS
		5.24	

- C. Approval of Updated Records Retention and Disposition Schedule.
- D. Approval of Amendments to Ordinance #11-01:

ORDINANCE
(FORMERLY ORDINANCES 11-01 AND 05-01)
(With amendments through ~~March~~May 21, 2015)

1. **Term and Applicability of Ordinance:**

- a. This ordinance shall control the approval of new water or sewer connections to the extent specified herein during the period beginning the date adopted through December 31, ~~2018~~2019, or such other end date as the Town Council may by majority vote designate. To the extent its provisions create any conflict with the Town of Boone Water and Sewer Use Code, this ordinance shall supercede and control. To the extent the provisions of this ordinance do not conflict with or otherwise supercede the Town of Boone Water and Sewer Use Code, that Code remains in full force and effect.

2. **Amount of Water which may be Allocated:**

- a. **Annual Amount Which May Be Allocated.** The amount of water available for allocation and attributable to any designated calendar year during the remaining term of this ordinance shall be 150,000 gallons per day hereafter referred to as “the water census.” The Town shall always reserve at least 10,000 gallons per day from its available water supply for possible allocations to existing vacant lots within the corporate limits of the Town.

- b. **Determination of the Amount of Water to be Allocated and Deducted if a Request is Granted.** The water usage predicted for each application and thus deducted from the available water from the year(s) to which it is attributed shall be determined by multiplying the usage predicted by the North Carolina Discharge Rate (NCDRS) Schedule by .60, even in cases where an applicant asserts that actual use will be less than the predicted use.

I. Deductions for Subdivision Approvals. When an application for water service to either a proposed minor or major residential subdivision is approved, the Director of Public Utilities (“the Director”) shall subtract an amount of water from the available water census which reflects the projected amount of water when all residences in the proposed subdivision are fully constructed and occupied.

- c. **Designation of Year from Which Allocation Is Made.**

I. An approval of water service by the Director shall always be attributed to the calendar year in which it is approved.

II. An approval of water service by the Town Council shall ordinarily be attributed to the calendar year in which it is approved; however, the Town Council may designate that a particular approval of water service

shall be attributed to the available allocation from another year within the term of this resolution or may apportion the allocation over two or more years.

- d. **Water Remaining at End of Year.** Any unused allocation from a prior calendar year may be made available in any subsequent calendar year(s).
- e. **Water Shortage Declarations.** When either a Stage II or Stage III water shortage is declared pursuant to Article VII of the Town of Boone Water and Sewer Code or imposed on the Town by the State of North Carolina, the Town Council may suspend its consideration and approval of any new water applications for the duration of the water shortage, and it may direct the Public Utilities Department (hereafter, “the Department”) to suspend its consideration or approval of any new water applications until further action by the Town Council.
- f. **Adjustment of Water Census.** Each year while this ordinance is in effect the Town shall review actual water usage records to determine whether changes should be made to the allocation allotments for subsequent years either because more water is being used than was predicted or less water is being used. At any time the Town Council may increase or decrease any yearly allocation amount based on actual usage information concerning remaining capacity.

3. **Who May Allocate Water:**

- a. **Allocations by Director.** Until the Town has allocated two-thirds of the full water allotment for the year during which the request is made, the Director may approve new applications for water serving property within the corporate limits of the Town (“the Town limits”) when the predicted water usage is ten thousand (10,000) gallons per day or less. ~~In addition, the Director may approve new applications for water service in the ETJ of the Town in which the predicted water usage is five hundred (500) gallon per day or less. Once more than two-thirds of the full water allotment for the year has been approved, the Director may only approve new applications for water serving property within the Town limits when the predicted water usage is no more than five hundred (500) gallons per day.~~
- b. **Allocations by Town Council.** Except those allocations which may be approved by the Director, every other request for a new allocation of water serving property within the Town limits or within the Town’s planning extra-territorial jurisdiction (“ETJ”) must be approved upon action, by majority vote, of the Boone Town Council acting in its quasi-judicial capacity. Any request for a new water allocation serving property outside the Town limits and ETJ of the Town, without regard to the amount of the request, must be approved by a two-thirds super-majority of the Town Council members present and not excused from the vote. Any approval by the Town of a new allocation of water serving property outside the Town limits may be subject to reasonable conditions as set forth at Section 8 herein.

