

**MINUTES – REGULAR MEETING
BOONE TOWN COUNCIL
June 19, 2018**

CALL TO ORDER

A regular meeting of the Boone Town Council was called to order at 6:00 p.m. on Tuesday, June 19, 2018 in the Council Chambers located at 1500 Blowing Rock Road. Mayor Rennie Brantz presided. Council Members present were Connie Ulmer, Loretta Clawson, Sam Furgiuele and Marshall Ashcraft. Staff present were Town Manager John Ward, Town Clerk Nicole Worley, Public Works Director Rick Miller, Fire Chief Jimmy Isaacs, Finance Director Amy Davis, Planning Director Jane Shook, Cultural Resources Director Pilar Fotta, Police Chief Dana Crawford, Deputy Public Works Director Josh Eller, Human Resources Director Dale Presnell and Town Intern Syrena Travis. Town Attorney Allison Meade was also present.

ANNOUNCEMENTS

Mayor Brantz welcomed all in attendance and asked anyone who wished to speak to sign up on the sheet located at the door. Town Manager John Ward summarized the three public hearings scheduled for the night.

TENTATIVE AGENDA ADOPTION

Council Member Furgiuele asked that an item be added to the agenda to allow for action on number six and to add an item to Thursday's agenda for possible action related to McLaurin Parking and asked that the Town Manager make available a copy of the McLaurin contract. Council Member Furgiuele also asked that items four (Grand Blvd. 4th of July Block Party) and five (Bee City Resolution) be moved from the Consent Agenda to the beginning of Council Matters. Council Member Furgiuele made a motion which was seconded by Mayor Pro-Tem Clawson to adopt the tentative agenda as amended.

VOTE: Aye: All
 Nay: None
 Absent: Mason

PUBLIC HEARING - SYSTEM DEVELOPMENT FEES

Mayor Brantz opened the public hearing regarding system development fees at 6:05 p.m. Elaine Conti of Raftelis Financial presented a power point presentation to Council which defined system development fees, and outlined the method used to calculate them. Ms. Conti emphasized that new system development fee regulations would only impact new developments. Hearing no comment from the public, Mayor Brantz closed the public hearing at 6:11 p.m. After questions by Council Member Furgiuele, Ms. Conti stated that the Town would use the current state discharge rate schedules and that rates would be based on the full amount quoted within the rate schedule. She added that N.C. General Statute did not specify which method should be used, but added that methods of calculating the residential equivalent do vary between municipalities.

PUBLIC HEARING REGARDING FY 2018/19 PROPOSED BUDGET

Mayor Brantz opened the public hearing regarding the FY 2018/19 proposed budget at 6:12 p.m. Town Manager John Ward summarized the proposed budget ordinance and noted that the budget maintained the current tax rate of \$.041 with expanded service levels in Cultural Resources and the Fire Department with the separation of the Assistant Chief and Fire Marshal positions. He noted that over the last three years, the Town had been able to set aside a total of \$1.8 million in reserves and that Council expressed a desire to use those funds to finance the Skateboard Park, State Farm Road bridge replacement, waiver of fees for special events, the removal of two structures on the Bolick property, solar project, stormwater study with the Army Corps of Engineers, Bolick property site improvement plan, Fire Station 1 repairs, Town Hall repairs, Outside Agency Funding, paving at Fire Station 2, Downtown Post Office mural screen, Planning and Inspections front window, Police Department Radio Equipment, Fire Truck (with \$150,000 paid by rural fire district), paving funds required for Powell Bill, Junaluska Park equipment and a Capital Outlay Down Payment. He pointed out that water and sewer rates would remain the same at this time. Council Member Furgiuele asked about the status of discussion with the school board regarding cost sharing options for an additional school resource officer. Mr. Ward said that the school board was unable to designate funds toward that goal at the time, but that they hoped they could in the future. Council Member Furgiuele asked about the cost of an additional school resource officer, to which Mr. Ward responded the cost would be just over \$72,000 per year, including benefits. Mr. Ward noted that at this time, state funding was allocated to go toward school counselors instead of school resource officers. Mayor Brantz then asked for comments from the public on the

proposed FY 2018/19 Budget. Wright Tilley of the Watauga County Tourism Development Authority expressed the board's appreciation for the work done on the Howard Street project and stated that funds were approved by the TDA to be used for additional Cultural Resources programming. Jeannine Underdown-Collins and Brett Corey thanked Council for their support to SAHA and invited everyone to come out and experience the drama. Jennifer Hermann of OASIS passed out a newsletter for Council to review and thanked Council for their support. Harvard Ayers thanked Council for their support for the solar project and stated that over the next 13 years he hoped that Boone would be able to produce its own energy from solar power. John Prickett, a member of the Sustainability, Economics and Environment Committee thanked Council for their appropriation of funds to the solar project. Lori Whitehead, as member of the Hospitality House Board of Directors stated that the safety of the community was greatly enhanced by organizations such as the Hospitality House by allowing law enforcement to focus on other serious problems, while those in need get help. Courtney Baines spoke on behalf of Blue Ridge Women in Agriculture and thanked Council for their support for the new Double Up Food Bucks program. Brian Huskey, Director of grant funding at Hospitality House noted that he took great care in compiling the information submitted to the Outside Agency Funding Review Committee and worried that members may have misinterpreted the balance sheet provided to them. He continued to add that if Hospitality House operations were limited due to a lack of funding, it would be likely that those living on the streets would never make it back into housing. Council Member Furgiuele asked if any additional positions were being funded, to which Mr. Huskey stated that funds received from the Town of Boone would go toward ongoing operations. Tina Krause stated that a cut in funding would create a shortfall in operations at the shelter. Jenna Crawley expressed her support for the Hospitality House, stating that there was a wait list for services offered by the organization and urged Council to consider increasing funding. Marg McKinney spoke as a volunteer with the Hospitality House and noted that she has seen the number of programs offered by the organization increased as well as an increase in the number of people served and added that she felt that the winter shelter was life-saving. Keven White, ASU Student and Hospitality House employee spoke in support of the organization, stating that citizens had high hopes for the current Council and that he had faith that Council would address issues such as the high cost of living on Boone and how low-income housing was often overshadowed by student housing. Neil Hartley, member of the Hospitality House Board of Directors asked that Council fully fund the organization. Dr. Linda Coutant emphasized the need for the emergency shelter, and noted that she believed it was important to look at the projected cost of supporting a homeless person as opposed to providing housing for them adding that in her view, savings would equal millions of dollars. She urged Council to continue their current level of support. Jeff Bortz from ASU spoke in support of the Hospitality House, stating that it was an efficient organization and asked Council to not cut funding. Brenda Lyerly former chair of Hospitality House attested that any cut in the budget would be dramatic. Dustin Mailman, Assistant Chaplain at the Hospitality House and King Street Church Pastor stated that without Hospitality House, he believed that society would increasingly criminalize the poor. Deborah Greene of Boone spoke in support of the Hospitality House. Town Manager John Ward explained the process used to adopt the Town's budget adding that funds were limited. He added that amounts listed in the proposed budget were recommended by the Outside Agency Funding Review Committee and stated that no Council Member recommended cuts to any applicant, and were only recommending what was sent to them by the committee. The public hearing was closed at 7:15 p.m.

PUBLIC HEARING ON PROPOSED CHANGES TO TOWN CODE CHAPTERS 71 AND 100 - NON-MOTORIZED WHEEL-BASED TRANSPORTATION

A public hearing regarding non-motorized transportation was opened at 7:16 p.m. Town Attorney Allison Meade outlined the proposed changes to the Town Code relating to non-motorized wheel-based transportation. John-Paul Pardy spoke as a member of the Cruzin' Committee in support of the proposed changes to the ordinances and listed for Council the benefits of allowing non-motorized transportation on Town sidewalks and in Town parks. In response to a question from Council Member Furgiuele, Mr. Pardy stated that by adding an education element to the new rule changes, he hoped that people who chose to take advantage of the rule changes would wear helmets. Nathan Godwin of the Cruzin' Committee thanked Council for their support. Ashley Winecoff thanked Council for their support and stated her belief that the freedom of transportation was just as important as freedom of recreation. A statement by Greg Simmons, former Planning Commission Chair was read by Town Manager John Ward. In the statement, Mr. Simmons stated that he appreciated Council's motivation for this matter and provided a list of public safety concerns specific to bicycles on sidewalks. Concerns included possible danger at intersections and driveways, as well as wrong-way riding by cyclists. Mr. Simmons noted that Council should consider amending the Bike and Pedestrian Plan to conform to the new rule changes, if adopted. Mr. Pardy suggested that creating more awareness

about the new rules could help with the problems presented in Mr. Simmons' statement. The public hearing was closed at 7:32 p.m.

