MINUTES – REGULAR MEETING
BOONE TOWN COUNCIL
July 10, 2024

CALL TO ORDER

A regular meeting of the Boone Town Council was called to order on Wednesday, July 10, 2024 at 9:00 a.m. in the Town Council Chambers located at 1500 Blowing Rock Road in Boone. Mayor Tim Futrelle presided. Council members present included Mayor Pro-Tem Dalton George, Todd Carter, Virginia Roseman, Edie Tugman, and Eric Plaag. Town Staff present included Town Manager Amy Davis, Town Clerk Nicole Harmon-Church, Planning Director Jane Shook, Deputy Planning Director Brandon Wise, Public Works Director Todd Moody, Finance Director Guy Miller, Downtown Boone Development Coordinator Lane Moody, Sustainability and Special Projects Manager George Santucci, Cultural Resources Director Mark Freed, Police Chief Andy Le Beau, and Deputy Public Works Director Josh Eller (remote). Town Attorney Allison Meade was also in attendance.

MOMENT OF SILENCE

ANNOUNCEMENTS

Mayor Futrelle announced the following board vacancies:

BOARD OF ADJUSTMENT
Two regular positions, Three alternate positions

CULTURAL RESOURCES ADVISORY BOARD
One student position

DOWNTOWN BOONE DEVELOPMENT ASSOCIATION
Two Council-appointed positions

HISTORIC PRESERVATION COMMISSION
Two regular positions, One student position

PLANNING COMMISSION
One student position

WORK SESSION

WORK SESSION ITEM - DISCUSSION REGARDING MORNINGSIDE DRIVE PROPERTY

Mayor Futrelle began by acknowledging that there was confusion about whether or not Town-owned property on Morningside Drive would be mowed. He indicated that after the last Council meeting, staff had met with members of the community and had come to an agreement about mowing on the property. Council member Plaag recapitulated the decision during the last Council meeting, which was to mow the area around the basketball court to make the area more accessible, as well as mowing a strip 30' back from the street and a path to Hardin Creek. Public Works Director Moody indicated that approximately 35% of the property was now being mowed. Council member Plaag stated that there were people who had served the Town in the past for whom nothing had been named and thought that the creation and naming of this park would be suitable. He added that it felt as though the neighborhood felt a sense of entitlement to this space and he believed the Town should make it known that it was a public space. Council member Roseman noted that designating this space as a public park would result in an increase in traffic and asked the neighborhood to think about the invitation they're giving to the community. Council member Roseman believed if the Town continued to maintain this property that it needed to be announced that everyone could use the space. Mayor Pro-Tem George thought that a balance could be reached by advertising the space as being a part of the Greenway and naming it a natural space or preserve. He added that no parking would be provided but that a bike rack should be installed to encourage multimodal travel and limit impervious surfaces. Deputy Planning and Inspections Director Brandon Wise explained that the Town underwent a process in the past with the help of Assistant Town Manager Jim Byrne and FEMA that allowed the Town to purchase and demolish properties that were located in the floodplain. Mayor Futrelle was of the opinion that the Town had mowed the property previously, and the amount of money and time saved by not mowing was not substantial, so he was in favor of continuing to maintain the property. Council member Plaag anticipated if the Council did not designate the area as a park that, since people in the neighborhood had expressed entitlement to the space, they would alert law enforcement to outsiders using the space. He noted that he saw the same thing happen before the North Street Park was designated as a park. Council member Carter agreed and suggested the space be named the Byrne Preserve. He also noted that this topic was likely to arise again when the land was disturbed for the restoration project. Manager Davis appreciated the suggestion of naming the park after former Assistant Town Manager Byrne but stated that, when he was living, he did not like attention and would not approve of the gesture. Council member Tugman noted that when this matter was initially discussed it was in concert with No Mow May and the cost of mowing this property and the Strawberry Hill property. She added that Strawberry Hill was designated as an arboretum and staff was currently only mowing a pathway. Mayor Pro-Tem George proposed, and it was the consensus of Council to discuss name ideas at the next Council meeting in July.

