

**MINUTES – REGULAR MEETING
BOONE TOWN COUNCIL
June 12, 2024**

CALL TO ORDER

A regular meeting of the Boone Town Council was called to order on Wednesday, June 12, 2024 at 9:00 a.m. Mayor Futrelle presided. Council members present included Todd Carter, Virginia Roseman, Edie Tugman, and Eric Plaag. Staff present included Town Manager Amy Davis, Town Clerk Nicole Harmon-Church, Planning Director Jane Shook, Grants Coordinator Laney Wise, Advanced Planning Specialist Jessica Mitchell (remote), Deputy Planning Director Brandon Wise (remote), Public Works Director Todd Moody, Downtown Boone Development Coordinator Lane Moody, Police Chief Andy Le Beau, Fire Chief Jimmy Isaacs, Finance Director Guy Miller, Parking Manager Reta Jackson, Deputy Public Works Directors Justin Stines (remote) and Josh Eller (remote). Town Attorney Allison Meade was also in attendance.

MOMENT OF SILENCE

ANNOUNCEMENTS

Mayor Futrelle announced the following board vacancies:

BOARD OF ADJUSTMENT

Two regular positions, Three alternate positions

CULTURAL RESOURCES ADVISORY BOARD

One student position

DOWNTOWN BOONE DEVELOPMENT ASSOCIATION

One Council-appointed position

HISTORIC PRESERVATION COMMISSION

One regular position, One student position

PLANNING COMMISSION

One regular position, one student position

SUSTAINABILITY COMMISSION

Two student positions

WORK SESSION

WORK SESSION ITEMS - VARIOUS ITEMS SUBMITTED BY TOWN ATTORNEY

Attorney Meade gave a brief overview of the membership of the ABC Board per the requirements of state law, Council members inquired about the possible conflict of a member who is also a member of the Watauga County Board of Commissioners. She stated that her view had been that it was a problem for a person to serve both as County Commissioner and on what was a Town board and reviewed the history of the matter, but stated that, in the absence of any definitive state law prohibiting a county commissioner's service on a town ABC Board, it would come down to the discretion of Council at each appointment. Council member Plaag expressed concern that a County Commissioner served on the Town ABC Board. Attorney Meade answered that board members could be removed for cause, but that was a very heightened standard, with notice required to be given to the person and a chance for the person to come before Council to defend themselves. In response to a question from Council member Roseman, Attorney Meade noted that the default rule in the Town Code was that Council liaison members could vote on boards but this could be changed subject to each board. She noted that state rules governed the ABC Board and there was no provision by state law for a liaison. She added that Mayor Pro-Tem George attended meetings as a member of the public, not in an official liaison position. Council member Plaag suggested making an appointment today from the three applicants on the agenda and then potentially amending the agenda to add two additional voting positions. Attorney Meade suggested inviting the

members of the ABC Board to a Council meeting so they could be involved in the discussion. Council members agreed with this suggestion and asked that it be added to the July agenda for discussion.

Attorney Meade continued with her work session items by referencing a Coates Cannons essay regarding social media and cautioned members regarding concerns related to social media accounts. She suggested Council consider adopting a social media policy and offered that members might consider adding a disclaimer on their personal accounts to make it clear they were expressing their personal views. Attorney Meade clarified that individual members did not have the authority to speak on behalf of the Town unless there was a majority vote granting such authority. Council members agreed that it would be helpful to have a written social media policy that was flexible as appropriate but gave necessary guidance.

Regarding public comment, Attorney Meade expressed concern that there was no policy and that the public felt entitled to speak for as long as they wished and to submit lengthy written public comments for the minutes. She reminded members that public comment was required once a month and asked members to consider a strict time limit of five or ten minutes per person to help ensure that all persons and views were treated evenly. Council member Roseman suggested that time limits should be based on the number of people signed up to speak, with more time being given to speakers if fewer people signed up to speak. After brief discussion, it was the consensus of Council to direct Attorney Meade to draft a policy that would allow each public speaker three minutes and to clarify that each speaker is only allowed to speak once per meeting. Council member Plaag suggested Attorney Meade craft a statement to inform the public that they could email the Mayor and Council at any time. Regarding public hearings, Attorney Meade suggested that the same three-minute rule and statement should apply in these situations as well.

Attorney Meade moved to the procedure for requested appearances and suggested that items undergo a screening process. She suggested the Town Clerk communicate the request to the Mayor and Council with a deadline, and if at least one member agrees to sponsor the requested appearance, it would be allowed to move forward. Attorney Meade further suggested a time limit of fifteen minutes per requested appearance. Council member Carter added that requested appearances should be within the purview of the Council and should be an actionable item. Attorney Meade clarified that if no one sponsored the requested appearance it would not move forward.