Mayor Brantz declared a break at 7:33 p.m. Council reconvened at 7:44 p.m.

Upon a motion by Council Member Furgiuele, seconded by Council Member Clawson, Council voted to amend the agenda to add an item to the beginning of the Council Matters section to allow Council an opportunity to make modifications to the budget and that an item be added to the second position under Council Matters to allow for action regarding non-motorized wheel-based transportation.

VOTE: Aye: All
 Nay: None

PUBLIC COMMENT

Deborah Greene of Boone addressed Council regarding system development fees and passed out information from the environmental assessment performed for the Town regarding the water intake and the infiltration gallery. Ms. Greene stated that she had very little confidence in WK Dickson in regards to the cost for maintenance on the water intake project. Ms. Greene expressed concern about a complete failure of the intake if the proper maintenance was not performed.

CONSENT AGENDA ADOPTION

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

Minutes from Town Council Regular Meeting - May 15, 2018 6:00 p.m.

Minutes from Town Council Regular Meeting - May 17, 2018 6:00 p.m.

Budget Amendments:

-Cultural Resources (Acknowledge donations and revenue raised by Cultural Resources staff over expectation and transfer to programs line to pay for program operations through June 2018)
-Police Department (Insurance check to cover repair to asset 6267)
-Police Department (Insurance check to cover additional repairs needed for 2014 Dodge patrol vehicle)

VOTE: Aye: All
 Nay: Nay

COUNCIL MATTERS

CONSIDERATION OF APPROVAL OF SPECIAL EVENT PERMIT - GRAND BOULEVARD 4TH OF JULY BLOCK PARTY

Council Member Furgiuele questioned why a budget amendment was included with the special event permit application for the Grand Boulevard 4th of July Block Party due to the lack of Town services required for the event. Town Manager John Ward stated that the amendment was included as an average allocation and that beginning in July, staff planned to make budget amendments more specific in regards to the amount of staff time expended on a particular event. Upon a motion by Council Member Furgiuele, seconded by Council Member Clawson, Council voted to approve the special event permit and accompanying budget amendment for the Grand Boulevard 4th of July Block Party.

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

APPROVAL OF RESOLUTION DESIGNATING BOONE AS A BEE CITY USA AFFILIATE

Council Member Furgiuele expressed that he believed Boone becoming a Bee City USA affiliate was an important step for the Town. He questioned whether there was flexibility regarding the provision in the resolution that the Town would annually celebrate National Pollinator Week during the third full week of June due to ASU not being in session. Planning Director Jane Shook stated that the event could be scheduled for another week. Town Manager John Ward suggested that Council adopt the resolution as-is and retain the ability to reschedule the event for a more appropriate date. Ms. Shook noted that staff would prepare proposed language for inclusion in the Comprehensive Plan review meeting in July. Upon a motion by Council Member Furgiuele, seconded by Council Member Clawson, Council voted to adopt the resolution as presented.

A RESOLUTION of the Boone Town Council designating Boone, NC as a BEE CITY USA® affiliate.

WHEREAS, the mission of BEE CITY USA is to galvanize communities to sustain pollinators, responsible for the reproduction of 90% of the world's wild plant species, by providing them with healthy habitat, rich in a variety of native plants and free to nearly free of pesticides; and

WHEREAS, due in part to the tremendous diversity of wild native bees, along with the honey bees that were brought to the United States from Europe in the 1700s, we have very diverse dietary choices rich in fruits, nuts, vegetables and even dairy products--one in every three bites of food we eat is courtesy of insect pollination; and

WHEREAS, bees and other pollinators have experienced population declines due to a combination of habitat loss, use of pesticides, and the spread of pests and diseases; and

WHEREAS, pollinator-friendly communities can benefit local and regional economies through healthier ecosystems, increased vegetable and fruit crop yields, and increased demand for pollinator-friendly plant materials from local nurseries and growers; and

WHEREAS, ideal pollinator-friendly habitat:

- Provides diverse and abundant nectar and pollen from plants blooming in succession throughout the growing season;
- Provides water for drinking, nest-building, cooling, diluting stored honey, and butterfly puddling;
- Provides undisturbed spaces (leaf and brush piles, un-mowed fields or field margins, fallen trees and other dead wood) for nesting and overwintering for wild pollinators
- Is pesticide-free or has pesticide use carried out with least ill effects on pollinators;
- Is comprised of mostly, if not all, native species of annual and perennial forbs, grasses, vines, shrubs, and trees in landscapes because many wild pollinators prefer or depend on the native plants with which they co-adapted;
- Includes, where possible, designated pollinator zones in public spaces with signage to educate the public and build awareness; and,
- Provides for safe and humane removal of honey bees when required.

WHEREAS, supporting pollinators fosters environmental awareness and sustainability, and increases interactions among community stewards, backyard beekeepers, farmers, children, educators, Master Gardeners, local businesses, faith-based organizations, and nature-related organizations; and

WHEREAS, in order to enhance understanding among local government staff and the public about the vital role that pollinators play and what each of us can do to sustain them, the Town of Boone chooses to support and encourage pollinator habitat creation and enhancement on both public and private land; and

WHEREAS, the Town of Boone should be certified a *BEE CITY USA* community because:

- The Town of Boone has been committed to sustainability since May 5, 2014 when the Sustainability Task Force was created and is committed to providing a sustainable environment and pollinator friendly habitats by encouraging residents and developers to plant pollinator friendly species in the Town of Boone.
- The Town of Boone has been a Tree City of 25 years. As Boone continues to expand our tree canopy and expand our public trees, we will use pollinator friendly varieties.
- The Town of Boone will hold an annual Sustainability Event which will provide educational opportunities for the community to learn about recycling, water conservation, historic preservation, Tree City USA, and Bee City USA, highlighting the ways the community can provide pollinator friendly habitats.
- The Town of Boone's Unified Development Ordinance provides the community with the opportunity to keep bees with up to four (4) hives in almost every zoning district and hope this will encourage an expansion of pollinators in our area.
- The Town's guide for landscaping currently contains pollinator friendly plant and tree species and plans to include other pollinator friendly varieties in the coming year and encourage developers to use the pollinator friendly species.

NOW, THEREFORE, the Town of Boone Town Council resolves as follows:

1. The Town of Boone is hereby designated as the BEE CITY USA sponsor.
2. The Sustainability, Economics and Environment Committee Staff Member of the Town of Boone is designated as the BEE CITY USA liaison.
3. Facilitation of the Town of Boone BEE CITY USA program is assigned to the Sustainability, Economic and Environment Committee.
4. The Town Staff Member for Sustainability, Economics and Environment Committee is authorized to, and should:
 - i. **Celebration:** Annually celebrate National Pollinator Week (third full week of June) or some other appropriate occasion with educational events, pollinator habitat plantings or restoration, proclamations or promotions that showcase the Town of Boone's commitment to enhancing pollinator health and habitat.
 - ii. **Publicity & Information:** Install and maintain at least one authorized BEE CITY USA street sign in a prominent location, and create and maintain a webpage on the Town of Boone's website which includes, at minimum, a copy of this resolution, links to the national BEE CITY USA website, contact information for the local government's BEE CITY USA liaison, contact information for the "Sustainability, Economics and Environment Committee," and reports of the pollinator-friendly activities the community has accomplished the previous year(s).
 - iii. **Habitat:** Develop and implement a program to create or expand pollinator-friendly habitat, which can include, but is not limited to:
 - i. Identification and inventory of the Town of Boone's real property that can be enhanced with pollinator-friendly plantings.
 - ii. Creation of a recommended locally native species list to include forbs, grasses, vines, shrubs, and trees and a list of local suppliers for those species.
 - iii. Creation of a least toxic integrated pesticide management plan, and
 - iv. Dissemination of informational and educational materials to the public.

