

**MINUTES – REGULAR MEETING
BOONE TOWN COUNCIL
June 16, 2020**

CALL TO ORDER

A regular meeting of the Boone Town Council was called to order electronically at 6:00 p.m. on Tuesday, June 16, 2020. Mayor Rennie Brantz presided. Council Members present included Mayor Pro-Tem Loretta Clawson, Sam Furguele, Connie Ulmer, Nancy LaPlaca and Dustin Hicks (joined at 6:04 p.m.). Staff present included Town Manager John Ward, Town Clerk Nicole Harmon, Finance Director Amy Davis, Fire Chief Jimmy Isaacs, Planning Director Jane Shook, and Public Works Director Rick Miller. Town Attorney Allison Meade was also in attendance.

ANNOUNCEMENTS

Mayor Brantz welcomed all in attendance.

TENTATIVE AGENDA ADOPTION

Council Member Furguele was logged off the meeting from 6:02 p.m. until 6:05 p.m.
There being no additions or deletions, Mayor Pro-Tem Clawson made a motion, which was seconded by Ms. Ulmer, to approve the agenda.

VOTE: Aye: Clawson, Ulmer, LaPlaca, Hicks
 Nay: None
 Absent: Furguele

PUBLIC HEARING REGARDING FY 2020/2021 PROPOSED BUDGET

A public hearing regarding the fiscal year 2020/2021 budget was opened at 6:05 p.m. Mr. Ward presented a copy of the proposed budget ordinance and noted that no new projects were being presented due to budget cuts associated with the COVID-19 pandemic. He indicated that the proposed budget maintained the tax rate of \$.41 and current service levels and did not recommend raises in water/sewer rates. Mr. Ward added that the proposed budget included a 2% cost of living adjustment for staff, as well as funding for a Sustainability position in the administrative budget. He indicated that he received no requests for public comment regarding the budget ordinance. Council Member Hicks confirmed that the budget was subject to change throughout the year. Mr. Ward believed that the budget would be revisited and adjusted several times throughout the year. Council Member Hicks was concerned that the issues being discussed later in the meeting may be overshadowing the budget public hearing, and wondered about the possibility of delaying budget approval to allow for further input. Mr. Ward indicated that there were deadlines that had to be met and additional special Council meetings would have to be scheduled to accommodate this. He added that all of the state mandated advertising and distribution had taken place. Ms. Meade noted that the process and the timing for the approval of the budget was the same every year. Billy Ralph Winkler on behalf of SAHA indicated that he wished to speak regarding the budget. He praised Town staff for their assistance with several issues that had arisen in the past couple of weeks at the Horn in the West. Mr. Winkler expressed that he was saddened by the decision of the Board of Directors to close the Horn in the West this season due to the COVID-19 pandemic. He added that this decision put SAHA into a \$36,500 budget deficit, and if granted, money from the Town would help to fund the museum and on-going administrative costs. Mr. Winkler acknowledged that SAHA had received a letter asking them to make a proposal for funding to the Town Council in July, but stated that they would prefer to be written into the budget as they had been in prior years. Mayor Pro-Tem Clawson was confused as to the new process and hoped that the Town would be able to continue to fund Horn in the West. Ms. LaPlaca asked what SAHA's total budget was and the amount they had requested from the Town. Mr. Winkler responded that they had requested \$20,000 from the Town, and that their budget for this year was \$277,000. He indicated that cuts had been made in the amount of approximately \$115,000 due to not operating this season. Mr. Winkler estimated that the organization was more than 50% self supported, and that the rest of the funding was gathered from grants and donations. There being no further comments, Mayor Brantz closed the public hearing at 6:26 p.m.

PUBLIC COMMENT

Chris Thaxton of Boone spoke as president of the University Village Property Owners Association. He reminded Council that he approached them last fall regarding the perceived increase in deer population density within the Town limits. Mr. Thaxton stated that he had distributed a poll to his neighbors and that generally residents agreed that there was an increase in deer population that had resulted in property damage, increased automobile accidents and a possible link to tick-borne disease. Since his last visit to Council, at its request, Mr. Thaxton stated that he had

worked to gather additional information and worked to provide potential options to Council to help with this problem. He stated that he would present the results of a study next month on deer transportation patterns as well as tick counts and densities within the University Village subdivision. Mr. Thaxton stated that at that time, he would be asking Council to endorse and sponsor a survey, which had already been developed, of Town residents on this issue, and to print and distribute educational materials on the impacts of feeding deer in populated areas. He proposed that the educational materials could go out in Town water bills, and hoped this would be only the first step in developing further policy in making the feeding of deer illegal in Town. Mr. Thaxton emphasized that he did not have a preconceived notion for what was best for the Town and was working to better understand the problems. If the problems truly did exist at the Town level, he hoped to then arrive at solutions inclusive of as many voices as possible within the extended Town community. Mr. Thaxton indicated that he had previously spoken to Council Members Furgiuele, LaPlaca and Hicks on the matter, and believed that the parties could come together on a solution.

Tom McLaughlin spoke in favor of the mask proposal on the agenda. He stated that while we were all dealing with an incurable disease, the economy was also in trouble. Mr. McLaughlin believed that everything should be opened back up and required masks in public, interior spaces. He added that soon there would be 20,000 students returning to Boone from all over, and felt that this fact completely changed the environment of the discussion. Mr. McLaughlin stated that students eat, drink and party all over Boone, that they live here and were citizens here, but felt that we could not rely on their voluntary good behavior in terms of wearing masks.

David Jackson of the Boone Area Chamber of Commerce, spoke regarding the Show Your Love campaign, and applauded AppHealthCare for their assistance. He indicated that educational materials would be distributed via social media in the upcoming week, and hoped that these would reach locals and visitors alike. Mr. Jackson stated that signage would be introduced in the form of street pole banners, and that posters would be available as well. He indicated that the Health Department would be providing 30,000 masks and hand sanitizers for distribution by community partners in each of the counties that they represented. Mr. Jackson added that radio programs would run in July, as well as press releases and the potential for billboard advertising. He stated that videos would be rolled out soon featuring ambassadors from each of the three counties to help spread the word about the campaign. Mr. Jackson noted that partners have been encouraged to work with local influencing groups to spread the message. He asked that the Town Council, when they saw fit, endorse the program, and offered an opportunity for members to be ambassadors of the program. Mr. Jackson encouraged conversations with Town staff about efficiencies that could exist by working together.

Pam Williamson of Boone cited that 80% of people must wear masks in order to save lives, and believed that this number would never be reached unless Council mandated the wearing of masks. However, Ms. Williamson stated that she came to speak regarding the agenda item requesting discussion regarding Town Council agenda and meeting procedures. In the proposed materials regarding agenda items, Ms. Williamson noted that one suggestion was that an agenda item must be approved by two Council members in order to be included on the agenda for discussion by the entire Council. She stated that she strongly opposed this requirement for the following reasons: First, Ms. Williamson believed that the proposal was completely unnecessary in that members already had the power to add or eliminate any agenda item. She felt that the addition or removal of an agenda item should be made by the entire Council in an open meeting, instead of individual Council members operating behind closed doors. Ms. Williamson felt that the proposal would not streamline the process as stated in the narrative, and added an unnecessary layer of complications. Second, Ms. Williamson added that the proposal undermined public involvement and transparency by requiring Council members to engage in back door negotiations and deal cutting out of the public's view. Thirdly, Ms. Williamson felt that the proposal was undemocratic and that each member was elected by Boone's citizens to bring their ideas to the table. She believed that the opportunity for minority views should remain an important part of the democratic process. Lastly, Ms. Williamson noted that North Carolina law prohibited deliberating of business behind closed doors as a part of its public meetings law. She added that adopting this policy would be in violation of the public trust, and finished by stating that she could not imagine why members would be prohibited from asking questions during a meeting unless it was to discourage and limit meaningful discussion.

Genevieve Austin of Boone stated that she was in favor of the newly revised mask proposal, and added that she believed the Show Your Love campaign was the perfect opportunity for Boone to unite as a community. Ms. Austin noted that there were many organizations distributing masks and believed that masks should be mandated.