Regarding the inclusion of statements and emails in the minutes, Attorney Meade indicated that this was not required and that the public did not have the right to demand to be included simply because they could not attend a Council meeting. It was the consensus of the Council to not include emailed statements in the minutes moving forward.

PUBLIC COMMENT

There were no persons signed up to speak during public comment.

TENTATIVE AGENDA ADOPTION

Upon a motion by Council member Roseman, seconded by Council member Carter, Council voted unanimously to approve the agenda as presented.

PUBLIC HEARING FY24/25 BUDGET

Mayor Futrelle opened the public hearing for the FY 24/25 Budget at 10:05 a.m. Council member Roseman asked for clarification regarding the SAHA license agreement. Mayor Futrelle noted that two Council members would work with staff and SAHA representatives with Attorney Meade on a new license agreement. Public Works Director Todd Moody confirmed that Public Works would be in charge of the maintenance and upkeep of the park and noted that the department received funding for additional staff in next year's budget. Hearing no further comments, Mayor Futrelle closed the public hearing at 10:11 a.m.

APPROVAL OF ITEMS ON CONSENT AGENDA

Council member Plaag presented several factual errors and problematic phrases contained in the proposed Juneteenth proclamation. Council member Carter noted that he took the language from a template and asked that the revisions be made before Juneteenth.

Council member Plaag then noted several significant errors in the presented text for the Stoneman's Raid marker. Advanced Planner Jessica Mitchell indicated that revisions would be made before presenting to the Historic Preservation Commission and then come back to the Council for final approval. She noted that the Civil War Trails committee would also likely make revisions. It was the consensus of Council to move the project forward with the caveat that the Historic Preservation Commission address errors contained in the text.

Regarding the Horn in the West infrastructure improvements, Council member Plaag felt that it was important that the architect and engineer work with staff and SAHA to contact the state restoration preservation office to complete the project while remaining sympathetic to the Town's desire to pursue a local landmark designation.

Speaking to Item 13 - License Agreement (DRABA Vintage Market), Council member Carter was concerned that the last time this group held an event at Daniel Boone Park it was left trashed, though, it was a different event. Manager Davis stated that she also had concerns but noted that this particular event was held last year and that staff was not made aware of any concerns. A SAHA representative in the audience indicated that there were issues with public urination and debris left after the conclusion of the event but that they had not brought this to Town staff's attention. It was the consensus of Council to approve the license agreement, but, at the suggestion of Council member Tugman, made it clear that SAHA was to report to staff any issues after the conclusion of the event so that they could be handled appropriately.

Upon a motion by Council member Carter, seconded by Council member Tugman, Council voted unanimously to approve the following items (as amended) on the consent agenda:

1. Proclamation – Juneteenth (as amended)
2. Resolutions of Appreciation
 - a. Franklin Brown
 - b. William Cable
 - c. Jeff Henson
3. Budget Amendments:
Police Department:
To: Maintenance – Vehicles 010-500-300-525301 \$3,356.00
From: Misc. Revenue 010-000-000-489900 (\$3,356.00)
Insurance check to pay for repairs to patrol vehicle.
Public Works:
To: Electricity 030-700-804-523110 \$55,000.00
To: Electricity 030-700-805-523110 \$75,000.00
From: Appropriated Fund Balance 030-000-000-499900 (\$130,000.00)
Appropriate additional funds to cover additional costs incurred.
Cultural Resources Advisory Board:
To: CR Boonerang 010-418-000-549139 \$135,216
From: Boonerang-Contributions/Donations 010-000-000-482206 \$135,216
The attached form reflects funds acquired on behalf of Boonerang Music & Arts Festival from sponsorships and 2023 festival income. These funds will be used to pay for the majority of the 2024 event.
4. Financing Proposals
5. Resolution – Acceptance of NCEM Award
6. CDBG-I Procurement Policy and Plan Update
7. Agreement Amendment with Republic Services
8. Award of Bid- Hauling and Placement of Asphalt
9. Award of Contract – Horn in the West Infrastructure Improvements
10. Stoneman's Raid Interpretative Panel (as amended)
11. Hellbender Mural
12. Recommendation of the 2024 Recipients of the Town of Boone 1872 Award
13. License Agreement – DRABA Vintage Market

Mayor Futrelle declared a break at 10:34 a.m. Council reconvened at 10:47 a.m.