4. **Requests for Service in the Town's Secondary Pressure Zone.** In general, the Town's "secondary pressure zone" includes all areas at an altitude above 3,400 feet above sea level but below 3,620 feet above sea level. Requests for extensions and connections into the Town's secondary pressure zone may only be approved if the following additional criteria are satisfied. For purposes of this paragraph, an "extension" refers to the continuation of a water main beyond its currently existing limits while a "connection" is defined as the linking of pipes serving a single customer to an existing water main.

- a. **Requests for Extensions into the Secondary Pressure Zone.** No service extensions into the secondary pressure zone shall be considered for approval unless:

1. The property for which service is requested was located inside the Boone Town limits on or before March 8, 2007; and

- II. The applicant agrees to adhere to Town of Boone secondary pressure zone specifications, and among other things, agrees at its expense to:

A. Use minimum eight-inch minimum pipe diameter;

B. Provides all needed booster pumping station(s) of EFI design with fire pumping capabilities;

C. Provides a minimum 100,000 gallon welded joint steel storage tank;

D. Installs pressure protection for each individual water service; and

E. Install Dataflow Systems radio telemetry compatible with existing Town of Boone system is provided; and

- III. All portions of a proposed extension are below 3,620 feet in elevation.

- b. **Request for Connections into the Secondary Pressure Zone.** A connection to an existing water main in a secondary pressure zone may be approved by the Town Council in cases in which such connection:

I. Creates no negative impact on the Town's distribution system;

II. Allows adequate pressure to be maintained as may be necessary to comply with the requirements of the Boone Fire Department and applicable fire codes;

III. Results in no additional costs to the Town; and

- IV.** Otherwise complies with the requirements of the Town of Boone Water and Sewer Code for connection to the Town's water system.

5. What information Must be Provided by an Applicant for Water or Sewer Service. At the time of application, an applicant for water service shall designate and describe the following and provide all required assurances. The refusal of an applicant to provide such information, or, for applicants for service outside the corporate boundaries of the Town, the stated unwillingness to petition for annexation or comply with the Town's Unified Development Ordinance shall be grounds for the Director to deny the application without further consideration. There shall be no appeal of the Director's denial of an application. An applicant must provide the following information and assurances, as applicable:

- a.** The name and address of the applicant;
- b.** The specific location of the property to be served so that it may be determined whether it is in the Town limits or ETJ, whether any portion of it is within the secondary pressure zone, and the relative location of available water and sewer connections;
- c.** The name and address of the owner of the property if the applicant is not the owner of the property;
- d.** If the applicant is not the owner of the property, a description of the legal rights of the applicant to apply for and obtain service and proof of those rights, as requested by the Director;
- e.** If water rights have previously been approved for a property and are currently vested, a written relinquishment of previously granted water rights signed by the owner or other person with legal authority to do so.
- f.** A site specific development plan for the property for which service is requested in sufficient detail to enable the Town to assess the factors which may be considered under this ordinance; and
- g.** Any technical information needed by the Director to determine compliance with this ordinance or the Water and Sewer Use Code.
- h.** If the application is for property located outside the corporate limits of the Town, a statement that if approved, the applicant will petition for voluntary annexation if requested to do so as a condition of approval, and in cases in which new construction or development is anticipated, the applicant will construct any such structures or develop the property in accordance with the requirements of the Town's Unified Development Ordinance if required to do so as a condition of approval.