WORK SESSION ITEM - DISCUSSION REGARDING SUBLETTING OF TOWN PROPERTIES BY PRIMARY LESSORS

Attorney Meade asked Cultural Resources Director Freed to give an overview of the issue at hand at Daniel Boone Gardens. Director Freed explained that last season the Gardens started inviting vendors to come on Saturday mornings to sell plants in one of their parking spots. He added that the Farmers Market took issue with the vendor initially taking up one of their spots and then moved them into a spot at the Gardens. Garden representatives and staff are now questioning whether or not the lease needed to be amended according to Director Freed. Attorney Meade stated that she did not believe this activity was in line with the terms of the lease and believed that the lease would have to be amended if the arrangement were to continue. From a policy perspective, Attorney Meade was concerned with the idea of Town property being used for revenue without limits by a non-profit organization. She stated that the Council needed to be intentional about the use of public property and warned against First Amendment issues. Council member Carter noted that the lease was for a 25-year term with the North Carolina Garden Association and was disturbed that this activity was taking place on Town property. Council member Tugman noted that paid events such as weddings and Fairy Days, which were fundraisers for the Gardens, took place at the Gardens and did not understand how this was different. Attorney Meade answered that there was no black-and-white distinction but that the activity taking place was clearly not allowed under the current lease. Director Freed stated that the business taking place went beyond fundraising in his opinion. Council member Plaag questioned whether the parking spaces were included in the Gardens' lease as a whole or if they simply had access to parking spaces. Attorney Meade was unsure and Director Freed stated that spaces were designated by number. Council member Plaag believed there was a distinction between the two scenarios, and if the lease did not include specific spaces and simply included the use of spaces, he did not believe that entitled the Gardens to access the spaces in the way that they had been using them. He also expressed concern about opening up Town-owned parking lots for this type of use to anyone who held a lease. Director Freed asked whether the activity could continue to take place if it were moved inside the Gardens' property. Council member Plaag did not think the Town should allow licenses or subleases that created competition among markets that it endorsed through its relationships and felt it was in bad faith if the Town allowed a plant sale at the Gardens during the time the Farmer's Market was taking place. Attorney Meade stated that occasional events, including fundraisers, were viewed as incidental. Manager Davis was concerned that the Council would be setting a precedent for others to ask for the same treatment. Attorney Meade was of the opinion that if sales took place inside the Gardens, it was permitted, but that she would come back with more information about parking after reviewing the lease premises.

The next work session item was general parking issues in town, especially the leasing or other use of excess parking. Planning Director Jane Shook stated that staff wanted to encourage the use of existing lots but noted that the current ordinance was in favor of the opposite. She suggested the Town promote more shared parking and offered that staff look at standards for parking uses, which currently require a twenty-five-foot street yard buffer and event parking, and bring back proposed text. Council member Plaag was concerned with mixed-use parking and was hesitant to set up a situation where a landlord could lease out spaces, in turn creating a problem where there isn't sufficient parking. Director Shook stated that staff would evaluate options and bring draft text to address parking issues.

Council member Tugman stated that because the Appalachian Summer Festival Brad Paisley concert was scheduled to take place on July 27, the same night as the Horn in the West production, the Horn decided to cancel the performance scheduled for that night due to noise from the concert and the interference it would cause. She relayed that SAHA would like permission from Council to use its parking lot as paid parking for concert attendees in an attempt to recoup funds lost from canceling the night’s production. Council member Tugman stated that SAHA representatives had indicated that the AppalCart would be running the route in the area. Attorney Meade answered that licensees could not sublicense and that the agreement was personal to SAHA but that she had no legal objection if Council wished to approve the arrangement. Council member Roseman made a motion to approve SAHA renting out the upper parking lot. After questions regarding insurance, AppalCart, and the lower parking lot were raised, no second was made. Attorney Meade stated that a certificate of insurance should be required. Council member Roseman made a motion to approve the request from SAHA to open the Daniel Boone parking lots for revenue intake for the night of July 27 (contingent on the receipt by staff of a certificate of insurance listing the Town of Boone as an additional insured party) beginning at 2:00 p.m. Council member Tugman seconded this motion. Council member Plaag suggested a friendly amendment to except five spaces at Daniel Boone Gardens so that their business would not be impacted. Council members Roseman and Tugman accepted this amendment. Council member Carter asked for confirmation that AppalCart would not be running formal shuttles and would only be running its normal route in the area. Council member Tugman confirmed that AppalCart would operate on its normal schedule and route. The motion carried unanimously.