- v. Tracking annual area of pollinator habitat created or enhanced by square footage and/or acreage.
- iv. **Policy:** Establish, through the Town of Boone Town Council, a policy in the Town of Boone Comprehensive Plan to acknowledge and commit to the BEE CITY USA designation.
- v. **Plan Review:** Review the Unified Development Ordinance, Comprehensive Plan and other relevant documents to review pesticide management policies and practices as they relate to pollinator conservation, identify appropriate locations for pollinator-friendly plantings, and consider other appropriate measures.
- vi. **Renewal:** After completing the first full year as a BEE CITY USA affiliate, each January, apply for renewal of the Town of Boone's BEE CITY USA designation following the format provided by BEE CITY USA, including a report of the previous year's BEE CITY USA activities, and paying the renewal fee based on Town of Boone's population.

ADOPTED by the Boone Town Council of the Town of Boone, North Carolina this 19th day of June, 2018.

Rennie Brantz
Mayor of the Town of Boone, NC

Approved as to form:

Attest:

Allison M. Meade
Town of Boone Attorney

Nicole H. Worley
Town of Boone Clerk

RESOLUTION TO BE TYPED IN BOOK 3 AT PAGE 339

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

CONSIDERATION OF PROPOSED CHANGES TO TOWN ORDINANCES - BICYCLING AND SKATEBOARDING

Council Member Furgiuele expressed his support of the draft proposal and made a motion to adopt the changes as presented. He requested that the Police Department use every available opportunity when interacting with students, particularly at Hardin Park Elementary School and Watauga High School, to educate them about bike safety. Council Member Furgiuele also asked that to the extent feasible, the Police Department use warning tickets for not wearing a helmet as much as possible to help instruct people in the initial stages of the ordinance change. Police Chief Dana Crawford stated that officers frequently drop helmet tickets if the recipient brings a helmet or proof of purchase of a helmet to the department. Town Manager John Ward stated that an education component could be added to Emergency Fest programming and added that the helmet give away was one of the more popular attractions at the event. Brief discussion ensued, with Council Member Furgiuele amending the motion to accept the draft proposal with the removal of helmet requirements for the non-bicycle portion of the language as well as to create an effective date of July 1, 2018.

Boone, NC Code of Ordinances

§ 71.10 SPECIAL PROVISIONS FOR ~~TOY~~ NON-MOTORIZED WHEELED VEHICLES, INCLUDING BICYCLES, SKATEBOARDS AND THE LIKE, AND MOTORCYCLES.~~(A) No person upon~~

(A) Skateboards, skates, and similar devices. The following provisions govern the operation of non-motorized vehicles other than bicycles, including but not limited to roller skates, ~~blades~~, in-line skates, skateboard, coasters, scooters, and toy vehicles (collectively referred to hereafter as "skating device") on any public right-of-way or ~~riding in~~ on any property open to the public or used by means ~~of any coaster, toy vehicle~~ the public for pedestrian or ~~similar~~ vehicular purpose:

No person may ride a skating device ~~may go~~ upon any roadway, except while crossing a street at a crosswalk.

(1) ~~(B) No~~, except that a person may ride upon ~~roller skates~~ a roadway upon all of the following conditions:

- a. The roadway has a posted speed limit of 20mph or less;
- b. The road is not a through street; and
- c. The rider yields to all vehicular traffic and pedestrians.

(2) No person riding ~~in or by means of any coaster, toy vehicle or similar~~ a skating device may attach himself or herself or a vehicle or device to any moving motor vehicle.

~~(C) No~~

(3) A person may ride ~~or drive a bicycle, roller skates, roller blades, in-line skates or skateboard~~ skating device upon ~~any~~ a sidewalk, only upon the following conditions:

- a. ~~(D) The rider must yield to all pedestrians. Pedestrians shall at all times have the right of way upon a sidewalk. In the case of any doubt of safe and untouch passage by a pedestrian, a person riding a skating device shall stop or dismount such device until the pedestrian~~
- b. Riding a skating device is prohibited on the sidewalks adjacent to King Street from Water Street to Appalachian Street.

(B) Bicycles. The following provisions govern the operation of bicycles on any public right-of-way or on any property open to the public or used by the public for pedestrian or vehicular purpose.

(1) Helmets and other equipment must be used as provided at § 71.11 herein.

(2) Bicycles may only be ridden on public sidewalks if:

- a. The bicyclist is a minor, or is an adult transporting a minor on the bicycle consistent with the requirements of §71.11; OR
- b. The sidewalk is adjacent to a road that the bicyclist reasonably considers unsafe for bicycling.

(3) Bicyclists must yield to pedestrians. Pedestrians shall at all times have the right of way upon a sidewalk or crosswalk. In the case of any doubt of safe and untouch passage by a pedestrian, a bicyclist shall stop or dismount until the pedestrian has passed.

(4) Bicycling is prohibited on the sidewalks adjacent to King Street from Water Street to Appalachian Street.

(C) The driver of a motorcycle or bicycle, when upon the street, may not carry any other person upon the handlebars, tank or any other part of a motorcycle or bicycle not designed for carrying passengers.

~~(E)~~

(D) The limitations stated in this section shall not apply to bicycles operated by the town's police officers who are engaged in the pursuit or apprehension of violators. This exemption shall not, however, protect the driver of any vehicle from the consequence of a reckless disregard of the safety of others. Penalty, see § 70.99

Boone, NC Code of Ordinances

§ 100.01 RULES AND REGULATIONS GOVERNING THE USE OF TOWN PARKS, INCLUDING THE TOWN GREENWAY.

(A) *Definition.* For the purpose of this section the following definition shall apply unless the context clearly indicates or requires a different meaning:

TOWN PARK. Includes not only the land itself, but recreational facilities and equipment, playgrounds, athletic facilities and equipment, spectator areas, greenways and walking trails, bodies of water used for sporting events, recreational activities, fitness or athletic training areas, picnic areas, shelters and parking areas, signage and all other areas, natural features, facilities, and improvements associated with the park.

(B) The following acts are prohibited in all town parks:

- (1) Marking, defacing, disfiguring, injuring, tampering with, displacing or removing any structure, equipment or facilities;
- (2) Damaging, cutting or removing any tree, plant or flower;
- (3) Depositing any trash or litter, except in receptacles placed for that purpose;
- (4) Driving any motorized vehicle, except for motorized wheelchairs, except in areas paved for that purpose or parking areas designated for that purpose;
- (5) Consuming or possessing alcoholic beverages;
- (6) Possessing a firearm or other dangerous weapon, except by duly authorized law enforcement officers, a public safety employee of the town so authorized by the Town Manager, or an individual who has been issued a permit authorizing the legal carrying of a concealed handgun, who may carry such handgun except in the parks identified in § 100.03 and in the case of athletic fields, except during the periods designated; but as to those parks in which possession of a duly authorized concealed handgun is prohibited, may nevertheless secure the handgun in a locked vehicle within the trunk, glove box, or other enclosed compartment or area within or on his or her motor vehicle even if it is parked in a designated parking area of the park;
- (7) Entering, using or remaining within a park between 30 minutes after sunset and 30 minutes before sunrise;
- (8) Entering, using or remaining within a park when it has been closed and a sign to that effect is posted at the entrance to the park;
- (9) Disturbing or unreasonably interfering with another person who is using the park;
- (10) Possessing or using fireworks or any other types of explosive device;
- (11) Camping except in areas specifically designated for that purpose;
- (12) Allowing any animal to be at large.

(C) Unless otherwise prohibited by ordinance and so posted, a person (hereinafter, "rider") may ride a bicycle, roller skates, in-line skates, skateboard, coaster, toy vehicle or similar non-motorized vehicle so long as the rider complies with all of the following requirements:

- (1) A rider must yield to pedestrians. Pedestrians shall at all times have the right of way upon the sidewalk. In the case of any doubt of safe and untouched passage by a pedestrian, a rider shall stop or dismount the device until the pedestrian has passed;
- (2) A rider must wear a helmet meeting the requirements of §71.11 of this Code;
- (3) A rider shall not engage in tricks or other maneuvers involving wheels leaving the ground, except in areas specifically designated for such activity (i.e., a skateboard park as defined in §100.02 herein); and
- (4) A rider shall not ride upon any area other than a sidewalk or greenway path. By way of example only, there shall be no riding upon stairs, courtyards, covered pavilions, gazebos tables, and railings.

(F) The Director of Public Works or his or her designee shall post these rules and regulations at each town park.