6. Town Council Priorities in the Allocation of Water.

- a. **Requests Considered on a First-Come, First-Served Basis.** The Town Council shall ordinarily consider water service to future customers within the Town limits on a “first-come, first-served,” basis. Hearings on requests shall be conducted by the Town Council in the order in which completed applications have been received by the Department, unless a case has been tabled to a later date for consideration either at the request of the applicant or by action of the Town Council.
- b. **Requests for Service in Town Preferred over Other Requests.** Requests for water service serving properties within the Town limits shall be preferred over other requests. Ordinarily, only requests for service connections to property which is in the Town limits will be granted. However, the Town Council may authorize a connection or extension outside the Town limits when a “connection hardship,” as that term is defined in Code of Boone §50.003 exists and the requirements of Code of Boone §50.004 are met.
- c. **Smaller Requests are Preferred over Larger Requests.** Ordinarily, the Town Council shall prefer small requests over large requests for water, and a request may be denied based on the determination by the Town Council that a particular request, if approved, would too greatly reduce the remaining water to be allocated.
- d. **Compliance by Applicant with Other Conditions Required by this Ordinance and the Water and Sewer Use Code.** The Town Council may also deny a request because an applicant has not complied with any other requirement of this ordinance or the Water and Sewer Use Code.

(1) **Additional Factors Which the Town Council May Consider When Deciding Whether to Grant a Request for Water.** In addition to the priorities and considerations described in **the foregoing** paragraphs, the Town Council can consider the following in deciding whether to grant or deny a request for water or sewer service:

- a. Any factor which may make the predicted actual use different from the NCDRS predicted use;
- b. The amount of water usage in gallons per day previously approved during the calendar year and the amount still left to be allocated for the year;
- c. Whether in its opinion the application is for a land use which is consistent with the Town’s adopted policies concerning growth and development; and
- d. Such other factors as may be identified by the Town Council in its deliberations, which either suggest that a particular application promotes or undermines the public health or safety, or the general welfare of the Town.

8. **Conditions.** The Town Council may place conditions upon a successful application for water or sewer service. Without limitation and by way of example only, the Town Council may require:

- a. That an applicant whose property is partly or wholly outside the Town limits petition the Town for annexation in accordance with the requirements of North Carolina General Statutes and the Town of Boone's ordinances before service is provided.
- b. That an applicant whose property is partly or wholly outside the Town limits comply with designated development policies of the Town, and/or that the property be developed pursuant to a site-specific development plan to be submitted to and approved by the Town's Planning and Inspections Department, in order for the property to receive and continue to receive service.
- c. That an applicant granted the right to connect to the sanitary sewer system agree to connect into the Town's water system should the Town later request that such a connection be made, and that the applicant sign a statement of commitment to that effect which will remain on file with the Town's Public Utilities Department.

9. **Vesting of Water Rights.**

- a. **Rights Vest to Property, Not Applicant.** Any vesting of water rights which is obtained through a successful application during the term of this ordinance vests to the property itself for the specific project rather than to the applicant personally. Therefore, any change in ownership or change in legal rights subsequent to approval shall not affect the vesting of the water rights, the time periods described herein, or the payment or retention of required fees.
- b. **Rights not Transferrable.** Water rights may not be transferred from the property designated in the application to a different piece of property, even for the same or a similar site specific development plan.
- c. **Vesting Does Not Occur until Required Fees Are Paid.** No vesting of water or sewer rights occurs until the fees required by this ordinance are paid.
- d. **Initial Payment of Fees.** Within thirty days of the time an application is approved and at the applicant's option, the applicant must pay either ten percent (10%) or twenty percent (20%) of the availability fee for the approved site specific development plan, as further explained hereunder. Such fee is non-refundable, but will be credited against the availability fee charged at the time of the actual connection to the Town's system if the site specific plan is constructed as proposed.

I. **Fees are Non-Transferrable to Another Property.** A fee paid pursuant to this paragraph may not be transferred from one property to another property.

II. Fees May not be Transferred to Another Project on the Same Property. A fee paid pursuant to this paragraph may not be transferred from one site specific development plan to another, even if both are on the same property, if the subsequent plan represents a substantial change, as defined in paragraph 11, below, from the plan which has been approved.