Kinney Baughman of Watauga County thanked Council for working to keep the community safe. He stated that he believed Boone could be a leader in the state for caring about the health and wellbeing of its citizens and visitors, as well as the profits of its local businesses. Mr. Baughman indicated that the only way this could be done was to pass an ordinance mandating masks indoors and outdoors, and pleaded with Council to do so.

Rodney Duke of Boone believed that mandating masks showed that Boone was a community that cared about its residents and visitors, as well as the businesses serving the community. He added that mandating masks would also ensure that business owners did not lose money since it would be a Town-wide law. Mr. Duke stated that if masks were mandated now, businesses may be able to avoid another shut down in the future due to COVID-19. He stated that Dr. Sid Clements with ASU believes that the virus was spread by airborne particles which lingered and could be spread for a long time.

Chris Behrend was signed up to speak but was unable to log on.

Ellen Watson, owner of Watsonatta in downtown Boone submitted a comment which read: "As a business on King St. for more than 50 years we have seen many changes and been faced with many challenges. The eight weeks of mandatory closure was one of the hardest challenges for our business and our customers. After reading the possible COVID related modifications to King St. I am left wondering who is working for ME? Who is representing ME? As the longest operating retail store in downtown Boone, someone on our town council should care about what I think! None of the council members promoting these ideas have ever been in our store. So much for representation! PLEASE consider us and leave downtown Boone and King St. alone. Sincere thanks for your time."

Stuart Mangum, owner of Imprints in downtown Boone submitted a comment which read: "Wanted to provide input/opinion regarding Dustin Hicks' proposal for potential traffic modifications on King Street. Proposal to make King Street pedestrian only or to make traffic one-way would be detrimental to King St. businesses. Signage (as well as other methods - social media, etc.) promoting the wearing of a mask and proper social distancing as well as encouraging businesses to promote such actions would, in my opinion, be more appropriate and more effective and would still allow traffic to continue as usual. Educating the tourists coming to town to enjoy what the town and area have to offer would encourage changes in their behavior so that local shoppers (who tend to be more 'destination shoppers' as opposed to 'strollers') wouldn't be discouraged from coming into town by closures or traffic flow changes."

Sarah Rice of Watauga County submitted a comment which read: "I am a resident of Watauga county, a business owner in the town of Boone and a Registered Nurse with 29 years' experience. I have been through the height of the HIV/AIDS epidemic, SARS, H1N1, Ebola and every respiratory virus including the yearly flu outbreaks. Up until now, I have never seen the absolute craziness involving the general public. During the 1990's, when HIV/AIDS was at its worst the healthcare profession was scared. It's very similar to today where there is a lot of bad information coming out of the so called experts in the US Healthcare agencies that trickles down to the general public with no knowledge of medicine at all. I would like to explain how we treated ANY virus, air born, droplet, contact... doesn't matter. For decades, we have had STRICT guidelines by the CDC, WHO, OSHA and every other useless government agency mandating how we practice. For decades those of us in healthcare had to and still do get "fitted" for proper use of PPE before use. For decades, we were told that unless it is an N95 or a PAPR, the masks were INEFFECTIVE. The CDC has had many studies showing the ineffectiveness of basic surgical masks throughout the years. Those studies have since been "archived or removed" due to this pandemic. Do some research, you may find them! For decades, standard protocols for PPE have been ONLY for use in the hospital setting, never for long term wear, never from place to place (ie patient to patient, cafeteria, walking around the facilities and NEVER EVER outside). If we, healthcare professionals were caught wearing any PPE outside of protocol, we were written up due to infection control violations. So now, fast forward to 2020 and the ridiculousness of masks. Wearing a mask does not prevent exposure to or exposing others of coronavirus. It is a health hazard to wear a mask continually. You are breathing in bacteria, moisture, and continual CO2. Every day I watch the general public wearing their masks, some filthy from overuse, some not even covering properly, people touching them continually... all making the already ineffective masks well ineffective PLUS adding MORE bacteria to enter their respiratory tract. The Centers for Disease Control and Prevention says wearing a mask to protect against this new coronavirus is unnecessary. In fact, wearing a mask is not even recommended for the general population during flu season because there is not much evidence it has any benefit. The same goes for this virus, there is no benefit!

As a business owner, I will not comply with ANY order to mandate mask use, as a citizen I will NOT wear a mask in public, I will not shop at any store that mandates it. Any fines or whatever will be turned over to my attorney to start a lawsuit. The council waits until 6 months after the start of this "pandemic" to mandate masks? This is not a social experiment, this is a serious health threat and I'm not talking about the virus. With 10.5 million people in the state of NC, you are mandating this ridiculousness for a 0.0042% infection rate, a 0.00010% death rate." Mr. Ward stopped reading in the interest of time, but the comment submitted continued: "Within Watauga County there are around 56000 residents, the infection rate is 0.00065% and a ZERO percent death rate. People in "charge" are playing with numbers, trying to increase the fear factor. Here is a little insight to what's actually going on in the hospitals. We shut down because we were told an influx was coming. I agreed, I complied personally, professionally and with my business. We just didn't know. We could not have handled an outbreak of that proportion in the hospitals. The influx NEVER CAME! WE, the so called frontline workers were laid off, lost hours and some let go! Today, Mandy Cohen, a desk jockey physician who hasn't seen a patient in years, is spreading the false narrative that numbers are rising organically. This is NOT the case! We are testing more. Not for symptoms, just testing. We have now opened the hospitals back up to regular admissions, scheduled surgeries and not scheduled surgeries. Here is WHY the hospital numbers are climbing. If someone comes to the hospital for a diagnosis unrelated to Covid and admitted, they are tested. If positive, they are counted and listed as a Covid admission, even if they are asymptomatic. If someone comes to the hospital with Covid like symptoms, they are admitted under a "presumptive positive" status, listed as Covid regardless of the fact tests have not come back. Most are negative but 2 tests are needed to confirm that. In the meantime, they are listed in the numbers! If someone is having a scheduled surgery, they must be tested 5 days prior. If positive (even if asymptomatic), they are listed as a Covid patient in the hospital numbers. The numbers are skewed. The information being presented is to mislead the public into fear. I refuse to succumb to the lies and fear mongering going on. I refuse to follow rules made by a council who have absolutely NO medical knowledge on the effects of their mandates. Knowledge is power and ignorance is a choice! I use REAL evidence based practice and studies to guide my decisions on my health and in my practice as a nurse, not skewed data and statistics to fit an agenda. I hope the council understands that if they make this decision, they will be causing major discord in the community along with potential LIFE THREATENING effects that they have no clue about. Choose wisely!

Thea Young, downtown Boone employee submitted a comment which read: "I will not be able to virtually attend the town meeting this evening and would like to ask that you make the below contribution to the conversation surrounding the proposal put forth by Council Member Hicks.

Over the past fourteen years, I have been proud to work in Downtown Boone and watch our town grow in popularity. It is the wonderful restaurants, shops, and community that draw locals and visitors alike to our downtown. Busy is a good problem to have, up to a point, and then the congestion becomes a problem. Mr. Hicks' action request to make changes in the downtown King St area is focused on addressing the congestion issues made even more concerning given the COVID-19 concerns we all have for our community. I see this as a symptom of a larger problem. Traffic flow. While King St is our main road downtown, it is also a highway and the main way to travel between several sizable communities in our region. The pedestrian gatherings that occur (and have for years) while people are waiting to cross roads in the downtown area are also a traffic flow issue. If pedestrians could more directly move to their desired destination, fewer "accidental gatherings" would occur.

To address both of these issues, I ask the town to consider working with NC DOT to change the traffic pattern at the intersection of King and Depot streets.

During busy days the vehicle traffic flow is greatly restricted by pedestrian traffic. For example, a vehicle traveling west on King and wanting to turn right on Depot St must wait for pedestrian traffic in the crosswalk before turning. On the busiest of days this can mean an entire light cycle. Any of us who have attempted to drive into much less through downtown on a July Saturday have experienced the ripple effect this has and the gridlock it creates. A three part rotation to the intersection would eliminate this situation and help move both pedestrian and vehicle traffic in a more efficient manner.