Mayor Pro-Tem George stated that, as liaison to both the Sustainability Commission and Human Relations Commission, he saw a need for subcommittees on both. Attorney Meade indicated that a previous Council changed the Code 5-6 years ago to disallow the creation of subcommittees but noted that she was against the change. She added that there should be guardrails placed and that subcommittees would still be subject to public meeting laws regarding notices and minutes. Attorney Meade stated that there should be explicit direction given regarding the responsibility for keeping track of minutes and notices. She agreed to draft text regarding this matter and bring it back at a later date.

Council member Roseman announced that a recent resignation by Historic Preservation Commission member Carter left the commission unable to take action with only two active members. She stated that the commission requested that an exception be made to allow people who did not live within town limits to apply and potentially serve on the commission, as well as town property owners. Council member Plaag made a motion to add this matter for discussion and possible action as the last Council Matters item. Council member Roseman seconded the motion, which carried unanimously.

PUBLIC COMMENT

Mayor Futrelle opened public comment by announcing a five-minute time limit. He asked that decorum be maintained and noted that individual members may address questions later.

Catharine Milner of Boone thanked the Council for listening to her family's and neighbors' concerns about the Town-owned property on Morningside Drive. She noted that her community is close-knit and has never called the police on people picnicking on the property near her home. Mrs. Milner added that she and others were concerned with the change of use of the property before Council knew what the restoration project would look like. She was anxious about the potentially negative impacts the changes could have on wildlife in the area and asked that the property be maintained at least until more was known about the grant and restoration project. Mrs. Milner finished by stating that she and her neighbors would be willing to help with the beautification of the property.

James Milner of Boone reiterated his wife, Catharine’s comments. To Mayor Pro-Tem George and Council member Plaag, he stated that it was not true for them to insinuate that the community felt a sense of entitlement and added that members of the neighborhood never referred to the land as a park. He acknowledged that as the property owner, it was the right of the Town of Boone to do whatever it pleased with the property, and added that he was grateful for Council and staff’s time and assistance in coming to a compromise. Mr. Milner added that it was important for the public to speak and be heard and for a resolution to be found for this and any problem in Boone.

Mayor Futrelle declared a break at 10:41 a.m. Council reconvened at 10:55 a.m.

APPROVAL OF ITEMS ON CONSENT AGENDA

Upon a motion by Council member Carter, seconded by Council member Plaag, Council unanimously approved the following items on the consent agenda.

1. Request to close Howard Street for mural unveiling
2. Information regarding ATTIIP Grant

Mayor Futrelle expressed his excitement for the new hellbender mural and thanked staff for their work on the ATTIIP grant. Council member Plaag also thanked staff for their work on the grant and suggested a revision to the application on page 11 of the application to amend to say "limit access to jobs and emergency medical facilities."

COUNCIL MATTERS

REQUEST FOR DISCUSSION REGARDING ABC BOARD

Charlie Wallin, Chair of the Boone ABC Board appeared before Council to answer any questions and address any concerns. He noted that he expected the store would cross the $9 million sale mark this year or next and that the store had not experienced a decline in sales even during Covid. Manager Davis thanked Mr. Wallin for the budgetary increase of $650,000 to the Town. He then addressed a request he made to Council during the last meeting regarding building construction. Mr. Wallin stated that two years ago, the ABC Commission changed to delivering on pallets which their store was not equipped to receive in an efficient manner. He indicated that the board had the reserves to pay for the renovations which would cost approximately $350,000 for the extension and enclosed loading dock without losing any parking. Mr. Wallin praised staff for working well with the architect and noted that the renovations would reduce impervious surfaces by approximately eighty square feet. Mayor Pro-Tem George stated that the Council knew very little about the inner-workings of the ABC Board. When Council did receive requests from the board, Mayor Pro-Tem George indicated that they were vague and came with no representation. Council member Roseman informed Mr. Wallin that Council was considering increasing the board roster to five members, one of which would be a voting Council member. Mr. Wallin was concerned that having a voting Council member on the board would be a conflict when voting on budget matters. He added that the ABC Commission cautioned the local board as to whether there might be any conflict of interest issue in having a voting Council member on the board. Attorney Meade was unsure and inclined to believe there was no conflict, but rather aligned interests, but stated she would look into the matter further. Council member Tugman was unsure how this would be a conflict since the ABC Board was a function of the Town. Mr. Wallin went on to note that the board gave funding to the local school board for prevention measures. Council member Tugman encouraged Mr. Wallin to look into also working with Homestead Recovery. ABC Board member Jaqueline Dunbar asked why Council wanted more people on the board. Mayor Pro-Tem George answered that increasing the roster would encourage more communication between the two entities. Council member Roseman suggested that Attorney Meade amend the code to add two members with one being a Council member that had voting capabilities. Attorney Meade answered that since this board was governed by the State, Council would simply need to take formal action to expand the board to five members then could determine the appointments. Council member Plaag made a motion to expand the ABC Board to five voting members with at least one who is a Council ex-officio member. Council member Roseman seconded the motion, which carried unanimously. For the purpose of discussion, Council member Plaag made a second motion that the two additional board members will both be Council members. Council member Roseman seconded the motion, and stated that she believed this to be an over power reach and that the board should be more community-based. If control of the board could not be kept she suggested revisiting. Council members agreed and Mayor Pro-Tem George expressed his hope that the fourth member be a Town of Boone resident, though it is not a requirement.