- e. **Initial Vesting Period.** If an applicant pays ten percent (10%) of the availability fee for the approved site specific development plan, the applicant shall be entitled to a one year initial vesting period; if an applicant pays twenty percent (20%), the applicant shall be entitled to a two year initial vesting period, dated from the date of approval by the Town Council or Director of the application.
- f. **Temporary Extension of Vesting Period.** An applicant who initially pays ten percent (10%) of the full availability fee and obtains a one year initial vesting period may extend the initial vesting period for a second year upon payment of an additional ten percent (10%) of the full availability fee (“the extension payment”) so long as the extension payment is made in its entirety and received by the Town prior to the lapse of the initial vesting period. When such payment is fully and timely made, the initial vesting period will be recalculated from the original one year period to a two year period, but will continue to be considered for purposes of this ordinance as the “initial vesting period.”
- g. **Lapse of Vesting after Initial Vesting Period.** Unless extended by the payment of full availability fees, any applicant granted the right to connect to the Town’s water distribution system must obtain all needed development permits within the initial vesting period or said approval will expire and the allocated water usage shall return into the water census for redistribution. For purposes of this section the term “development permits” shall mean the following:
 - I. In the case of applicants for water service for a minor subdivision, the minor subdivision plat approval and recording of the approved plat with the Watauga County Register of Deeds, and any associated zoning and grading compliance certificates;
 - II. In the case of applicants for water service for a major subdivision, a special use permit, and associated zoning and grading compliance certificates;
 - III. In the case of a commercial development project, all permits required for the physical development of the land, plus those permits necessary for the building. These may include some or all of the following: a special use permit, a zoning permit and a building permit.
- h. **Extension of Period of Vesting upon Payment of Full Availability Fees.** Upon payment made prior to the expiration of the initial vesting period of the full remainder of the availability fee predicted for the site specific development plan for

which approval has been granted, the approval of a water application will be extended for an additional period matching the vesting period of approved development permits for the site specific development plan, but not less than one additional year from the expiration of the initial vesting period. Any additional vesting of development permits which is obtained during the additional vesting period shall automatically extend the water rights to match that vesting period.

I. Availability Fee Payment Non-Refundable. The funds paid pursuant to this section are non-refundable, but will be credited against the availability fee charged at the time of the actual connection to the Town's system if the site specific plan is constructed as proposed.

II. Availability Fee Payment Non-Transferrable. The funds paid pursuant to this section are non-transferrable, as described. Such funds may not be transferred as a credit from one property to another property, and they may not be transferred from one site specific development plan to another, even if both are on the same property, if the subsequent plan represents a substantial change, as defined in paragraph 11, below, from the approved plan.

III. Adjustment in Availability Fee at Time of Connection. If the required availability fee at the time of the connection to the Town's system is more than the amount which has been previously paid, the remainder of the then current availability fee must be paid before a connection will be allowed. If the required current availability fee at the time of the connection to the Town's system is less than the amount which has been previously paid, no refund shall be due.

- i. **Expiration of Vesting.** Without regard to the payment of fees and term of vesting, should any applicant whose development project requires a special use permit or zoning permit allow the special use permit or zoning permit to expire, the applicant's water rights will also immediately expire. Likewise, should any applicant whose development project acquires a building permit allow the building permit to expire, the applicant's water rights will also immediately expire.

10. Changes in Development Plan after Approval.

- a. **Substantial Changes Prohibited.** When an application has been approved for water or sewer service and fees paid to vest the approval, a substantial change may not be made in the site specific development plan designated in the application without a new application and appropriate payment of fees if approved. Except for a mixed use development proposed in accordance with Section 15.11 of the Town's Unified Development Ordinance (a "mixed use project"), a "substantial change" is one for which a different type of principal zoning use is proposed, e.g. multi-family to commercial, or there is an increase or decrease of greater than ten percent (10%) in the predicted water use for the site specific development plan, as determined by

the calculations prescribed in paragraph 2(b), provided that a reduction in predicted use which is the result of a change to a site specific development plan initiated and mandated by the Board of Adjustment in a special use permit proceeding, or one which is the result of conditions or modifications agreed upon by the Town Council in a conditional district zoning proceeding shall not be considered a “substantial change” for purposes of this ordinance.

- b. A substantial change in a mixed use project shall occur when there is a change in the multi-family portion of the project which, if viewed as an independent project, would be considered a substantial change pursuant to subparagraph 10(a), or for which there is an increase or decrease of greater than ten percent (10%) in the square footage of the completed commercial space from the commercial space described by the applicant at the time the application is approved, provided that a reduction in predicted square footage which is the result of a change to a site specific development plan initiated and mandated by the Board of Adjustment in a special use permit proceeding, or one which is the result of conditions or modifications agreed upon by the Town Council in a conditional district zoning proceeding, shall not be considered a “substantial change” for purposes of this ordinance.