The rotation could look like this:

1. East-West traffic has green lights.
2. North-South traffic has green lights.
3. All vehicle traffic is stopped and pedestrians may cross in all directions.

Thank you for your time, thought, and consideration."

James Wilkes submitted a comment which read: "I understand the town is considering requiring people wear masks. I'm opposed to such a requirement, especially if it is actually a requirement and not just a recommendation. There is enough conflicting information about the efficacy of mask wearing in addition to the potential deleterious effects on individual wearers to warrant a mask requirement."

Victoria Wilkes of Boone submitted a comment which read: "I am a citizen of Boone and I am writing to say that I am very strongly against Boone requiring anyone to wear masks. Recommendation is fine, but requirement would be wrong on a number of levels."

Eric Lanier of Boone submitted a comment which read: "I stand firmly against any directives that require masks in the Town of Boone. I will not wear them. You can arrest me. I will sue the town. If you fine me. I will sue the town. My health is my concern and not to be dictated by a government body. Non-symptomatic people should not be subject to ineffective rules based on absurd models that were proven false MONTHS ago. We are already killing our small businesses based on bad information. Symptomatic people should stay home. This short-sighted thinking is hurting far more people than the council will acknowledge. Businesses are going under right and left. Our real estate market is down 40%. As a private citizen I will say again: I stand firmly against any directives that require masks in the Town of Boone. I stand firmly against the already onerous and unnecessary restrictions placed on our community by the town council and the governor and recommend that they be abolished before more people are hurt."

Karen Sabo of Boone submitted a comment which read: "As a Boone resident, I support mandated wearing of masks. I think those who go without are selfishly putting their own comfort over the health of our whole community. I feel this is the same as the issue of smoking indoors and having to put one's baby in a car seat; some people value their own ease and comfort over the health and well-being of other people, and it is for exactly those people that we need this rule. Thanks for listening to my opinion on this."

Mandy Pennell submitted a comment which read: "I, WE MY FAMILY STRONGLY URGE YOU TO RECONSIDER THIS POTENTIAL DECISION MANDATING THE FACIAL COVERINGS OF THE FOLKS IN THE COMMUNITY. WHY DOES IT SEEM LIKE WE'VE TRANSITIONED INTO A DICTATORSHIP? HOW SAD IT IS TO TRY TO CARRY ON A CONVERSATION WITH A CLIENTS WHOM HAS LIMITED HEARING ABILITIES AND NEED TO HEAR WHAT I AM TRYING TO SHARE THAT MAY BE RELEVANT TO THEM SPENDING A COPIOUS AMOUNT OF MONEY IN OUR AMAZING TOWN. I AM ALWAYS RESPECTFUL AND ASK MY CLIENTS IF THEY PREFER I WEAR A MASK BUT IF THEY CAN'T HEAR GOOD ANYWAYS- HOW CAN WE DO THE WORK EFFICIENTLY THAT OUR JOBS REQUIRE? MY OTHER ISSUE IS THAT IT SEEMS MORE PEOPLE ARE GONNA GET SICK WHEN FLU SEASON ACTUALLY HITS BECAUSE EVERYONE WILL HAVE SUPER SUPPRESSED IMMUNE SYSTEMS. HOW CAN YOU CONSIDER RISKING THE STAFF'S ABILITY TO WORK AND CONTINUE TAKING CARE OF THE TOWNS NEEDS IF THEY ALL GET SICK....WE GREATLY APPRECIATE AND PRAY THAT YOUR DECISION WILL BE MADE WITH US LOCAL TOWN FOLKS IN MIND. HAVE A BLESSED DAY,MANDY PENNELL, REALTOR @KELLER WILLIAMS HIGH COUNTRY BOONE OFFICE."

Joan Woodworth submitted a comment which read: "I support your efforts to establish rules for wearing face masks in public and in providing safe social distances in shops and other establishments. We all need to do what we can to protect ourselves and others. The risk is not over yet."

Jodie Feimster submitted a comment which read: "I only just now learned of the meeting."

Please make masks mandatory in public. Town of Boone. The body of evidence in favor of face coverings for all in public has been stacking up since way before the council rejected the idea. Only Clawson and Furguele were forward-thinking enough and voted in favor of face coverings for all in public places last time. If you won't vote in favor of face coverings, please kindly disclose to the public what amount of death you think is acceptable for this community to bear so your friends can peddle beer and baubles."

Angela Kelly submitted a comment which read: "I would appreciate the council's reconsideration of mask wearing in public. The rise in confirmed cases in Watauga and Wilkes Co, as well as NC as a whole indicates that people are

either not following guidelines, or the guidelines are inadequate. The only way to know for sure, is if people follow the guidelines set forth by the health dept. That being said, I am in support of Covid related modifications to King St., and of increasing outdoor public spaces. Allowing businesses to use their parking lots and parking spaces for customer accommodation will offset the reduction in their normal use of indoor square footage. I appreciate your time and consideration of these comments.”

APPROVAL OF ITEMS ON CONSENT AGENDA

Upon a motion by Mayor Pro-Tem Clawson, seconded by Ms. Ulmer, Council voted unanimously to approve the following items on the Consent Agenda:

ORDINANCE # _____**AN ORDINANCE TO REVISE CHAPTER 30 OF THE TOWN OF BOONE CODE OF ORDINANCES RELATING TO THE CODE OF ETHICS GIFT POLICY**

WHEREAS, the Boone Town Council finds that it is appropriate to amend current Town Code Chapter 30, Section 52 ("Code of Ethics") to clarify the Town's policy regarding the acceptance of gifts by Town Council Members and other Town board and committee members; and

WHEREAS, the Boone Town Council is authorized to enact this Ordinance pursuant to its general power to enact its own rules of governance and pursuant to the authority of N. C. Gen. Stat. §160A-86;

NOW THEREFORE, BE IT ORDAINED BY THE BOONE TOWN COUNCIL THAT:

SECTION 1. Chapter 30, Section 52 of the Boone Code of Ordinances is hereby amended as follows (additions being underlined in blue, deletions struck through ~~in red~~, and moved text being shown in green):

§ 30.52 CODE OF ETHICS.

(A) *General principles underlying the Code of Ethics.*

(B) *Code of Ethics.*

(1) (a) Principle 1-1. Town Council and committee members should obey all laws, including state and federal laws and regulations, and local ordinances which apply to their official actions.

(b) Principle 1-2. Town Council and committee members should be guided by the spirit as well as the letter of the law in whatever they do.

(c) Principle 1-3. Town Council and committee members shall endeavor to keep themselves up to date about new or ongoing legal or ethical issues they may face in their official positions. They should avail themselves of resources and training in these areas which may be reasonably available to them. Town Council and committee members should review the pertinent sections in the town's code, Unified Development Ordinance and other sources concerning the procedures by which they perform their duties so that they will be knowledgeable and informed as they do so.

(2) Mandates:

(a) Town Council and committee members must ask to be recused from voting on matters involving their own direct or indirect financial interests or official conduct and must not participate in the deliberations or votes regarding the matters. They must avoid attempting to influence others who are involved in approving, making or administering a contract with the town if they will derive a direct benefit from the contract.

(b) Town Council and committee members must avoid soliciting or receiving any gift or reward in exchange for recommending, influencing or attempting to influence the award of any contract by the town.

(c) Town Council members and committee members shall reject any gift or favor from a current, past or potential contractor of the town.

(d) Town Council members and committee members should not knowingly accept any gift unless it falls within one of the exceptions set forth below. A prohibited gift shall be promptly declined, returned, paid for at fair market value, or donated to charity or the City.