VOTE:	Aye:	None
	Nay:	All

INFORMATION REGARDING APPLICATION TO NC LAW ENFORCEMENT ACCREDITATION PROGRAM

Lieutenants Lance Wills and David Osborne presented to Council regarding the Department's application for accreditation through the North Carolina Law Enforcement Association. They covered the in-depth application process, which will certify that the Department complies with State standards, and indicated that the program has many benefits.

Mayor Futrelle left the meeting at 11:50 a.m.

APPOINTMENT TO SUSTAINABILITY COMMITTEE

Mayor Pro-Tem George nominated Jilian Schulte and Finley Collins to serve in student positions on the Sustainability Committee. Hearing no further nominations he called for a vote.

VOTE:	Aye:	All
	Nay:	None

Jilian and Finely's terms will expire on June 30, 2025.

Regarding potentially opening the Historic Preservation Commission to out-of-town applicants, Attorney Meade stated that State statute required town residency for this commission. Mayor Pro-Tem George asked whether, given Boone’s constraints, Attorney Meade thought there was an appetite to propose a local bill to remedy that statute. Council member Plaag indicated serious concerns with a quasi-judicial board having people serve who did not live in the jurisdiction and stated that he would not support a local bill. Council member Roseman thought this matter could be an argument to re-establish the Town’s ETJ. Attorney Meade noted that the General Assembly just took another town’s ETJ powers and it seemed unlikely to her that they would consider reinstating the Town’s ETJ powers. Mayor Pro-Tem George suggested that members push to recruit members for this board to obtain at least one more member to reach a quorum. Director Shook noted that the commission as-is would not be able to hold a quasi-judicial session which meant that staff would be unable to process applications in a timely manner. Attorney Meade added that the Council could choose to reduce the board's membership to three and then reduce the quorum to two members. Director Shook noted that staff was working on a board promotion program for social media and hoped it would be successful. Stipends were discussed next, with Manager Davis reminding members that they had authorized at their Planning retreat a $50 stipend per meeting to be paid quarterly to each member of a Planning-related board. A higher amount of $150 was discussed next before Mayor Pro-Tem George suggested that this be discussed during a work session at the July 24 regular meeting. Attorney Meade suggested only giving stipends to the Historic Preservation Commission insofar as it acted in its quasi-judicial capacity. It was the consensus of Council to discuss this matter further during a work session at the July 24 regular meeting.

Mayor Pro-Tem George declared a break at 12:10 p.m. Council reconvened at 12:33 p.m.