(Prior Code, § 102.01) (Ord. passed 8-19-2004; Ord. passed 9-17-2013) Penalty, see § 100.99

§ 100.02 HAZARDOUS RECREATIONAL ACTIVITIES WITHIN THE TOWN.

(A) *Definitions.* For purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

HAZARDOUS RECREATIONAL ACTIVITY. Skateboarding, inline skating or freestyle bicycling .

INHERENT RISK. Those dangers or conditions that are characteristic of, intrinsic to or an integral part of

skateboarding, inline skating and freestyle bicycling.

SKATEBOARD PARK. An area or facility, whether or indoor or outdoor, legally operating within the town, whether owned and/or operated by a private entity or by a governmental entity, as that term is defined in G.S. § 99E-22(1), which is designed and maintained for persons to engage in hazardous recreational activities, as above defined.

(B) *Duties of non-governmental operators of skateboard parks.*

(1) No operator of a skateboard park shall permit any person to engage in a hazardous recreational activity unless that person is wearing a helmet, elbow pads and kneepads.

(2) The operator of a skateboard park operated by a non-governmental entity must have an employee present and on-duty during all hours of operation who is trained in first aid and certified to administer cardiopulmonary resuscitation (CPR). Hours of operation must be prominently displayed and the operator must secure the park during off-hours so as to prevent its use when an attendant is not present.

(3) The operator of a skateboard park operated by a non-governmental entity must post signs in plain view at the skateboard park advising any person wishing to engage in or engaging in a hazardous recreational activity of the requirement that any person engaging in a hazardous recreational activity must wear a helmet, elbow pads and kneepads.

(C) *Duties of governmental entities operating skateboard parks.*

(1) No governmental entity operating a skateboard park shall permit any person to engage in a hazardous recreational activity unless that person is wearing a helmet, elbow pads and kneepads.

(2) A governmental entity shall either have an employee present and on-duty during all hours of operation of a skateboard park or, if the use of the skateboard park is not supervised on a regular basis, must post signs at the skateboard park affording reasonable notice that any person engaging in a hazardous recreational activity in the facility must wear a helmet, elbow pads and kneepads and that any person failing to do so will be subject to citation by the town.

(D) *Duties of persons engaged in hazardous recreational activities.*

(1) Any person who participates in or assists in hazardous recreational activities operated by a governmental entity assumes the inherent risks in these activities, irrespective of age and is legally responsible for all damages, injury or death to himself or herself or other persons or property that result from these activities.

(2) No person may participate in a hazardous recreational activity or allow another person who is in his or her custody or control to engage in a hazardous recreational activity unless the participant wears a helmet, elbow pads and knee pads.

(3) While engaged in a hazardous recreational activity, a person must act within the limits of his or her ability and the purpose and design of the equipment used, must maintain control of his or her person and the equipment used and must refrain from acting in any manner that may cause or contribute to death or injury to himself or herself or to other persons.

(E) *Limitation.* Nothing herein shall authorize the use of any facility or area for hazardous recreational activities, nor shall anything herein authorize a person to engage in a hazardous recreational activity, except in a facility properly designed, maintained and permitted for that purpose.

(Prior Code, § 102.02) (Ord. passed 5-18-2006) Penalty, see § 100.99

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

APPROVAL OF YEAR END BUDGET AMENDMENTS

Finance Director Amy Davis presented the end of the year budget amendments. Brief discussion ensued regarding the Town being self funding in regards to health insurance with Ms. Davis indicating that the Town received much better benefits per dollar as a result. Upon a motion by Council Member Furgiuele, seconded by Council Member Ashcraft, Council voted to approve the year-end budget amendments as listed below.

**Town of Boone
Year End Budget Amendments
June 13, 2018**

Account #	Description	Department	Amount
010-403-000-535101 - Tax Collection Fee	Additional revenue collection fee	Tax Collections	\$ 7,500.00
010-000-000-411080 - Current Year Taxes	Ad valorem tax collection revenue	General Fund Revenue	\$ (7,500.00)
010-400-000-539907 - Grant Funding	Distribute expense to PD line items	Police Department	\$ 52,645.00
010-000-000-448027 - State of NC - Dept of Public Safety	Rev to distribute to department expense	General Fund Revenue	\$ (52,645.00)
010-405-000-577111 - Watauga Co. - Election Expense	Actual costs for 2017 election	Elections	\$ 6,755.00
010-414-000-577000 - Contracted Services - GIS	Recongnize ASU \$ for Orthoimagery	GIS	\$ 7,180.00
010-500-000-519200 - Armory Supplies - Police	Riot gear approved by Town Council	Police Department	\$ 14,000.00
010-500-301-519900 - Miscellaneous Supplies - Comm	Software approved by Town Council	Communications	\$ 3,500.00
010-000-000-489900 - Miscellaneous Revenue	Recongnize ASU \$ for Orthoimagery	General Fund Revenue	\$ (7,180.00)
010-000-000-499900 - Fund Balance		General Fund Revenue	\$ (24,255.00)
030-700-806-539902 - Bank Service Charges	Credit card processing fees	Utility Billing	\$ 7,500.00
030-000-000-499900 - Appropriated Fund Balance		Water/Sewer	\$ (7,500.00)
030-700-801-577000 - Contracted Services (Water Project)	Funds needed for consturction	Water/Sewer	\$ 14,000,000.00
030-000-000-498034 - Transfer from Interim Const Bonds	Funds needed for consturction	Water/Sewer	\$ (14,000,000.00)
035-430-000-535611 - Group Medical Insurance Claims	Allowance for year end	Health Insurance	\$ 459,350.00
035-430-000-535610 - Group Medical Admin Fees	Allowance for year end	Health Insurance	\$ 170,255.00
035-430-000-450001 - COBRA	Allowance for year end	Health Insurance	\$ (3,000.00)
035-430-000-450003 - Insurance Revenue General Fund	Allowance for year end	Health Insurance	\$ (32,800.00)
035-430-000-450004 - Insurance Revenue Water/Sewer Fund	Allowance for year end	Health Insurance	\$ (29,750.00)
035-430-000-499900 - Appropriated Fund Balance	Allowance for year end	Health Insurance	\$ (564,055.00)

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

CHANGE ORDER #2 - GARNEY COMPANIES

Deputy Public Works Director Josh Eller presented Council with Change Order #2 from the Garney Companies for a reduction in cost in the amount of \$225,797.88 for work on the water intake project. Upon a motion by Council Member Ashcraft, seconded by Council Member Furguele, Council voted to approve Change Order #2 with Garney Companies for a reduction in cost in the amount of \$225,797.88.

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

CONSIDERATION OF AMENDMENTS TO CHAPTER 50 - SYSTEM DEVELOPMENT FEES FOR WATER AND SEWER SERVICE

Town Attorney Allison Meade presented Council with proposed changes to Town Code Chapter 50 regarding system development fees for water and sewer service. Ms. Meade stated since the Town had conducted the written analysis and public comment requirement of new state law, the Town was now authorized to adopt system development fees consistent with recently adopted state law. As noted in the earlier presentation by Raftelis, system development fees will be based on a customer's calculated anticipated daily flow rate in Equivalent Residential Units at a rate of \$947/ERU for water and \$959/ERU for sewer. A complete list of

changes to Town Code §50-113 is set forth below.

§50-113. - System development fees.

(A) System development fees shall be charged with respect to new development to fund costs of capital improvements necessitated by and attributable to such new development, to recoup costs of existing facilities which serve such new development, or a combination of those costs. System development fees shall be charged consistent with the requirements of Chapter 162A, Article 8 of the General Statutes, as such may be amended from time to time. Terms used in this section shall have the same meanings as set forth at Chapter 162A, Article 8.

For purposes of this section 113, “new development” includes any of the following occurring after August 23, 2017 (the date the Town began the written analysis process required by NCGS 162A-205) that increases the water and/or sewer capacity necessary to serve that development:

- (a) The subdivision of land,
- (b) The construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure which increases the number of service units, or
- (c) Any use or extension of the use of land which increases the number of service units,

(B) Beginning on the effective date of this ordinance, system development fees shall apply to all new development except for fire line connections.