1. Exceptions. These prohibitions shall not apply to any of the following:
 - a. Gifts from the official's extended family, or a member of the same household.
 - b. Anything generally made available or distributed to the general public without charge.
 - c. A memento such as a commemorative shovel, plaque, figurine, trinket, or novelty item related to a civic occasion or event.
 - d. Informational materials relevant to the duties of the official.
 - e. Food and beverages for immediate consumption in connection with any of the following gatherings, so long as the official pays the same amount, if any, that other attendees are charged for attending the gathering or for the food and drink:
 - i. A meeting of the Town Council [or committee].
 - ii. Business meetings.
 - iii. A gathering open to the general public.
 - f. Tickets or admittance to, and food and beverages for immediate consumption at, an event or meeting where the official is clearly representing the Town and where the Town has a legitimate purpose in being represented at the event. By way of illustration but not limitation, this would include community events sponsored by the Town and events or meetings hosted by the Boone TDA, the Downtown Boone Development Association, local government agencies and authorities, Appalachian University and other educational institutions, and similar organizations.
2. For purposes of this subsection (e), "gift" means anything of monetary value given or received without fair market value given in return or, for loans or other contractual arrangements, on terms that are not available to the general public in the normal course of business. Gifts do not include the following:
 - a. Academic or athletic scholarships given based on the same criteria as applied to the general public.
 - b. Anything of value properly reported as required under Article 22A of Chapter 163 of the General Statutes (North Carolina Campaign Contributions Law).
 - c. Expressions of condolence related to a death of an individual, including the giving of a sympathy card, letter, or note, flowers, food or beverages for immediate consumption, or donations to a religious organization, charity, the State or a political subdivision of the State, not to exceed a total of two hundred dollars per death per donor.

(c) Town Council and committee members shall avoid using knowledge of a contemplated action by the town, or information learned in their official capacities and not made public, to acquire a financial interest in any property, transaction or enterprise, or to otherwise gain a financial benefit that may be affected by the information or contemplated action, and they shall not help another person in doing so.

~~——(d) Town Council members shall reject any gift or favor from a current, past or potential~~

~~contractor of the town.~~

(e) Town Council and committee members shall not participate in or vote upon any quasi-judicial matter coming before them if prior to hearing the evidence of the case they have a fixed opinion that is not susceptible to change; they have had undisclosed ex parte communications regarding the substance of the matter involved; they have a close familial, business or other associational relationship with an affected person; or they have a financial interest in the outcome of the matter.

(f) Every Town Council member shall attend statutorily mandated ethics training.

SECTION 2: This Ordinance shall be effective as to Town Council members immediately upon its adoption by Town Council and shall be effective as to all committee members 30 days after adoption.

Adopted this ____th day of _____, _____.

Rennie Brantz, Mayor

ATTEST: _____
Town Clerk

COUNCIL MATTERS

REQUEST FOR DISCUSSION REGARDING TOWN COUNCIL AGENDA & MEETING PROCEDURES

Mayor Brantz indicated that he would like to withdraw this item from the night's agenda and reschedule for the July Town Council meeting, since he believed there were more important issues on the agenda for discussion. Ms. Ulmer made a motion to reschedule the discussion of this item for the July Town Council meetings. Ms. LaPlaca seconded the motion. Mr. Furgiuele stated that he would appreciate if the recommendations were not collected into a single agenda item so as to allow members to take action on specific items. Mr. Ward indicated that the Administration Intern, Anna Twigg, prepared the report provided, and that it was not intended to be a proposal for consideration. Ms. LaPlaca thanked Ms. Twigg for her work on the item.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Connie Ulmer, Council Member
SECONDER:	Nancy LaPlaca, Councilwoman
AYES:	Clawson, Furgiuele, Ulmer, LaPlaca, Hicks

REQUEST FOR RECONSIDERATION - MASK PROPOSAL

Mr. Furgiuele presented an item requesting Council's reconsideration of a mask mandate. He provided COVID-19 statistics for the time span covering Council's initial rejection of the proposal on May 26th. Mr. Furgiuele indicated that several COVID-19 cases were going unreported in Wilkes County due to cases among undocumented workers that were unable to be located. He noted that very little testing was being done in Watauga County, and that it looked like officials were more interested in making it look like Boone did not have a COVID-19 problem affecting its citizens than in actually protecting people. Mr. Furgiuele stated that one of the reasons for not approving the proposal initially was that the Town should work to educate people on the benefits of wearing masks before mandating that they be worn. He added that from his office, he had a perfect view of the downtown area, and indicated that people on the sidewalks were doing very little to distance themselves from others and that few people wore masks. Mr. Furgiuele indicated that he had counted up to 100 people on the sidewalk recently and none were wearing masks. He believed that expecting people to voluntarily wear masks had proven not to work, and agreed with a previous speaker that business workers were being put at serious risk as a result of the Town not mandating masks. He stated that two businesses he had recently visited in Town had signs posted on their doors requiring patrons to wear masks, yet he observed people in both businesses without masks. Mr. Furgiuele agreed that the Town could best support businesses and workers by approving a mask mandate. He then made a motion to amend the emergency order so that effective Saturday, June 20, 2020 at 9:00 a.m. the Town would require that masks be worn inside public businesses which were open to the general public, with the exception of people in eating establishments who were actually sitting at their tables. Mayor Pro-Tem Clawson seconded the motion. Ms. Ulmer questioned whether or not it would be effective to have police officers chasing down violators of the ordinance. She also asked why business owners were not actively mandating the usage of masks similar to "no shirt, no shoes, no service" policies she had seen in place. Ms. Meade answered that businesses may require the usage of masks, and believed that they had the right to do so, but felt that many were leery of alienating their customers. She believed that many businesses were relying on the government, either state or local, to mandate mask usage. Ms. Meade further noted that the "no shirt, no shoes, no service" policies were in place due to health department regulations. She suggested that Council nail down any issues in the language and then she would bring back draft language for consideration at Thursday's meeting. Ms. Meade asked for clarification on the term "face covering", and felt that anyone could use a piece of fabric to cover their face, but noted that many people may not have access to masks. She also indicated that she had looked around and that three other major areas in the state had mask mandates in place and believed it might be helpful to review their policies prior to adoption. Ms. Meade indicated that in each that she looked up, there was a variety of exceptions, including exemptions for religious beliefs, medical or behavioral conditions, children under 12 years of age, persons who were dining in restaurants, persons who were in private offices, persons complying with the direction of law enforcement, in settings where it was not practical or feasible to wear a face covering when obtaining goods or services. Ms. Meade stated that in the Orange and Durham County mandates, the mandate appeared to apply to all individuals and that there was not a direction that businesses had to enforce the mandate or could be held liable. She also indicated that Orange and Durham County mandates did not mention a penalty, and took that to mean that people cited for not wearing a mask, could also be cited for a misdemeanor which was the normal penalty for violating a state of emergency declaration. In Buncombe County, Ms. Meade stated that the declaration specifically de-criminalized violation of the mask mandate. Mr. Furgiuele asked Ms. Meade whether or not she had advised Council earlier that it did