TOWN MANAGER REPORT

Manager Davis thanked Council for the cost of living and compression adjustments given to staff in the FY2024/25 budget. She asked whether Council was interested in reinstating the Neighborhood Conservation District walks. Council was receptive, and Manager Davis indicated that staff would bring dates forward at the next meeting. She then updated Council on the following topics:

1. **Stadium Drive – Sanitary Sewer Project:** Construction began Monday, July 8th, replacing a sanitary sewer main on Stadium Drive. Substantial completion is anticipated within 30 days, barring weather delays or unforeseen circumstances.
2. **AMI Meter System:** Staff is continuing to install a new type of water meter with 2,038, or 32%, installed to date. The installation of new meters will increase under our recently approved budget allocation designated specifically for this project.
3. **Milling and Resurfacing:** The Town’s paving contractor (Moretz Paving Inc.) will begin milling and resurfacing in late July. Town streets include Appalachian Drive, Megan Lane, Rhododendron Lane, and University Circle. Once they begin, the work is anticipated to be completed in approximately four weeks.
4. **Greenway Road and Meadowview Drive:** Eight new traffic signal heads and three new pedestrian signals have been installed at Greenway Road and Meadowview Drive, completing upgrades to

traffic signals.

5. **Howard Street Update:** Manager Davis stated that staff would begin soliciting bids for the Howard Street project next week and would accept bids through mid-August. She stated that engineers would then review the bids and make a recommendation, followed by an offer and acceptance. She added that the recommendation will also require approval from the USDA and the Local Government Commission. She agreed to direct staff to prepare a press release. Still, she cautioned that readers may not distinguish between soliciting for bids and not seeing ground being broken until much later. Council member Plaag understood but stated there was so much disdain from the public about the project, particularly from the DBDA. Manager Davis noted that she did not expect construction to begin until at least 2025. Public Works Director Todd Moody agreed that the beginning of the bid process was a major milestone and noted that DBDA Coordinator Lane Moody would be sending an email blast to MSD members to alert them of the progress. Council member Plaag asked that an update be given at the next DBDA meeting. Manager Davis then outlined the funding received to date.

TOWN ATTORNEY REPORT

Attorney Meade indicated that things were moving forward on the 421 property acquisition, and everything appears to be acceptable regarding the engineering and technical side. Staff was waiting to hear back from the closing attorney regarding legal easements. Attorney Meade indicated that, though this was not her area of special expertise, everything appeared fine to her regarding easements.

Council member Carter asked whether progress had been made regarding the Farrington conservation district issue. Planning Director Shook explained that staff was evaluating how standards can be equitably applied throughout all neighborhoods and enforcement. She added that it was her understanding that the matter was tabled until after the completion of the Comprehensive Plan update.

BOARD LIAISON REPORT

Mayor Futrelle re-entered the meeting at 1:00 p.m.

Council member Carter reported that AppalCart would not be meeting this month and noted that staff had submitted a letter confirming his appointment to the board by Council, which had to be approved by Watauga County Commissioners. He noted the recent training that members of the Human Relations Commission underwent and stated that he hoped the commission could resume meetings in August. Council member Plaag mentioned a recent Town-sponsored event at which a member of the Human Relations Commission displayed poor behavior and suggested the Commission address this.

Council member Roseman announced that Historic Preservation Commission workshops had been delayed to August. She added that the opening night of the Horn in the West went well and was well-attended.

Mayor Pro-Tem George reported that the Sustainability Commission took in a presentation from a group regarding e-bikes and scooters and hoped that the Commission would bring recommendations to Council soon.

Downtown Boone Director Lane Moody stated that the Downtown Boone Development Association did not meet quorum for its last meeting. She indicated that the Board was excited to have its 501©3 status reinstated and announced that AppState had reverted to its original parking arrangement in the Peacock Lot which was well-received. She gave updates regarding Boonerang and the Hellbender mural in the downtown area, with Council member Plaag noting that several businesses had expressed concern about the impact Boonerang had on their businesses. He stated that some businesses felt adverse impacts and that he was looking forward to the results of a recent survey that had been sent out by the DBDA. Council member Plaag announced the upcoming meetings/brainstorming sessions regarding parking in the downtown area and finished by noting that some members of Council had recently undergone training by the NCLM called Commit to Civility. In order to earn its certification, Council needed two more members to complete the training in September.

CLOSED SESSION

Upon a motion by Council member Plaag, seconded by Mayor Pro-Tem George, Council voted unanimously at 1:14 p.m. to enter into closed session 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.

Upon a motion by Mayor Pro-Tem George, seconded by Council member Roseman, Council voted unanimously to exit closed session at 1:45 p.m.

ADJOURNMENT

Mayor Futrelle adjourned the meeting at approximately 1:47 p.m.

Nicole Harmon, Town Clerk

Tim Futrelle, Mayor