(C) System development fees shall not include and separate charges may be assessed for:

- a. A charge or fee to pay administrative, plan review, or inspection costs associated with permits required for development.
- b. Tap or hookup charges for the purpose of reimbursing the town for the actual costs of connecting the service unit to the system.
- c. Availability charges.
- d. Dedication of capital improvements onsite, adjacent, or ancillary to a development absent a written agreement providing credit or reimbursement to the developer pursuant to N.C.G.S. 160A-320, 160A-499 or Part 3D of Article 19, Chapter 160A as the same may be amended from time to time.
- e. Reimbursement to the town for its expenses in constructing or providing for water or sewer utility capital improvements adjacent or ancillary to the development if the owner or developer has agreed to be financially responsible for such expenses; however, such reimbursement shall be credited to any system development fee charged per section (J) below, as required per N.C.G.S 162-207(c).

(D) System development fees will not be charged on buildings or other improvements constructed to replace like buildings provided that the replacement will not result in any increased capacity requirements over that required to serve the replaced building. System development fees are transferable between locations on different parcels of property as long as the parcels are contiguous or separated only by a street or alley and part of a single or multi-phased project shown on an approved site plan at the time of issuance of a building permit.

(E) For new development involving the subdivision of land, the system development fee shall be collected either at the time of plat recordation or when water or sewer service for the subdivision or other development is committed by the town. For all other new development, system development fees are due at the time of application for connection of the individual unit of development to the service or facilities. Fees shall be assessed based on the schedule of fees in effect at the time the fees are collected.

(F) System development fees for connections for uses not listed in 15A NCAC 2T.0114 shall be established by the Town Manager after consultation with Town staff based upon the considerations set forth at subsection (I)(c) below. System development fees established in this manner may be appealed to the Town Council.

(G) Additions, alterations to or replacements or change in use of existing buildings shall be required to pay a system development fee based on the rates applicable at the time of connection or at the time such addition, alteration, replacement or change in use is placed into service. When a change in use occurs, the new use will pay the difference calculated between the existing use and the proposed use.

(H) Buildings that contain more than one use shall have the system development fee calculated from the sum of each use in the building.

(I) The following system development fee shall be paid for connections to the Town municipal water and sewer systems based on the customer's calculated anticipated daily flow rate converted to Equivalent Residential Units (ERUs). The system development fee shall be the same regardless of the customer's location inside or outside the municipal limits of the town.

	Inside City	Outside City
Water	\$947 / ERU	\$947 / ERU
Sewer	\$959 / ERU	\$959 / ERU

System development fees shall be based on the calculated gallon per day (GPD) flow rate of the anticipated use or increase in use of the proposed structure. Flow rates shall be determined in accordance with the flow rates established in the North Carolina Administrative Code, 15A NCAC 2T.0114 (a), (b) and (c), as amended from time to time. Once flow for a new establishment has been estimated in accordance with N.C.A.C. 15A NCAC 02T.0114, the flow shall be converted to Equivalent Residential Units (ERUs) by dividing the total flow by 120 GPD, which is the design flow associated with an ERU. Table 1 below illustrates 15A NCAC 2T.0114 (a), (b) and (c) as of the approval date of this chapter:

TABLE 1
15A NCAC 02T .0114 WASTEWATER DESIGN FLOW RATES

(a) This rule shall be used to determine wastewater flow rates for all systems covered by this subchapter unless alternate criteria are provided by a program specific rule and for flow used for the purposes of 15A NCAC 02H.0105. These are minimum design daily flow rates for normal use and occupancy situations. Higher flow rates may be required where usage and

occupancy are atypical, including, those in paragraph (e) of this rule. Wastewater flow calculations must take hours of operation and anticipated maximum occupancies/usage into account when calculating peak flows for design.

- (b) In determining the volume of sewage from residential dwelling units, the flow rate shall be 120 gallons per day per bedroom. The minimum volume of sewage from each dwelling unit shall be 240 gallons per day and each additional bedroom above two bedrooms shall increase the volume by 120 gallons per day. Each bedroom or any other room or addition that can reasonably be expected to function as a bedroom shall be considered a bedroom for design purposes. When the occupancy of a dwelling unit exceeds two persons per bedroom, the volume of sewage shall be determined by the maximum occupancy at a rate of 60 gallons per person per day.
- (c) The following table derived from 15A NCAC 02T .0114 shall be used to determine the minimum allowable design daily flow of non-residential wastewater facilities. It is recognized that the design flow figures in 15A NCAC 02T.0114 may be questioned for any given establishment/use; however, these are the figures developed by the state and are the figures the town must use in seeking permits from the state. Design flow rates for establishments not identified below shall be determined using available flow data, water-using fixtures, occupancy or operation patterns, and other measured data.

Type of Establishments (Uses)	Daily Flow for Design
<i>Barber and Beauty Shops</i>	
Barber Shops	50 gal/chair
Beauty Shops	125 gal/booth or bowl
<i>Businesses, offices and factories</i>	
General business and office facilities	25 gal/employee/shift
Factories, excluding industrial waste	25 gal/employee/shift
Factories or businesses with showers or food preparation	35 gal/employee/shift
Warehouse	100 gal/loading bay
Warehouse—self storage (not including caretaker residence)	1 gal/unit
<i>Churches</i>	
Churches without kitchens, day care or camps	3 gal/seat
Churches with kitchen	5 gal/seat
Churches providing day care or camps	25 gal/person
<i>Fire, rescue and emergency response facilities</i>	
Fire or rescue stations without on site staff	25 gal/person
Fire or rescue stations with on-site staff	50 gal/person/shift

<i>Food and drink facilities</i>	
Banquet, dining hall	30 gal/seat
Bars, cocktail lounges	20 gal/seat
Caterers	50 gal/100 sq ft floor space
Restaurant, full service	40 gal/seat
Restaurant, single service articles	20 gal/seat
Restaurant, drive-in	50 gal/car space
Restaurant, carry out only	50 gal/100 sq ft floor space
Institutions, dining halls	5 gal/meal
Deli	40 gal/100 sq ft floor space
Bakery	10 gal/100 sq ft floor space
Meat department, butcher shop or fish market	75 gal/100 sq ft floor space
Specialty food stand or kiosk	50 gal/100 sq ft floor space
<i>Hotels and Motels</i>	
Hotels, motels and bed & breakfast facilities, without in-room	120 gal/room
Hotels and motels, with in-room cooking facilities	175 gal/room
Resort hotels	200 gal/room
Cottages, cabins	200 gal/unit
Self service laundry facilities	500 gal/machine
<i>Medical, dental, veterinary facilities</i>	
Medical or dental offices	250 gal/practitioner/shift
Veterinary offices (not including boarding)	250 gal/practitioner/shift
Veterinary hospitals, kennels, animal boarding facilities	20 gal/pen, cage, kennel or stall
Hospitals, medical	300 gal/bed
Hospitals, mental	150 gal/bed
Convalescent, nursing, rest homes without laundry facilities	60 gal/bed
Convalescent, nursing, rest homes with laundry facilities	120 gal/bed
Residential care facilities	60 gal/person
<i>Park, recreation, campgrounds, R-V parks and other outdoor activity</i>	
Campground with comfort station, without water or sewer	75 gal/campsite

Campground with water and sewer hookups	100 gal/campsite
Campground dump station facility	50 gal/space
Construction, hunting or work camps with flush toilets	60 gal/person
Construction, hunting or work camps with chemical or portable	40 gal/person
Parks with restroom facilities	250 gal/plumbing fixtures
Summer camps without food preparation or laundry facility	30 gal/person
Summer camps with food preparation and laundry facilities	60 gal/person
Swimming pools, bathhouses and spas	10 gal/person
Public access restrooms	325 gal/plumbing fixture
<i>Schools, preschools and day care</i>	
Day care and preschool facilities	25 gal/person (child and
Schools with cafeteria, gym and showers	15 gal/student
Schools with cafeteria	12 gal/student
Schools without cafeteria, gym or showers	10 gal/student
Boarding schools	60 gal/person (student
<i>Service stations, car wash facilities</i>	
Service stations, gas stations	250 gal/plumbing fixtures
Car wash facilities (if recycling water see Rule .0235)	1,200 gal/bay
<i>Sports centers</i>	
Bowling center	50 gal/lane
Fitness exercise, karate or dance center	50 gal/100 sq ft
Tennis, racquet ball	50 gal/court
Gymnasium	50 gal/100 sq ft
Golf course with only minimal food service	250 gal/plumbing fixture
Country clubs	60 gal/member or patron
Mini golf, putt-putt	250 gal/plumbing fixture
Go-kart, motocross	250 gal/plumbing fixture
Batting cages, driving ranges	250 gal/plumbing fixture
Marinas without bathhouse	10 gal/slip
Marinas with boathouse	30 gal/slip

Video game arcades, pool halls	250 gal/plumbing fixtures
Stadiums, auditoriums, theaters, community centers	5 gal/seat
<i>Stores, shopping centers, malls and flea markets</i>	
Auto, boat recreational vehicle dealerships/showrooms with	125 gal/plumbing fixture
Convenience stores, with food preparation	60 gal/100 sq ft
Convenience stores, without food preparation	250 gal/plumbing fixtures
Flea market	30 gal/stall
Shopping centers and malls with food service	130 gal/1,000 sq ft
Stores and shopping centers without food service	100 gal/1,000 sq ft
Transportation terminals—air, bus, train, ferry, port and dock	5 gal/passenger

(J) In calculating system development fees with respect to new development, the town will credit the value of costs in excess of the development's proportionate share of connecting facilities required to be oversized for use of others outside of the development. No credit shall be applied, however, for water or sewer capital improvements on-site or to connect new development to water or sewer facilities.