COUNCIL MATTERS

REVISIT PREVIOUS DISCUSSION REGARDING PARKING TO CLARIFY LOGISTICAL ISSUES

Council member Roseman moved to amend the agenda to discuss the DRABA Vintage Market License Agreement. Council member Plaag seconded the motion, which carried unanimously.

Council member Roseman asked that since it fell outside of SAHA's operating time, Town staff would open restrooms at Daniel Boone Park. Cultural Resources Director Mark Freed confirmed that staff was unaware of any issues following last year's event but would bring the complaints to the applicant's attention. He added that he would ensure the applicant had someone to monitor the premises at their cost.

Council member Plaag stated that after the vote taken on May 8 regarding parking, he was contacted by a Downtown Boone Development Association member who owned several rental properties in downtown Boone expressing concerns about the removal of residential parking permits because it was so sudden and it was not a part of the original proposal. He added that when the group of five (staff and Council members) met following the May 8 Council meeting, it was the consensus of the group to reinstate residential parking permits this fiscal year with a 65-space cap for \$1,000 space per year. Manager Davis and Parking Manager Reta Jackson indicated that they were working on implementing the banks of free spaces. Parking Manager Jackson expressed concern about how staff would keep up with when a vehicle moved out of one of the free spaces. She indicated that Chief Isaacs worked on setting up email accounts that staff could send time-stamped photos to and thought that would solve the issue. Parking Manager Jackson asked for guidance on how often staff should ticket in these spots and suggested that Council direct the placement of towing signs at these spots so that staff could tow vehicles if needed. After a brief discussion, Council member Plaag suggested that staff write tickets in these free spots every hour, and staff could tow at their discretion after two hours. Council member Plaag asked that staff work with the Town Attorney to prepare a contract for residential spots to clarify that they could not be resold. Upon a motion by Council member Plaag, seconded by Council member Tugman, Council voted unanimously to approve the reinstatement of residential parking permits for the 2024/2025 fiscal year for \$1,000 per spot.

PRIORITY RANKING OF TOWN-SUBMITTED STIP PROJECTS

After brief discussion Council member Carter made a motion, which was seconded by Council member Roseman to prioritize the STIP projects as follows:

1. H230682 - Highway NC 105 from NC 105 Bypass to Blowing Rock Road
2. B190467 - New River Hills Road Multi-use Path

UPDATE ON COMMUNITY CARE PROGRAM

Lieutenant Jon Houck gave a presentation regarding the progress being made on the Social Work/Community Care Program in preparation for implementation. At the conclusion of the presentation members expressed their thanks to staff and reiterated the importance of the program. A complete copy of the presentation can be viewed online at https://boonenc.iqm2.com/Citizens/Detail_Meeting.aspx?ID=3729

APPOINTMENT TO ABC BOARD

Council member Carter nominated Ronnie Holste for reappointment to the ABC Board. Hearing no further nominations, Mayor Futrelle called for a vote.

VOTE: Aye: Carter, Roseman, Tugman, Plaag
 Nay: None
 Absent: George

Ronnie's term will expire in June of 2027.

APPOINTMENT TO BOARD OF ADJUSTMENT

Council members briefly discussed the residency of applicant Morgan and expressed concerns at his answers regarding the Comprehensive Plan. It was the consensus of Council to move forward without a nomination.

APPOINTMENT TO DOWNTOWN BOONE DEVELOPMENT ASSOCIATION

It was the consensus of Council to move forward without a nomination to the Downtown Boone Development Association.

APPOINTMENT TO HISTORIC PRESERVATION COMMISSION

Council member Roseman made a motion to nominate Krystal Carter for reappointment to the Historic Preservation Commission in a three-year term. Hearing no further nominations, Mayor Futrelle called for a vote.

VOTE: Aye: Roseman, Carter, Tugman, Plaag
 Nay: None
 Absent: George

Krystal's term will expire on June 30, 2027.

APPOINTMENT TO PLANNING COMMISSION

Council member Roseman nominated Frank Veno for reappointment to the Planning Commission. Hearing no further nominations, Mayor Futrelle called for a vote.

VOTE: Aye: Roseman, Carter, Tugman, Plaag
 Nay: None
 Absent: George

Frank's term will expire on June 30, 2027.

APPOINTMENT TO SUSTAINABILITY COMMITTEE

Council member Carter nominated Brian Crutchfield for reappointment to the Sustainability Committee. Hearing no further nominations, Mayor Futrelle called for a vote.