- 11. **Monthly Water Reports.** Reports concerning the number and predicted volume of each water connection request approved during the term of this Resolution shall be provided to Town Council in such form and frequency as Council may request.
- 12. This Ordinance shall become effective upon adoption.

Adopted this 21st day of May, 2015.

E. Adoption of Resolution – Street Closure for Downtown BOO!

2015 Downtown BOO! Resolution

WHEREAS, the Town of Boone is planning the 15th annual Downtown BOO! celebration; and,

WHEREAS, this event has become a celebration for the entire community and has seen a significant increase in attendance; and,

WHEREAS, this event is centered around young children and families as participants; and,

WHEREAS, there are factors that the Town of Boone feels have the potential to increase attendance this year; and,

WHEREAS, the Town of Boone wishes to ensure the health and safety of all participants and spectators; and,

WHEREAS, the Town of Boone feels that closing a portion of West King Street for a short period of time for this event will allow for an increase in safety; and,

WHEREAS, this event is open to everyone and provided as a benefit to the entire community.

NOW, THEREFORE, BE IT RESOLVED, that the Town Council of the Town of Boone, North Carolina, respectfully requests permission from the North Carolina Department of Transportation to close a portion of West King Street on October 30, 2015 from 4:30 to 6 p.m., for the 15th annual Downtown BOO! celebration.

BE IT FURTHER RESOLVED that a copy of this resolution shall be forwarded to the North Carolina Department of Transportation for approval of the above-mentioned street closure.

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE 234)

- F. Cultural Resources Advisory Board Request – Permission to Focus on Top-Three Voted Priorities.
- G. Approval of Budget Amendment – Funding for Cultural Resources Programs and Events for Remainder of 2015.
- H. Approval of Budget Amendment – Jones House Smoke Detection System.

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

VOTE: Aye – All
 Nay – None
 Absent – 1 (Brantz)

DISCUSSION OF UPCOMING TOWN COUNCIL POSITION VACANCY

Town Manager John Ward provided Council with an overview of the North Carolina General Statutes regarding Council vacancies. He indicated that since the vacancy is more than 90 days before the next election, the Council could choose to appoint a Council member until the next election or leave the position vacant until the next election. He recommended that Council appoint a member for quorum purposes. Town Attorney Allison Meade stated that the only requirement with respect to appointment is that it be made in open session. Council came to the consensus to have staff issue a press release and advertise in all usual venues of the open position and to accept

applications and a letter of interest until the next agenda submission deadline for the June regular meeting, at which point a new Council member will be chosen.

CONSIDERATION OF WELLNESS DISTRICT SMALL AREA PLAN

Planning Director Bill Bailey presented the draft Wellness District Small Area Plan and recommendations which have been incorporated into the draft since the last public hearing and charrette-style workshop. Lengthy discussion ensued regarding staff providing various scenarios to show the biggest differences between developments in this proposed district versus the current ordinance requirements. Upon a motion by Council Member Mason, seconded by Council Member Peña, Council moved to send the drafted Wellness District Small Area Plan to the next public hearing in August and to direct staff to provide additional information for the community in the form of two scenarios (for mixed use and non-mixed use development) that show differences, pros and cons, and to concur with the Planning Commission's two suggestions and include those in the plan.

VOTE: Aye – All
 Nay – None
 Absent – 1 (Brantz)

CONSIDERATION OF UDO TEXT AMENDMENT – EXEMPTION WITHIN APPROVED INDUSTRIAL PARK

Planning Director Bill Bailey presented to Council a text amendment to allow expansions of development inside already approved industrial parks as long as it does not impact buffers. He noted this action request also includes a request by Joel White of Highland International to schedule a special public hearing sooner than the next hearing in August. Upon a motion by Council Member Mason, seconded by Council Member Peña, Council moved to send this proposed text to a special public hearing to be scheduled for Monday, June 8, 2015, at 6 p.m., immediately before the Planning Commission meeting, at the Council Chambers located at 1500 Blowing Rock Road.