(K) All system development fees collected by the Town shall be deposited to the Town's water and/or sewer capital reserve funds and expended as provided by G.S. § 162A-211, as such may be amended from time to time.

Boone, NC Code of Ordinances

§ 50.003 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words used in the present tense include the future; the singular includes the plural; and the plural includes the singular. The word "shall" is mandatory and not directory, while the word "may" is permissive.

ACT. The Federal Water Pollution Control Act Amendments of 1972, as amended, Pub. Law No. 92-500, as amended, 33 U.S.C. §§ 1251 et seq. (Supp. IV, 1974).

ADJUNCT CUSTOMER. Any individual, family, business or institution who would typically be required to have his or her own meter to receive service, but who, with prior approval of the Administrator, is allowed to connect onto the town's water system through the meter of another customer or to receive water through a meter assigned to another customer.

ADMINISTRATOR. The person or persons selected by the Town Manager or Town Council to carry out the provisions of this chapter.

AFFORDABLE OWNER-OCCUPIED DWELLING UNIT. A room or group of rooms within a dwelling forming a single independent habitable unit containing independent kitchen, sanitary and sleeping facilities, which complies with the town's Minimum Housing Code and which has been sold or will be offered for sale for a gross price at which the monthly gross principal and interest payment, in a mortgage financing 90% of the purchase price, amortized over a period of 30 years and calculated with interest at the legal rate, is no greater than 25% of the monthly area median income for a family of four, as established annually by the United States Department of Housing and Urban Development, and, if sold, the purchaser of which is a family in need of housing protection.

AFFORDABLE OWNER-OCCUPIED HOUSING DEVELOPMENT. One in which more than 50% of the included dwelling units are or upon completion of the development, will be, affordable owner-occupied dwelling units, as that phrase is defined herein.

AFFORDABLE RENTAL DWELLING UNIT. A room or group of rooms within a dwelling forming a single independent habitable unit containing independent kitchen, sanitary and sleeping facilities, which complies with the town's Minimum Housing Code, for which the monthly gross rental payment is no greater than 25% of the monthly area median income for a family of four, as established annually by the United States Department of Housing and Urban Development and which is occupied by a family in need of housing protection.

AFFORDABLE RENTAL HOUSING PROJECT. One in which more than 50% of the included dwelling units are or upon completion of the project, will be, affordable rental dwelling units, as that phrase is defined herein.

~~**AVAILABILITY FEE.** The fee charged:~~

~~— (1) To all new customers to the town's water and/or sewer system; and~~

~~— (2) To all existing customers who expand their home or business, thereby increasing their demand for water and/or sewer service.~~

BILLABLE EXCESS BIOCHEMICAL OXYGEN DEMAND (BOD). A user's loading in pounds of BOD calculated using the billable flow and concentration of BOD in the waste in excess of 400 mg/l, as determined by the Superintendent.

§ 50.105 APPLICATION FOR SERVICE AND PAYMENT OF INITIAL FEES AND DEPOSITS.

(A) Water or sewer service shall only be supplied to a person, whether as a customer or as an adjunct customer, who has fully completed an application for service and who has met all other requirements of the town for service, including the payment of the fees and deposits as may be required.

(B) Applicants for service, as either a customer or adjunct customer, shall apply, in person, at the designated office of the town. All applications for service must be made in the name of a natural person or other legal entity. In the case of legal entities, such as corporations, limited liability companies and general partnerships, the applicant must be duly registered to do business in the state and be in good standing with the Secretary of State. Any application for service by an entity other than a natural person must be personally

guaranteed by a natural person residing in the county or the applicant must pay a deposit twice the normal deposit for service of the kind applied for, based on the rates established in §§ 50.460 through 50.462.

(C) Any person filing an application for service must provide satisfactory proof of identity and if filing an application on behalf of another person or non-human legal entity, must provide the town with proof that the applicant is authorized to establish an account in the name of the entity. In addition, the applicant must provide satisfactory evidence, such as, but not limited to, a tax bill, deed or lease, that the entity in whose name the account is established is either the owner of the property in question or has the legal right to possession of the property.

(D) An applicant for water or sewer service for a property, residential unit or commercial unit not previously provided water and/or sewer service by the town or where the use of the property has changed, must pay all required availability-system development fees and tap-on fees before service will be provided. An applicant for service as an adjunct customer must pay any required additional availability-system development fee before service is provided, and every adjunct customer must provide both the written approval of the customer in whose name service is currently maintained and written permission of the owner of the property to apply for service as an adjunct customer. __

~~—(1) Availability fees shall be calculated based upon the rates in effect at the time a building permit and/or zoning permit is issued, whichever is later, plus additional charges to reflect actual time and materials involved in the provision of services, including the cost of installing any needed lines or meters, which must be paid before service can be initiated.~~

~~—(2) No applicant may be approved by any town department for occupancy of the property or unit in question until all required availability-system development fees have been paid.~~

(E) The town may reject any application for service which involves excessive service cost or which may adversely affect the supply of service to other customers or for other good and sufficient reason.

(F) The town may reject any application for service when the applicant is delinquent in the payment of either water or sewer bills or associated fees incurred for service previously supplied by the town at any location. Furthermore, when the owner of the premises has received water or sewer service and has not paid for the same, the town shall not be required to provide service to anyone at that premises until all delinquent water or sewer bills or associated fees have been paid.

(G) The town shall refuse service if the customer's lines or piping are installed in a manner that they may not prevent cross-connections or backflow.

(H) The town will only provide service outside the corporate limits of the town to new applicants in accordance with § 50.290 of this chapter, ~~and until its expiration, Ord. 11-01, as amended. (Ord. passed 6-21-2011; Ord. passed 7-17-2012)~~

§ 50.113 AVAILABILITY FEE.

~~—(A) Policy statement. Each new demand on the town's water and/or sewer system uses up a portion of the remaining capacity of the town's water and/or sewer plants. Eventually, these new demands create the need to build additional plant capacity. This section codifies the town's policy that customers who create additional demands for water and/or sewer service should fund the cost of constructing additional plant capacity required to meet these demands.~~

~~—(B) Applicability. The availability fee shall be paid:~~

~~—(1) By all new customers and adjunct customers to the town's water and/or sewer system that place an additional demand on the system; and~~

~~—(2) By all existing customers and adjunct customers to the town's water and/or sewer system that place an additional demand on the system through an expansion or a modification of an existing structure or use.~~

~~—(C) Measurement of new demand. The new demand placed on the system by the customer shall be determined according to the schedule set forth in § 50.460, taking into account adjustments to recognize the presence of adjunct customers.~~

~~—(D) Determination of the availability fee.~~

~~—(1) The amount of the availability fee for the water system shall be determined by multiplying the customer's and/or adjunct customer's new demand in the terms of the predicted daily flow rate by the rate currently in effect per gallon.~~

~~—(2) The amount of the availability fee for the sewer system shall be determined by multiplying the customer's and/or adjunct customer's new demand in terms of the predicted daily flow rate by the rate~~

currently in effect per gallon.

—(E) *Capital Reserve Fund.* All availability fees collected by the town from customers and/or adjunct customers that place additional demands on the town's water or sewer system shall be placed in the town's Water Reserve Fund and shall be earmarked for the construction of additional system capacity.