not have the discretion to alter the penalties and that it was all or nothing since they were dictated by state law. Ms. Meade responded that she had advised Council that a misdemeanor could not be downgraded to an infraction by Council and that she may have suggested that Council could not avoid the violations being a violation of state law. She believed that since Council had approved language directing that citations only be written when a person became a repeat offender, that would have de-criminalized the violation. Ms. Meade stated that she believed Council had the standing and that no one would complain if it chose to de-criminalize the mandate, but clarified that she did not think Council could make the penalty a different infraction than it could not be a misdemeanor too. Mr. Furgiuele asked to amend his motion to provide the exception for those who had medical and behavioral health issues. In terms of the term "facial covering", Mr. Furgiuele indicated that Ms. Meade would draft final language for review. He also proposed that the violation should be an infraction but that the police would endeavor to use a first offense as an opportunity to educate people, and only after giving a warning would officers cite someone for an infraction. Mr. Furgiuele believed that some of the things Ms. Meade mentioned did not apply because the mandate would only apply to the areas within a businesses which were open to the general public. Mayor Pro-Tem Clawson accepted Mr. Furgiuele's amendments. Ms. Meade asked for clarification on the other exceptions that she laid out earlier. Mr. Furgiuele answered that there was an exception in his motion for people dining at restaurants as long as they were sitting at their tables. He then asked to further amend his motion to include that children under 10 be exempt from the mask mandate, but believed that any parent would be prudent to have their child wear face coverings. Mayor Pro-Tem Clawson accepted this amendment. She stated that she supported the mandate initially, and that in her 20 years on Town Council, she believed this to be the most important vote she had ever cast. Mayor Pro-Tem Clawson stated that this vote was important because it dealt with saving lives, and felt that it was time for Council to step up and do what it could to protect its citizens and visitors. She added that the numbers being distributed from Governor Cooper and Dr. Cohen were not just numbers, but were lives who had been cut short due to COVID-19. Mayor Pro-Tem Clawson continued by noting that those which were hospitalized due to COVID-19 may have future complications due to the virus. It was her hope that Council would come together and vote to approve the mandate. Ms. Ulmer believed this to be one of the most important votes and felt that members should all come together. Council Member Hicks indicated that his concerns remained the same as when the mandate was initially proposed, and mostly centered around how the mandate was enforced. He asked for further discussion on the responsibilities of officers if they were the ones who were chosen to carry out enforcement. Mr. Hicks stated that especially during this time it was more critical and believed that officers' involvement would not come without emotional and political attachments. He added that the police uniform alone was an escalatory presence in his opinion, and asked for further discussion about the specific methods police planned to use when conversing with others, how and when they would be called to enforce these violations, and whether or not officers would patrol for violators of the mandate. Ms. Ulmer believed that the mandate should be started later than Saturday, and asked Ms. Meade to weigh in. Ms. LaPlaca asked Ms. Meade to discuss in more detail de-criminalization. Ms. Meade stated that in the Buncombe County ordinance, even though it was plain that people were required to wear masks in certain settings, they would not be cited for violations. She guessed that their approach was so for educational reasons, and to give a tool to businesses who would like to insist that masks be worn while patrons were inside their establishments. Ms. Meade added that Buncombe County probably felt that the mandate could not be enforced, but still gave businesses a tool to prohibit entry without a mask. She added that she believed they could place officers at grocery stores in Buncombe County to enforce the mandate by barring entry as opposed to giving citations, which was probably a better approach in terms of avoiding disputes. Ms. Meade stated that it was her hope that Council, having learned from the aftermath of the 14 day isolation mandate, would take its time on the mandate. She believed that the merchants and people needed time to be educated. Ms. Meade recommended that she reduce the night's discussion to writing and bring it back on Thursday for Council's consideration. She noted that time should be given for merchants to create signage and potentially arrange for greeters in front of grocery stores to ensure compliance. Mr. Furgiuele further amended his motion to make the effective date of the ordinance Saturday, June 20, 2020 at 9 a.m., but the effective date for penalties to be three weeks from that date to allow time for information and signage to be distributed and to allow merchants and others to ask their questions. He felt that every day that Council delayed approval of this mandate, it was putting lives at risk unnecessarily, and felt that it was imperative that Council act despite the advice from Ms. Meade. Mayor Pro-Tem Clawson accepted the amendment. Ms. Meade clarified that she was not suggesting the mandate be delayed, but that the direction received be put into writing and reconsidered Thursday, but that Council consider delaying the effective date. Ms. LaPlaca asked what the procedure would be for moving forward, to which Ms. Meade responded that draft language that met the direction of Mr. Furgiuele's motion would be brought back on Thursday along with any

other advice and consideration. Ms. LaPlaca stated that she would like to see what fellow Council members thought of decriminalization since it seemed like that would make it easier on the Police Department. Mr. Furgiuele called for a vote and restated the motion which was to amend the state of emergency declaration so that effective Saturday, June 20, 2020 at 10 a.m. people must wear masks when they were in indoor areas of businesses which were open to the general public and are in the areas open to the general public with the following exceptions: people in eating establishments when they were seated at their table; people due to health issues were unable to wear masks; children 10 and younger. The effective date of the ordinance would be Saturday, June 20, 2020 but the effective date of the penalties would not occur until three weeks following that date. Police would be given the general instruction from the Town Council, which was already their practice, that they would first attempt to educate people, but that if they were unsuccessful in educating people and obtaining cooperation, then they would get a warning. Only then if the person continued to violate the ordinance would the person be cited. Mayor Pro-Tem Clawson seconded the motion. Mayor Brantz asked for clarification to a prior statement by Mr. Furgiuele which he indicated that he would be agreeable to some language improvement. Mr. Furgiuele replied that he expected the attorney to draft language which she has said was consistent with the language used in the Governor's executive order, and the Town's own emergency order. He made clear that he was not seeking a delay in that language and trusted the attorney to draft language which would incorporate into the existing ordinance the things outlined. Mr. Furgiuele stated that he was aware that things done by Council in the past six months were not always perfect, and believed that should other items come up, they be addressed through an agenda item. He believed that if things needed to be addressed, Council should always be open to addressing them, but did not believe it should be used as a delay tactic to prevent it from being voted on on Thursday. Mr. Furgiuele then called the question. Ms. Meade clarified that "calling the question" was a motion to terminate debate on an item.

VOTE: Aye: Furgiuele, Clawson
 Nay: Hicks, LaPlaca, Ulmer

Ms. Meade clarified that this would not eliminate Mr. Furgiuele's prior motion. Mr. Ward noted that Jennifer Greene was available to answer any questions. Ms. LaPlaca asked that Ms. Greene answer a couple of questions. Mr. Furgiuele stated that he would like for Council to vote on his motion. He added that Ms. Greene had answered extensive questions from Council on two previous occasions and that he understood her opinion to be that she did not believe in mandates and believed instead that keeping businesses open was as important or more important than maintaining the health of the area's residents. Ms. LaPlaca objected to Mr. Furgiuele's statement that Ms. Greene was somehow biased, and stated that Ms. Greene was a credentialed health expert. Council Member Hicks asked that the personal attacks being displayed be ruled out of order. Mayor Brantz called Council to order. Mr. Furgiuele stated that he was confused by Mr. Hick's request and asked whether it was directed toward the personal attacks on him or Ms. Greene. Council Member Hicks answered that his statement was directed toward the comments made about Ms. Greene. Mayor Brantz asked that Mr. Hicks restate his request in the form of a motion. Council Member Hicks answered declined stating that the request did not need to be in the form of a motion, but that he was just trying to get the point across that the comments being made were not the proper way to go about things and asked that the topic be deliberated in a more professional manner. Discussion resumed, with confusion being expressed from members on which motion they were discussing. Mr. Furgiuele clarified that he did not make a motion to bar Ms. Greene from speaking, but that in the past, the procedure had always been that Council did not invite guests to speak during the meeting outside of the public comment period without action by the Town Council. He asked that if Council decided to open the floor to Ms. Greene, that it be opened for anyone else who wished to speak, including those who had already spoken during public comment. Ms. Meade stated that she did not believe that to be the case at all, and that very frequently Council had called on people with special expertise such as Dr. Eric Plaag without opening the floor to public comment, and noted that the same was done when Ms. Greene spoke regarding this topic as well as smoking and vaping. Council Member Hicks believed that it would be appropriate to hear from Ms. Greene and asked whether a motion could be made to amend the agenda to allow her to speak on this topic. Ms. Meade confirmed that this approach would be appropriate. Council Member Hicks made a motion to amend the agenda to allow Ms. Greene to speak regarding the mask proposal. Council Member LaPlaca seconded the motion. Mr. Furgiuele asked whether this motion was in order since there was already a pending motion on the floor. Ms. Meade responded that Council had frequently allowed someone to speak who had special knowledge of a topic being discussed on the agenda. Mr. Furgiuele again asked whether Ms. Meade believed that the Town code and Robert's Rules of Order allowed for a motion to be made while another motion was pending. Ms.