VOTE: Aye – All
 Nay – None
 Absent – 1 (Brantz)

CONSIDERATION OF CONDITIONAL DISTRICT PLANNED DEVELOPMENT PROCESS

Planning Director Bill Bailey provided Council with an overview of this proposed process, which would allow for flexibility for both commercial and mixed-use projects and for parcels with three or more acres. He also noted that, in the proposed text, staff eliminated plain residential development since it would be redundant. Upon a motion by Council Member David, seconded by Council Member Peña, Council moved to approve the proposed text to send to the next public hearing scheduled for August.

VOTE: Aye – All
 Nay – None
 Absent – 1 (Brantz)

CONSIDERATION OF MODIFICATION TO TEXT AND MAP AMENDMENT PROCESS

Planning Director Bill Bailey provided an overview of the benefits of amending the existing process in order to hold public hearings more frequently. Town Manager John Ward noted that this would also improve the town's customer service as well as efficiency with developers who come in and might miss opportunities due to funding falling through if the public hearing isn't soon enough. Town Attorney Allison Meade suggested Council consider the public hearing process that is going to be used for the industrial park text amendment in which the public hearing is immediately followed by the Planning Commission meeting, then goes back to Town Council. Upon a motion by Council Member Mason, seconded by Council Member Peña, Council moved to direct staff to develop language for a revised process and to change the public hearing schedule.

VOTE: Aye – All
 Nay – None
 Absent – 1 (Brantz)

Mayor Ball declared a break at 7:08 p.m. Council reconvened at 7:20 p.m.

DISCUSSION OF TOWN CODE CHAPTER 95: SMOKING

Council Member Fred Hay stated he would like to see enforcement of no smoking in parking lots and sidewalks, but that the town attorney has advised they cannot by state law. Town Attorney Allison Meade indicated that the current ordinance is as broad as state law permits and does not believe the town can do anything further. She added that the town can ban smoking in enclosed spaces, but otherwise the town would have to own, lease or occupy the space in order to ban smoking. Council Member Mason stated it was more a matter of enforcement if it is happening. Council Member Hay felt that the current ordinance was not being enforced. Mayor Ball

encouraged the police department to enforce the smoking ordinance and that the town manager follow up on this matter.

2015 CONCERTS AT THE JONES HOUSE

Cultural Resources Director Pilar Fotta presented the 2015 Concerts at the Jones House schedule.

2015 FOURTH OF JULY PARADE

Cultural Resources Director Pilar Fotta announced the 2015 Fourth of July Parade and advised Council that the route will be in reverse, beginning at the county's social services lot and ending at Legends. She added that the town has received approval from the county for use of the parking lot for set up.

TOWN MANAGER UPDATE:

Town Manager John Ward presented Council with the following updates:

- The FY 2015/16 Manager's Recommended Budget is available online and at Town Hall for inspection. Review of the recommended budget by Town Council will be the following Tuesday and Wednesday beginning at 8:30 a.m. He indicated that it is his intention to cover major changes in the budget message, and hopes to wrap up the review in one day instead of two depending on Council's comfort level.
- Technicians will be in town next week doing minor tweaking to the panels on the parking meters, specifically for the key pad area, and the pay stations are still scheduled to be installed in early June.
- He is continuing to move along with the manager's action items and progress on those from the annual retreat.
- He provided a brief presentation of the new Town Calendar on the Town's Web site.
- He introduced the Town's new intern, Holly Peterson.

BOARD APPOINTMENTS

ABC Board:

Council Member Mason nominated Freida Van Allen for reappointment. Council Member Hay seconded the nomination.

VOTE: Aye – All
 Nay – None
 Absent – 1 (Brantz)

Ms. Van Allen's term will expire June 30, 2018.

Board of Adjustment:

Council Member Hay nominated Rich Crepeau for reappointment to a resident position. Council Member David seconded the nomination.

VOTE: Aye – All
 Nay – None
 Absent – 1 (Brantz)

Mr. Crepeau's term will expire June 30, 2018.

Cultural Resources Advisory Board:

Council Member Peña nominated Neva Specht for reappointment. With no other nominations, Mayor Ball called for a vote.

VOTE: Aye – All
 Nay – None
 Absent – 1 (Brantz)

Ms. Specht's term will expire June 30, 2018.