—(F) *Transferability.* The availability fee attaches to the real property or unit receiving water and/or sewer service. The availability fee paid by the customer and/or adjunct customer automatically transfers to the new owner at the time the property is sold or transferred. The availability fee cannot be transferred to a different lot, except when an owner combines adjoining lots for a single residential or commercial purpose.

—(G) *Credit.* Any property owner or customer who makes an off-site improvement to the town's water and/or sewer system infrastructure after 3-27-1997 shall be entitled to a credit toward the availability fee according to the conditions set forth below.

—(1) The credit only applies to "off-site" water and sewer infrastructure improvements, not "on-site" improvements. The term ***ON-SITE IMPROVEMENTS*** means those improvements made on the owner's property.

—(2) The credit only applies to the property for which the off-site improvements are made. The credit cannot be transferred to any other property.

—(3) This credit shall expire and become null and void three years after the completion of the off-site improvements.

—(4) The property owner or customer may be granted a maximum credit of 50% for every dollar spent on off-site improvements to be applied towards the availability fee. This credit is based upon the property owner's or customer's investment in the town's water and/or sewer system infrastructure calculated at the market rate in effect at time of the investment. Expenses the property owner or customer is entitled to include within this credit are actual labor and material costs. However, the property owner or customer shall not include secondary or indirect costs such as engineering fees. The town will not give a credit for more than the existing market rate for labor and materials.

—(5) It shall be the responsibility of the person claiming the credit to provide the town with all necessary documentation to prove the actual expenses incurred in making the off-site improvements.

—(6) The availability fee credit will be based upon the availability fee rate in effect at the time an application for a credit is submitted.

—(7) In no event shall any payment be made from the town to the property owner or customer for this credit.

—(H) *Availability fee adjustment.*

—(1) An availability fee adjustment may be granted by the Town Manager or his or her designee whenever strict enforcement of the provisions would result in a hardship to the customer or adjunct customer and if by granting the availability fee adjustment the intent of this section will be satisfied. A full or partial availability fee adjustment may be granted only when all of the following requirements are met:

—(a) The party requesting the availability fee adjustment is an existing commercial customer of the town and has been in business since 2-25-1988 or has paid an availability fee;

—(b) The commercial customer requesting the availability fee adjustment is relocating the business to another location within the town;

—(c) The demand on the town's water and/or sewer system at the commercial customer's previous location will be substantially reduced or will be eliminated, causing the net effect of the move to have less impact on water and/or sewer use than would the opening of a similar new business;

—(d) The intent of this section will be satisfied by the granting of the availability fee adjustment;

—(e) The owner of the property at the customer's previous location gives the town a written release releasing all right, title and interest in the availability fee for which an availability fee adjustment is granted; and

—(f) All of the conditions set forth herein are satisfied within two years after the customer closes its business at its previous location.

—(2) The credit given shall not be greater than the availability fee actually paid by the customer.

—(3) (a) In the event an availability fee adjustment is granted, the dollar value of the credit shall be calculated by:

—1. Using the customer's availability fee paid at the previous location; or

—2. Using the customer's actual usage at the previous location.

~~—(b) Further, if the customer disagrees with the manner in which the town calculates the demand at the new location, the customer may request that the town measure the actual usage at the new location for a 24-month period and re-calculate the availability fee based upon an average of the three highest months during that 24-month period. This re-calculation may result in a refund to the customer or in a payment to the town.~~

~~—(I) *Low income housing.* The town will grant a credit of 50% of the availability fee for the construction of low income housing when the construction is undertaken by a 501(C)(3) non-profit corporation and the housing will be occupied by persons or families with incomes at or below 60% of the area median income and there are contractual limitations on the free transferability of property, if it is to be owned or legal limitations on the conversion of the housing to use by persons or families with incomes higher than 60% of the area median income, if it is to be leased so that at a minimum the development or construction may only be used to provide housing to persons or families with incomes as described for a period of at least ten years.~~

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§ 50.460 GENERAL RATES AND CHARGES.

Commercial	\$225
<u>System development</u> fees (per gallon)	
Water	\$3.75 <u>\$7.89</u>
Sewer	\$4.50 <u>\$7.99</u>
Construction (temporary)	
3/4"	\$500
2" or 3"	\$800
Deposits (outside city limits deposits are double rates listed below):	
Late penalty charge	\$10
Meter connect/disconnect/reconnect (each)	\$20
Meter re-read charge	\$10
Residential	\$125
Returned check charge	\$25
Septic disposal fees (per 100 gallons)	
Residential	\$7
Commercial	\$10

<i>Minimum Fees Each - Water and Sewer</i>	
(Outside city limits minimums are double rates listed below)	
Minimum residential 3/4" includes 0 - 1,000 gallons or	\$14.25
Minimum residential 3/4" includes 1,001 - 2,000 gallons	\$15.75
Minimum commercial 3/4" includes first 2,000 gallons	\$21.50
Minimum commercial 1" includes first 2,000 gallons	\$26.50
Minimum commercial 1-1/2" includes first 2,000 gallons	\$31.50
Minimum commercial 2" includes first 2,000 gallons	\$31.50
Minimum commercial 3" includes first 2,000 gallons	\$41.50
Minimum commercial 4" includes first 2,000 gallons	\$51.50
Minimum commercial 6" includes first 2,000 gallons	\$71.50
Minimum commercial 8" includes first 2,000 gallons	\$91.50

<i>Consumption - Water</i>	
(Outside city limits consumption is double rates listed below)	
2,001 to 4,999 gallons	\$6.15
4,999 to 9,999 gallons	\$6.40
10,000 to 14,999 gallons	\$6.65
15,000 to 19,999 gallons	\$6.90
Over 20,000 gallons	\$7.15

<i>Consumption - Sewer</i>	
(Outside city limits consumption is double rates listed below)	
Over 2,000 per 1,000 gallons - residential	\$5.50
Over 2,000 per 1,000 gallons - commercial	\$5.75

~~§ 50.461—DISCHARGE SCHEDULE.~~

Type of Establishment	60% Daily Flow
Airports, also RR stations, bus terminals (not including food service facilities)	3 gpd/passenger
Barber shops	30 gpd/per chair
Bars, cocktail lounges (not including food service facilities)	12 gpd/per seat
Beauty shops	75 gpd/booth/bowl
Bowling alleys	30 gpd/per lane
Businesses (other than those listed here)	15 gpd/employee
Camps	
—Campgrounds without water and sewer hookups	60 gpd/campsite
—Construction or work camps	36 gpd/per person
—Summer camps	36 gpd/per person
—Travel trailer/recreational vehicle park with water and sewer hookup	72 gpd/campsite
*Car wash	1107 gpd/per bay
Churches (not including food service, day care and camps)	3 gpd/per seat
Country clubs	
—Non-resident members	12 gpd/per person
—Resident members	36 gpd/per person
Day care facilities	9 gpd/per person
Dwellings	
—*Commercial multi-family (condominiums, apartments and the like)	150 gpd/bedroom
—Residential single-family	90 gpd/bedroom
Factories (exclusive of industrial wastes)	
—Per shift	15 gpd/per person
—Add for showers per shift	6 gpd/per person
*Food service facilities restaurants (including fast food)	30 gpd/per seat
—24-hour restaurant	30 gpd/per seat
—Single service (exclusive of fast food)	30 gpd/per seat
Food stands	
—Per 100 square feet of total floor space	30 gpd
—Add per employee	15 gpd
Hospitals	180 gpd/per bed
*Laundries (self-service)	150 gpd/machine

Marinas	6 gpd/boat slip
—With bathhouse	18 gpd/boat slip
Meat markets	
—Per 100 square feet of total floor space	30 gpd
—Add per employee	15 gpd
Motels/hotels	72 gpd/per room
—With cooking facilities in room	105 gpd/per room
Nursing/rest home with laundry	72 gpd/per bed
—Without laundry	36 gpd/per bed
Offices, per shift	15 gpd/per person
Residential care facilities	36 gpd/per person
Schools	
—Boarding	36 gpd/per person
—Day schools with cafeteria, gym and showers	9 gpd/student
—Day schools with cafeteria only	7 gpd/student
—Day schools with neither cafeteria or showers	6 gpd/student
Service station	150 gpd/per water closet
Stadiums, auditoriums, theaters, drive-ins	3 gpd/seat or space
Stores, shopping centers, malls	72 gpd/1000sq.ft.
—(Note: if food service is included)	add 24 gpd/seat
Swimming pools and bathhouses	6 gpd/per person
<u>NOTE TO TABLE:</u>	
* Locally derived data, based on historical figures of actual peak usage.	