VOTE: Aye: Carter, Roseman, Tugman, Plaag
 Nay: None
 Absent: George

Brian's term will expire on June 30, 2027.

TOWN ATTORNEY REPORT

In response to a telephone call that staff received and forwarded to Mayor and Council, Attorney Meade clarified that the flag poles at Town Hall were not a public forum and therefore there was no process for members of the public to seek to fly a flag. She explained that the Town had never opened up the flag poles for outside use and only flew Town-approved flags. These generally had been the federal, state, Town, and AppState flag for football games, and two or three years ago Council had taken action directing that the Pride flag be flown. In response to a query from a Council member, she noted that there was a limited public forum for signage near the Wells Fargo bank but added that when people demonstrated on sidewalks, that was a fully protected First Amendment activity, and members of the public could do anything that did not cause a threat on any sidewalk in Town. She indicated that she

would send an email to staff and Council with language explaining the flagpole situation so that they could respond to members of the public who inquired.

BOARD LIAISON REPORT

Council member Carter reported that the AppalCart Board voted on its budget and that the double-decker bus was still slated to arrive in January 2025. For the Human Relations Commission, he stated that the group would be having a training event on June 20, which would be noticed properly to allow other Council members to attend if they so wished.

Council member Tugman announced that the new Tourism Development Authority building on Grand Boulevard would open in August with plans to be open on Saturdays from 11-4 and added that the building would offer 13 game day parking spaces for lease. She stated that Boone's portion of the rent was projected to be higher than the \$1,550 it was paying for the current facility. Council member Tugman noted that the western North Carolina TDAs met in Asheville recently and were proposing flexibility regarding the use of funds. She noted that both Watauga and Boone TDAs supported this year's Sugar Grove Music Fest and would be hiring two new positions. Council member Tugman expressed concern that the Sleep Inn occupancy tax was showing on financial records as zero and asked for clarification from staff. Manager Davis indicated that she had contacted hotel management staff and AppState's Matthew Dockham for additional information. Attorney Meade communicated the importance of tax and zoning enforcement for this building. Reporting for the Cultural Resources Advisory Board, Council member Tugman stated that the 1872 award recipient had been chosen and that AppState had set aside a \$4,000 charge for July 4 fireworks.

Council member Plaag announced that the Downtown Boone Development Association had recently had its 501c3 status restored and that they had recently discussed Council liaisons as appointed, voting members. He stated that it was the consensus of the board that it was a conflict to have a Council member as a voting DBDA member. Council member Plaag updated members on upcoming events, the progress of the sidewalk replacement in front of the Daniel Boone Condos, and the new public restrooms at Town Hall. He added that there were questions and discussion regarding the outdated wooden Boone signs near Galileo's (outside the MSD) and stated that the board was working on ways to challenge assumptions by NC Mainstreet that the rental rate in downtown Boone was too expensive. For the Sustainability Committee, Council member Plaag reported that the Committee recently took in a presentation from the Peel Company about a scooters and e-bike program and expected recommendations to come to Council in the near future. He added that the new Sustainability intern, Joey Crews, had been researching places inside Town limits to do solar projects and other ways to make energy improvements, such as updating the lighting at Fire Station One. Council member Plaag indicated that there was interest from the Committee to work in small groups on different topics and suggested that Council revisit the sub-committee policy. Attorney Meade replied that this policy was changed four or five years ago and noted that the creation of sub-committees could create additional work for staff. She stated that Council would need to clarify how meetings for sub-committees would be noticed and minutes taken, etc.

Attorney Meade announced that the Town has reached a purchase contract to purchase property on 421 across from Food Lion. She stated that the property, approximately 15 acres, was already graded, and if the closing went through in two months, it would be the location of the new public works facility.

CLOSED SESSION

Council member Roseman made a motion at approximately 12:35 to enter into closed session following a brief lunch break pursuant to:

1. N.C. Gen. Stat. § 143-318.11(a)(1), 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.

Council member Carter seconded the motion, which carried unanimously.

POTENTIAL ACTION FOLLOWING CLOSED SESSION

Council member Roseman made a motion, which was seconded by Council member Tugman, to consider the adoption of a Resolution for Civil Community Discourse. The motion carried unanimously.

Upon a motion by Council member Roseman, seconded by Council member Carter, Council voted unanimously to exit closed session at 1:48p.m.

ADJOURNMENT

Mayor Futrelle adjourned the meeting at approximately 1:50 p.m.

Nicole Harmon, Town Clerk

Tim Futrelle, Mayor