Greenway, Parks and Gardens Committee:

Council Member Peña nominated Russel Hiatt for a community member position and Joan Hearn for the permanent High County Pathways/Middle Fork Greenway Representative position. With no other nominations, Mayor Ball called for a vote.

VOTE: Aye – All
 Nay – None
 Absent – 1 (Brantz)

Mr. Hiatt's term will expire July 31, 2018.

Planning Commission:

Council Member David nominated Jon Tate for reappointment to the ETJ position.

VOTE: Aye – All
 Nay – None
 Absent – 1 (Brantz)

Council Member Mason nominated Tom Jamison for reappointment. Council Member Hay voiced his concern, stating that Mr. Jamison never understood what the board was doing on the Board of Adjustment, and was not sure if he would have the same problem on the Planning Commission.

VOTE: Aye – 1 (Mason)
 Nay – 3 (David, Hay, Peña)
 Absent – 1 (Brantz)
 Motion fails.

Council Member David nominated Matt Vincent for a resident position. Council Member Hay stated he was concerned with Mr. Vincent as well, indicating that he gave the Town's comprehensive plan a rating of 6.

VOTE: Aye – 1 (David)
 Nay – 3 (Hay, Mason, Peña)
 Absent – 1 (Brantz)
 Motion fails.

Mr. Tate's term will expire June 30, 2019.

Tourism Development Authority:

Council Member Mason nominated Jessica Smith for appointment to the lodging seat. With no other nominations, Mayor Ball called for a vote.

VOTE: Aye – All
 Nay – None
 Absent – 1 (Brantz)

Ms. Smith's term will expire Sept. 30, 2015.

Town Manager John Ward noted the additions to the downtown post office included UV tinting added to the windows to preserve the mural and new, appropriate blinds have been installed. He added that they've discussed the matter with the post office staff, and should they have any issues, there has been increased communication for the future.

CLOSED SESSION

Upon a motion by Council Member David, seconded by Council Member Hay, Council moved to enter Closed Session at 7:46 p.m. pursuant to NCGS § 143-318-11(a)(3)(5)(6) to hear the following items:

- A. Pursuant to N.C. Gen. Stat. §143-318.11(a)(3), to consult with the Town Attorney in order to preserve the attorney-client privilege between the attorney and the Town Council and consider and give instructions to the attorney concerning the handling of the claim by the Town of Boone against Delta Holdings.
- B. Pursuant to N.C. Gen. Stat. §143-318.11(a)(3), to consult with the Town Attorney in order to preserve the attorney-client privilege between the attorney and the Town Council and consider and give instructions to the attorney concerning potential claims involving the Town of Boone.
- C. Pursuant to N.C. Gen. Stat. §143-318.11(a)(3) and (a)(5), to consult with the Town Attorney in order to preserve the attorney-client privilege between the attorney and the Town Council and consider and give instructions to the attorney concerning the terms of possible acquisition of easements from Watauga County related to the water intake project.
- D. Pursuant to N.C. Gen. Stat. §143-318.11(a)(3), (a)(5) and/or (a)(6), to consult with the Town Attorney in order to preserve the attorney-client privilege between the attorney and the Town Council and to consider and/or give instructions concerning the material terms of employment and/or the conditions of appointment or continued employment of Town staff.
- E. Pursuant to N.C. Gen. Stat. §143-318.11(a)(3), to consult with the Town Attorney in order to preserve the attorney-client privilege between the attorney and the Town Council and consider and give instructions to the attorney concerning the claim involving the Town of Boone and Mountaineer Towing & Recovery, LLC.

VOTE: Aye – All
 Nay – None
 Absent – 1 (Brantz)

Upon a motion by Council Member Peña, seconded by Council Member Hay, Council moved to exit Closed Session at 9:15 p.m.

VOTE: Aye – All
 Nay – None
 Absent – 1 (Brantz)

ADJOURNMENT

Upon a motion by Council Member David, seconded by Council Member Peña, Council moved to adjourn the meeting at 9:16 p.m.

VOTE: Aye – All
 Nay – None

Christine Pope, Town Clerk

Andy Ball, Mayor