Meade reiterated that she believed this would be allowed as a procedural motion. Mayor Pro-Tem Clawson stated that she believed that Council should first vote on Mr. Furgiuele's motion. Ms. LaPlaca believed that Council should have further discussion regarding the criminalization of the mandate and research what other towns in North Carolina were doing. She added that she was not at all comfortable with doing something that has this much affect on this many people so quickly. Ms. LaPlaca continued by stating that she believed the potential to get things wrong, like the last mandate the Town passed regarding a 14 day quarantine was huge. Ms. LaPlaca asked whether there were other Council members who wished to hear input from Ms. Greene. Mr. Furgiuele asked whether Ms. LaPlaca was now Mayor Pro-Tem or Mayor that she was asking this question. He stated that the meeting procedure proposals included in the night's packet allowed for the Mayor or Mayor Pro-Tem to preside over the meeting, not Council members, and he objected to Ms. LaPlaca's question. Mr. Hicks clarified that he made a motion to allow Ms. Greene to speak. After being asked by Ms. Meade, Council Member Hicks restated his motion to allow Ms. Greene to speak regarding the mask proposal. Ms. LaPlaca again seconded the motion. Mayor Brantz called for a vote on this motion:

VOTE: Aye: Hicks, LaPlaca, Ulmer
 No: Clawson, Furgiuele

Ms. Greene stated that she was not against masks and thought that the information that had been put forward in the proposal had some good data points in it. She thanked the Town for its support and recognized that Council Member Furgiuele's priority was public health, but added that the situation was complex. Ms. Greene indicated that many tools would have to be utilized, and stated that she believed masks to be beneficial and reminded members that she made this point the last time she spoke. She added that there were other factors to consider, and asked Council to consider the current CDC recommendations that anyone who had trouble breathing with a mask on be exempted from wearing one. Ms. Greene stated that she realized what Mr. Furgiuele was trying to do was in the public's interest and thanked him for his assistance. She added that the information she previously provided was from a certain point in time and believed it had been taken out of context to say that there had only been 700 tests conducted. Ms. Greene confirmed that it was true that this was the number included in her report, but noted that the report lacked data. She indicated that the lack of data was not due to local factors, but was a state wide proposal which was being addressed with ways to make it easier for labs to report negative tests. Ms. Greene believed that it was most important to see that most of the cases seen over the last 2 weeks were directly related to the public health investigation efforts underway and increased testing. She reiterated that she did not disagree with the science behind mask usage, but wanted to clarify that officials were using many tools such as isolation orders and quarantine orders. Ms. Greene noted that challenges were constantly being faced with people working in front line positions experiencing other disparities and that these were the people she was concerned about. Ms. Greene stated that it was her hope that the Share Your Love campaign could be utilized in the process. She added that many of her staff had not had a day off in three months and stated that no one was trying to hide anything in the information provided. Ms. Greene noted that many cases from Watauga County had been reassigned to other counties where the infected people lived due to state statute. She welcomed any and all members to participate in the Share Your Love campaign as well as to spend time with her so that she could explain officials' roles in public health. Ms. Greene reiterated that her priority was balance and that she believed every life was important. Mayor Brantz called for a vote on Mr. Furgiuele's motion and first asked if there was any further discussion. Council Member Hicks asked whether it would be possible to put off the penalties associated with the mandate until the July Council meetings and then to address criminalization at that time. Mayor Brantz clarified that Mr. Furgiuele's motion required an immediate vote. Mr. Hicks clarified that he was only asking to delay the criminalization aspect. Mr. Furgiuele responded that Council could also implement the motion as proposed and then amend the emergency ordinance during a later meeting to address criminalization if needed. Mr. Furgiuele stated that he believed it to be imperative to send a signal to the community that the Town was doing what it could to address COVID-19. He added that he took exception to the comments made regarding the "horrible failure" before with the 14 day quarantine mandate and believed the only failure to be that Council did not adopt the mask mandate when it was initially presented. Mayor Pro-Tem Clawson stated that Council was talking about saving lives and felt that the quicker a mask mandate was implemented the better. She pleaded with members to come together to save lives. Ms. Ulmer stated that it had always been about lives, and noted that there were different ways to go about addressing this topic. Mayor Brantz called for a vote. Ms. LaPlaca agreed with Ms. Ulmer and felt that to portray that some members did not care about lives to be unhelpful. She thanked Ms. Greene for her professional presentation, but stated that she could not support anything that criminalized behavior for so many unknowing people. She

believed that the approach was irresponsible and felt that due to the hostility of Council, it was difficult to express that or disagree with certain proposals without being called names. Ms. LaPlaca indicated that it was her hope that members would stop that and stated that just because she voted against the mask mandate initially did not make her a mean person or wanted people dead. She reiterated Ms. Ulmer and Ms. Greene's statements that there were many tools which could be used in this matter. It was her hope that Council could wait two days before voting on a mandate which would affect the lives of tens of thousands of people. Mr. Hicks felt that, fundamentally, part of his issue with the mandate was that he was looking at it from a policing standpoint. He stated that he was more partial to the abolition of the police force in the long run and was not trusting of the institution fundamentally. Mr. Hicks stated that these facts made this issue complicated for him and that ideally he would be in favor of a mask mandate, but because many of the Council members were white and felt comfortable with the local police he believed Council should err on the side of caution regarding policing. He preferred a month of the mask mandate without criminalization, or in the alternative, have further conversations about what other communities had done to penalize with community service or fees. Mr. Hicks believed that further public input should be received before Mayor Brantz called for a vote. Mr. Hicks asked whether he would be able to propose a new motion, to which Mayor Brantz answered that this motion had to be voted on first.

VOTE: Aye: Ulmer, Clawson, Furguele
 Nay: Hicks, LaPlaca

Ms. Ulmer stated that she voted yes on what was presented but not how it was presented.

CONSIDERATION OF POSSIBLE COVID RELATED MODIFICATIONS TO KING STREET

Mr. Hicks stated that the reason he put this topic on the agenda was because Mr. Furguele and others throughout the community had expressed concerns about the lack of masks and social distancing on King Street. He noted that he was not asking for anything to be enforced or implemented at this time, but asked members to consider whether or not it was something they wanted to look into further. Mr. Hicks indicated that Breckenridge CO made their main street to pedestrian only to allow businesses to expand services into the street, as well as to make it easier for people to maintain social distancing. Mr. Hicks stated that he was aware that King Street was owned by the NCDOT and that it may not be possible to close King Street entirely to pedestrians. He noted that making King Street pedestrian only may not be the best option, but wanted to have the discussions necessary to discern the proper balance. Mr. Hicks indicated that other options include those similar to approaches taken by London, where they installed plastic barricades to allow people to better social distance. He also suggested the flow of the pedestrian traffic on sidewalks be changed so that people would not have to wait in large groups at crosswalks. Mr. Hicks noted that his research indicated that the feedback from Breckenridge Colorado population was mixed, with some businesses being perceived as benefiting more with the proposal, but others thought it was beneficial. He stated that tents would be needed if Council decided to move forward with moving business onto King Street. Ms. Ulmer stated that when one looked at what could be done downtown in terms of traffic, she agreed that it was often blocked to pedestrians and automobile users, though she was unsure about the implementation of any changes. Mr. Furguele asked what authority the Town had, if any, to make changes to Highway 421 or King Street as had been suggested. Ms. Meade responded that the Town did not have any authority to make changes to the roadway and would have to request permission from NCDOT. She believed NCDOT would be open to certain encroachments such as for dining on sidewalks and indicated that there were procedures in place for that. It was Ms. Meade's guess that approval of closing King Street would not be granted by NCDOT. Mr. Furguele clarified that NCDOT would temporarily allow for the closure of King Street for events, but asked whether Mr. Ward thought that NCDOT would allow for King Street to be closed to traffic for an extended period of time. Mr. Ward felt that it was very unlikely, and noted that parade and event closures were only granted after an extensive application process and the coordination of traffic rerouting to ensure that emergency vehicles could get to their destinations. He added that he was unaware of any other towns or states who were able to close a street that was not owned and controlled by the town. Mayor Brantz was concerned about emergency vehicles being able to access different structures downtown if the road was closed. Mayor Pro-Tem Clawson stated that she worked for NCDOT for many years and since King Street was considered to be a main artery road, she did not believe they would allow it to be closed to traffic. Ms. Meade noted that the parking spaces along King Street were metered by the Town and asked how