§ 50.999 PENALTY.

(4) *Water supply severance.*

(a) Whenever an industrial wastewater contributor is in violation of the provisions of this chapter, or an order or permit issued hereunder, water service to the industrial wastewater contributor may be severed and service will only recommence, at the contributor's expense, once the contributor has paid the town all costs associated with re-establishing service as well as all customary charges for initiating service, and has also demonstrated satisfactorily the ability and willingness to comply;

(b) The town may disconnect a user from the town's water supply after two or more violations of §§ 50.309 and 50.310 during any 36-month period or the duration of a water shortage declaration, whichever is longer. Should service be disconnected pursuant thereto, a \$100 reconnect fee shall be imposed before service is restored. If three or more violations of §§ 50.309 and/or 50.310 occur during any 36-month period or the duration of the water shortage declaration, whichever is longer, the town may also, pursuant to the discretion of the POTW Director, remove the user's water meter and in that event, all previously unpaid fees and deposits shall be forfeited. Reconnection thereafter shall only be made with the approval of the Town Manager. Before service is restored after the removal of the user's water meter, in addition to the \$100 reconnect fee, the user shall also be required to pay new tap fees and availability system development fees and a deposit equal to twice the usual service deposit.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Sam Furgiuele, Council Member
SECONDER:	Connie Ulmer, Council Member
AYES:	Clawson, Furgiuele, Ulmer, Ashcraft
ABSENT:	Mason

CONSIDERATION OF PROPOSED CHANGES TO CHAPTER 50 - WATER AND SEWER SERVICE

Town Attorney Allison Meade asked Council for guidance regarding the following proposed changes to Chapter 50 of the Town Code:

1. Requests for new water and sewer service to property located outside the Town limits would be considered by Council as a matter of legislative decision-making due to the lack of entitlement for an applicant outside the town limits to obtain services.
2. Authority to approve water and sewer service within the Town limits would be lie with Public Works staff.
3. In-town water and sewer service would not be extended to split-jurisdiction properties.

Council Member Furgiuele stated that he would prefer that requests for new water and sewer service to property located outside the Town limits remain a Quasi-Judicial matter to prevent Council Members from engaging in discussion with individual applicants and to ensure all members have the same information available to them. Ms. Meade noted that anytime a Quasi-Judicial hearing was held, that there was a greater risk of appeal, and offered that an ethics policy against members engaging in discussion with individual applicants could be adopted instead. Council Member Furgiuele suggested that a decision on the first two proposed changes be delayed until the Water Committee was able to meet. Concerns were raised by Ms. Meade and Planning Director Jane Shook in regards to the Town's lack of authority to refuse service to applicants in Town, as well as the money and work that goes into an application for voluntary annexation. Council Member Furgiuele made a motion, which was seconded by Council Member Ulmer to adopt the changes as set out above to Chapter 50 of the Town Code. Before a vote was taken, Council Member Ashcraft then made a separate motion to approve proposed change number two and to ask Ms. Meade bring a report back to Council on the Town's authority to refuse service to applicants in Town. Council Member Furgiuele seconded the motion. Council Member Furgiuele made a motion to send proposed changes one and three to the Water Committee for discussion. Council Member Clawson seconded this motion.

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

APPROVAL OF CONTRACT EXTENSION - REPUBLIC SERVICES

Upon a motion by Council Member Furgiuele, seconded by Council member Ashcraft, Council voted to approve a two-month contract extension with Republic Services for trash and recycling services to allow for further negotiations between Republic and the Town of Boone.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Sam Furgiuele, Council Member
SECONDER:	Marshall Ashcraft, Council Member
AYES:	Clawson, Furgiuele, Ulmer, Ashcraft
ABSENT:	Mason

CONSIDERATION OF LEASE AGREEMENT - FIRE SEPARATION LEASE AGREEMENT WITH MICHAEL VETRO, SR.

Town Manager John Ward presented for Council's consideration a Fire Separation Lease Agreement with Michael Vetro Sr. for property owned by Mr. Vetro located at 589 W. King Street which encroaches onto Town-owned property. Council Member Furgiuele expressed his hesitation to approve the agreement due to the possibility of the Town moving forward with plans to develop the encroached-upon property into a parking deck. Town Attorney Allison Meade noted that she did add into the agreement a termination clause of 6 months should the Town choose to develop the site. Mr. Vetro stated that his main concern was the condition of his building and that he wanted to have an encroachment agreement in place before he spent money on repairs and enhancements. Council Member Furgiuele suggested that the Town consider selling the strip of property on which his stucco has encroached. Brief discussion of the depth of the encroachment, Council Member Ashcraft made a motion, which was seconded by Council Member Ulmer, to approve the agreement as presented. Council Member Furgiuele suggested a friendly amendment to the motion to adopt the agreement with a shortened term of three years. The amendment was accepted by both Council Member Ashcraft and Council Member Ulmer.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Marshall Ashcraft, Council Member
SECONDER:	Connie Ulmer, Council Member
AYES:	Clawson, Furgiuele, Ulmer, Ashcraft
ABSENT:	Mason

UPDATE ON GRAND BOULEVARD REZONING FROM R3 MULTIPLE-FAMILY TO R1 SINGLE-FAMILY

Planning Director Jane Shook presented an update to Council on the status of discussions with property owners on Grand Boulevard regarding rezoning from R3 Multi-Family to R1 Single-Family. Ms. Shook stated that at the direction of Council at the May meeting, staff did contact the property owner adjacent to the Cooper property to see if they would be interested in rezoning their lot at the same time as the Coopers. Ms. Shook indicated that the Dineen's did not wish to voluntarily move forward with rezoning their property at the present time. Council Member Furgiuele added that he believed the Town should move forward with rezoning the split parcels to R1. Council Members Ulmer and Ashcraft indicated that they would consider the rezoning of the Dineen's R-3 property when the Council considers the rezoning of R-3 zoned properties which invade R-1 neighborhoods. Ms. Shook noted that the Cooper's had since decided to move forward with their initial request. After brief discussion, Council Member Furgiuele made a motion, which was seconded by Council Member Clawson to move forward with rezoning the Dineen property relative to the Cooper property so that both properties were fully zoned as R1 Single Family. A vote was taken, with Furgiuele and Clawson voting aye, Ashcraft and Ulmer voting nay. Mayor Brantz broke the tie by voting nay.

VOTE:	Aye:	Furgiuele, Clawson
	Nay:	Ashcraft, Ulmer, Brantz

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

PUBLICATION OF SETTLEMENT TERMS - 16 CVS 625 AND 18 CVS 109

Town Manager John Ward presented a copy of the settlement agreement between the Town and Zhiyuan Chen in Watauga County File Numbers 16 CVS 625 and 18 CVS 109.

Brief discussion ensued regarding the need to adopt/ratify the settlement agreement, which Town Attorney Allison Meade determined was not required.

REQUEST TO SCHEDULE WATER COMMITTEE MEETING

Council Member Furguele made a motion, which was seconded by Council Member Clawson to schedule an organizational meeting of the Town of Boone Water Committee on August 9, 2018 at 6:30 p.m. in the Council Chambers located at 1500 Blowing Rock Road.

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

CLOSED SESSION

In order to meet the time limit on Town Council meetings, Town Attorney Allison Meade suggested that Closed Session items 1-3 be moved to Thursday's agenda. Upon a motion by Council Member Ulmer, seconded by Council Member Clawson, Council voted to enter into Closed Session at 10:53 p.m. pursuant to:

N.C.Gen.Stat. § 143-318.11(a)(6) to consider the qualifications, competence, 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.

VOTE:	Aye:	All
	Nay:	None

Upon a motion by Council Member Clawson, seconded by Council Member Furguele, Council voted to exit Closed Session at 11:17 p.m.

VOTE:	Aye:	All
	Nay:	None

ADJOURNMENT

Upon a motion by Council Member Furguele, seconded by Council Member Clawson, Council voted to adjourn the meeting 11:20 p.m.

VOTE:	Aye:	All
	Nay:	None

Nicole Worley, Town Clerk

Rennie Brantz, Mayor