that worked with the DOT right of way. Mr. Ward stated that the state had granted an encroachment agreement, and that when staff had inquired about blocking off parking spaces for uses other than parking, Mr. Ward stated that any use would have to remain six feet away from the travel lane, and believed the request would be denied on these grounds. Mr. Ward asked members to consider that Fire Station #1 was located on King Street and would have to be able to get trucks in and out without delay, and noted that any rerouting would come with extended response times. Mr. Ward stated that the Town had recently completed its ADA assessment and public input period, and believed that by placing additional dining on the Town's narrow sidewalks, or by moving dining outside of the sidewalk area into the parking spaces ADA compliance may be altered. He indicated that additional NCDOT approval would have to come for the placement of any structures, possibly including tables. Mr. Ward felt that moving tables into the roadway would not resolve social distancing issues, since people would still have to walk around the tables. Mr. Furgiuele noted that at least two speakers during the public comment period were downtown business owners and had negative feelings about the proposal. He agreed with Mr. Hicks that Council should be looking into every possible way to increase safety and that there was often an involuntary collecting of people at the Town's corners. Mr. Furgiuele suggested the DBDA debate these proposals and offer their own suggestions. Council Member Hicks agreed with this suggestion. Mr. Furgiuele proposed that staff discuss with NCDOT whether they would be agreeable to make crosswalks one way in areas where there were more than one crosswalk. Mr. Furgiuele suggested that on streets controlled by the Town such as Depot and Howard, crosswalks be made one way indicated as such with signage and arrows indicating the direction of flow of pedestrian traffic. Mr. Ward stated that he would move forward with communications with NCDOT regarding one way crosswalks. Mayor Pro-Tem Clawson made a motion to direct DBDA to discuss the proposals presented and offer their own suggestions. Council Member Hicks seconded the motion. Mr. Furgiuele offered a friendly amendment to remove the one way crosswalks owned by the Town from the DBDA discussion and to discuss it after a vote was taken on this motion. Mayor Pro-Tem Clawson and Council Member Hicks accepted this amendment.

VOTE: Aye: All
 Nay: None

Mayor Brantz declared a break at 8:44p.m. Council reconvened at 8:55 p.m.

REQUEST TO MODIFY SOE TO ALLOW RESTAURANTS TO PROVIDE DINING IN PARKING LOTS AND SIDEWALKS

Mr. Furgiuele read the following action request: "Due to occupancy limits related to social distancing to stem the tide of Covid-19 infections, many restaurants in Boone face situations in which it will be difficult for them to sustain their operations. By report most restaurants operate on very thin profit margins already, and with an inability to fill their tables, it is easy to forecast that their situations moving forward will be difficult if not dire. So long as social distancing requirements remain, I believe we should add into the town's emergency order a provision that permits restaurants to provide seating, without penalty or the payment of additional amounts related to water service, in parking areas and on town sidewalks in front of or behind their businesses, including the designated areas for pedestrians on Howard Street, so long as they do not prevent the safe passage of pedestrians".

Mr. Furgiuele noted that some stores downtown held sales which took place on the sidewalks in front of their businesses. He believed that this was permitted as long as safe passage distance of 4' was maintained along the area of the sidewalk where the sale was taking place. Mr. Furgiuele stated that he did not think the Town owned many areas of sidewalk which could accommodate a table plus 4' of sidewalk, but there were some along King Street which would allow restaurants to place tables against the edge of their building and still maintain safe passage for pedestrians. Mr. Furgiuele explained that this would help them to expand the number of tables and customers they could serve while still maintaining the social distancing regulations. He believed that restaurants should be allowed to use their own parking spaces, which were allowed as part of the permitting process through the UDO, to expand outside seating without paying additional development fees. Mr. Furgiuele then made a motion to amend the SOE to allow restaurants to provide seating, without penalty or the payment of additional fees, in parking areas and on Town sidewalks in front of or behind their businesses, including the designated areas for pedestrians on Howard Street, so long as they did not prevent the safe passage of pedestrians. Mayor Pro-Tem Clawson seconded the motion. Ms. LaPlaca asked whether this was already

allowed since she believed some restaurants were already using their parking lots for expanded dining. Ms. Meade was unsure if this was already being allowed, but commented that for sidewalks in the NCDOT right of way, which she believed to include all or most of the sidewalks on King Street, there was already a state law in place that required this to happen, but required that the Town pass an ordinance to that effect and specify certain provisions. She believed the Town could proceed in this manner with sidewalks which were Town-owned, but suggested that Council require encroachment agreements so at least the encroachers would be holding the Town harmless for any damage or injury as a result of their actions, as well as potentially requiring proof of insurance. Ms. Meade was unsure if any UDO amendments were required and suggested Council hear from the Planning Director. Mr. Furgiuele replied that he was not suggesting ordinance changes, but only changes to the SOE. He asked whether the SOE would not supersede the Town's normal ordinances. Ms. Meade responded that she did not believe that would be so. He asked whether the Town could not suspend the collection of fees for restaurants placing tables in their own parking lots. Ms. Meade answered that she did not believe the Town could avoid ordinance requirements with respect to NCDOT rights of way, and believed that if something the Town were doing were contrary to UDO requirements, she did not believe that could be suspended through the SOE. With respect to non-collection of fees, Ms. Meade stated that she had not researched the topic, but felt it would be acceptable. She noted that generally she did not take a lot of time to research topics on the agenda before being given the directive to do so. Ms. Meade clarified that the Town's emergency powers were somewhat limited and mostly allowed for restrictions, and did not specifically say that ordinances could be suspended. Mr. Furgiuele stated that he was under the impression that Town staff had already allowed this policy to be enacted to a certain extent. Ms. Meade indicated that the collection of fees could be suspended without changing the ordinance, and was a different issue than allowing tables in the NCDOT right of way. Mr. Miller reminded Council that restaurants were allowed a certain number of seats, and that their system development fee remained the same even if they were operating at a reduced capacity. Ms. Shook stated that at the end of phase one, the Planning Department met with the Fire and Public Works Departments to discuss this issue, and read the guidance agreed upon at that meeting:

“ This document provides guidance for restaurants wishing to expand or create temporary outdoor dining so as to comply with Governor Cooper's Executive Order 141. Any modification by a restaurant to allow for outdoor dining shall be for a temporary basis only. This temporary basis shall be defined as beginning on Friday, May 27, 2020 till restaurants are able to open to 100% occupancy. At this time, the creation or expansion of temporary outdoor dining shall not require the issuance of a permit except when an applicant wishes to utilize a public sidewalk (which requires an encroachment agreement as detailed below). All temporary outdoor dining shall comply with the following: 1. Temporary outdoor dining shall be placed on the property on which the restaurant is located and may be placed on an adjacent public sidewalk if the following conditions are met: a. Sidewalks in Town right-of-way. Applicants must submit a completed Town of Boone Encroachment Agreement for Temporary Outdoor Dining as well as a site plan to the Town of Boone Planning and Inspections Department (submittal information is on back side of this page). There are no fees associated with this paperwork. The site plan shall clearly depict the following: ☐ Location and size of the public sidewalk, adjacent parking spaces, travel lanes of any adjacent streets, building entrances, parking meters, public trash or recycling containers in the area where the temporary outdoor dining is to be placed. ☐ Location and size (including number of seats) of the temporary dining area. Please note, the applicant must maintain minimum 48” continuous unimpeded accessible path along the sidewalk where the temporary outdoor dining is to be placed and the temporary outdoor dining should not block any building entrances, parking meters, or any public trash or recycling containers. Additionally, the site plan must demonstrate that the temporary outdoor dining is at least 6’ away from any travel lane or parking space. The Town of Boone Encroachment Agreement for Temporary Outdoor Dining can be found by using the link above or by typing the following into your internet search engine: http://www.townofboone.net/wp-content/uploads/2016/07/TemporaryOutdoorDiningEncroachmentAgreement_06262020.pdf b. Sidewalks in NCDOT right-of-way. Note: Guidance on this is pending as Town Staff coordinates with NCDOT for the correct authorization. 2. Temporary outdoor dining shall not be placed on any Town/NCDOT street. 3. Temporary outdoor dining shall not impede pedestrian or automobile traffic. At least one 48” unimpeded accessible path of travel to the accessible entry must be maintained for ADA compliance. 4. Restaurants who expand or create temporary outdoor dining shall follow and maintain the site in accordance with the NC Fire Prevention Code and are required to call the Boone Fire Department at 828-268-6180 to schedule a complementary inspection before opening the temporary outdoor dining. This inspection is to verify that the outdoor dining is in compliance with the NC Fire Prevention Code. 5. Once restaurants are able to return to

normal operation at 100% capacity, all temporary outdoor dining shall be removed and the site returned to the condition it was prior to the expansion or creation of the temporary dining. Failure to do so will be a violation and enforcement action may be taken. Restaurants wishing to permanently expand or create outdoor dining shall apply for all proper permits through the Town of Boone Planning and Inspections Department.”

Mr. Furgiuele asked whether this would not qualify as a modification of normal UDO standards. Ms. Shook answered that since it was on a temporary basis and was agreed upon by the other departments, she believed it to be allowed. She clarified that a restaurant was required to maintain sufficient parking for its use and could not impede traffic, and felt that the argument could be made that due to COVID-19, parking would be reduced. Mr. Furgiuele asked whether the policy prepared by staff should be incorporated into the SOE. He also asked whether the policy had been directly communicated to restaurants other than placing it on the Town’s website, since he believed most restaurant owners to be unaware of this policy. Ms. Meade answered that she believed staff made a common sense interpretation of the UDO to try to assist restaurants while still maintaining social distancing. Mr. Furgiuele disagreed with this interpretation, and believed that Ms. Meade was advocating against the provision being included in the SOE. Ms. Meade indicated that she was not advocating against the inclusion of the policy, but felt that it was too premature to do so without further research. Mr. Furgiuele believed that the informal policy should be formalized, and that the easy way to do so would be to recite the policy in the SOE as an adjunct to the social distancing requirement. He did not believe fees needed to be addressed any further. Ms. Meade stated that she would need to review further in terms of the policy being included within the SOE, but believed that the Town could continue allowing sidewalk dining on its own sidewalks right away with administratively approved encroachment agreements. In regards to NCDOT encroachments, Ms. Meade stated that she could draft an ordinance and bring back to Council as soon as possible. Mr. Furgiuele made a motion to charge the Town Attorney with investigating whether this policy could and/or should be incorporated into the SOE; that staff move forward immediately with notifying restaurants in writing or by phone if necessary, of the provisions already in effect as well as the parameters pursuant to staff actions; and that seating be allowed on Town-controlled sidewalks, to the extent it did not interfere with safe pedestrian passage of at least 4’; for the appropriate staff to determine whether this policy would also be feasible on NCDOT sidewalks on which the Town maintained easements. Mayor Brantz asked whether this motion superseded the original motion, which Mr. Furgiuele confirmed that it did. He then withdrew his original motion and offered his subsequent motion as a substitute motion. Mayor Pro-Tem Clawson seconded the motion. Ms. Meade asked whether administratively approved encroachment agreements still be required on encroachments onto Town-owned sidewalks. Mr. Furgiuele answered that they should still be required. He amended his motion to include safety recommendations offered by the Town Attorney and Planning Director. Mayor Pro-Tem Clawson accepted this amendment. Council Member Hicks was concerned about social distancing in passers-by. Ms. Ulmer agreed that this could be an issue. Mr. Ward indicated that 4’ was required for safe passage by the ADA, but that the 6’ social distancing requirement was the reason public sidewalks were not included in the policy. Mr. Furgiuele believed that there were only three blocks downtown where the sidewalks were wide enough for this policy to apply, and felt that if sidewalk sales were still being allowed, this should too. He added that passers-by would be in constant motion, and on Howard Street, he stated that he had observed very little pedestrian traffic in the evening hours.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Sam Furgiuele, Council Member
SECONDER:	Loretta Clawson, Mayor Pro-Tem
AYES:	Clawson, Furgiuele, Ulmer, LaPlaca, Hicks

POSSIBLE CHANGES TO THE TOWN CODE REGARDING SMOKING AND VAPING

Ms. Meade presented proposed changes to the Town Code regarding smoking and vaping, and asked for further direction. Ms. Ulmer pointed out a typographical error on packet page 58, and asked that the word "are" be included. Mr. Furgiuele noted that the definition for service line had been removed and asked if there was a substantive provision. Ms. Meade indicated that she removed a number of definitions that had no further reference in the chapter, as well as redundancies within the penalties section. Mr. Furgiuele stated that he would not want to move forward with the adoption of this text without first holding a public hearing. He added that given the obstacles with having a public hearing currently, Mr. Furgiuele felt that the more input the better. Mr.

Furguele believed that, even though this would affect more than the downtown population, the text should be sent to DBDA for their input and then to public hearing. He believed this matter would bring up enforcement issues similar to the ones brought up by the mask mandate, and was unsure the Town's police force had the capability to enforce the policy if it were adopted. Mr. Ward confirmed that enforcement was of concern. Mr. Furguele felt that public input should still be gathered on the topic. Ms. Ulmer noted that this topic was still being discussed within the AppalCART committee. It was the consensus of Council to forward the text to DBDA for their input, and shared with Council before a public hearing was scheduled.

RESULT:	CONSENSUS
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CONSIDERATION OF DRAFT TEXT FOR CASE PL03942-060520 TEMPORARY CLASSROOMS

Ms. Shook presented draft text for Case PL03942-060520 Temporary Classrooms which would allow temporary classrooms to remain in place for more than the three years as initially approved since permanent classrooms would not be ready. Mr. Furguele made a motion to send the draft text to the June 22, 2020 public hearing. Ms. Ulmer seconded the motion.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Sam Furguele, Council Member
SECONDER:	Connie Ulmer, Council Member
AYES:	Clawson, Furguele, Ulmer, LaPlaca, Hicks

CHARLES & GLADYS WATER TANK PAINTING FINAL ADJUSTING CHANGE ORDER & PAYMENT

Public Works Director Rick Miller presented a request for the final change order on the Charles and Gladys Water Tank Painting contract in the amount of \$156,600. He indicated that a hazardous waste disposal fee was not incurred, resulting a reduction in cost of \$8,000. Upon a motion by Mayor Pro-Tem Clawson, seconded by Mr. Furguele, Council voted to approved the request as presented.

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

CONSIDERATION OF CONTRACT AWARD FOR REPAIRS TO STATE FARM BRIDGE; HYDRO-DEMOLITION OF DECK

Mr. Miller recommended Council approve a contract award for repairs to State Farm Bridge: Hydro-demolition of Deck to Landford Bros. Co., Inc. in the amount of \$179,663.12. Mayor Pro-Tem Clawson made a motion to approve the request, which was seconded by Ms. Ulmer.

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

CLOSED SESSION

Mr. Ward confirmed that Council had previously given direction to staff to sign Town-owned pedestrian crosswalks as one-way. Mr. Furguele confirmed that this was the request and was part of the motion made prior in the meeting.

Upon a motion by Mayor Pro-Tem Clawson, seconded by Mr. Furgiuele, Council voted to enter into closed session at 9:43 p.m. 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.
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 lawsuit filed by Watauga County against the Town of Boone (Watauga County 20 CVS 253).
4. 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 lawsuit filed by the Town of Boone against Watauga County (Watauga County 20 CVS 104).
5. N.C. Gen. Stat. § 143-318.11 (a)(5), to establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (I) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease (PIN 2911-33-9240-000 and PIN 2900-79-5183-000).
6. N.C. Gen. Stat. § 143-318.11 (a)(6), To consider the qualifications, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge or grievance by or against an individual public officer or employee.

Upon a motion by , seconded by, Council voted to exit closed session at p.m.

VOTE: Aye: All
 Nay: None

ADJOURNMENT

Upon a motion by , seconded by, Council voted to adjourn the meeting at p.m.

VOTE: Aye: All
 Nay: None

Nicole Harmon, Town Clerk

Rennie Brantz, Mayor