

**MINUTES – REGULAR MEETING
BOONE TOWN COUNCIL
July 15, 2021**

CALL TO ORDER

A regular meeting of the Boone Town Council was held electronically at 6:00 p.m. on Thursday, July 15, 2021. Mayor Rennie Brantz presided. Town Council members present included Mayor Pro-Tem Connie Ulmer (entered the meeting at 6:14 p.m.), Sam Furguele, Dustin Hicks, Nancy LaPlaca (entered the meeting at 6:25 p.m.) and Virginia Roseman. Staff included Town Manager John Ward, Town Clerk Nicole Harmon, Planning Director Jane Shook, Assistant Planning Director Stacey Miller, Planner Mike James, Public Works Director Rick Miller, Deputy Public Works Director Todd Moody, Downtown Boone Development Coordinator Lane Moody, Police Chief Andy Le Beau, Fire Chief Jimmy Isaacs, Cultural Resources Director Mark Freed, Human Resources Director Dale Presnell, and intern Adam Zebzda. Town Attorney Allison Meade was also in attendance.

ANNOUNCEMENTS

Mayor Brantz announced the following board vacancies:

BOARD OF ADJUSTMENT

One alternate position

COMMUNITY APPEARANCE COMMISSION

Four regular positions

One student position

DOWNTOWN BOONE DEVELOPMENT ASSOCIATION

Two Board appointed positions

HISTORIC PRESERVATION COMMISSION

Four regular positions

One student position

SUSTAINABILITY COMMITTEE

One student position

TRANSPORTATION COMMITTEE

One position (Cooperative Extension)

One resident position (Alternative Transportation)

One resident position

One student position

WATER ADVISORY COMMITTEE

Five regular positions

One student position

TENTATIVE AGENDA ADOPTION

Upon a motion by Ms. Roseman, seconded by Mr. Furguele, Council voted to approve the agenda as presented.

Aye: Furguele, Roseman, Hicks

Nay: None

Absent: Ulmer, LaPlaca

REQUESTED APPEARANCES

MAGGIE BARLOW - MAVEN STRATEGIES

Maggie Barlow with Maven Strategies presented Council with a request to authorize Mayor Brantz to join other mayors across the country and sign a letter supporting humane and fair immigration policies. Upon a motion by Mr. Furguele, seconded by Ms. Roseman, Council voted to approve the following letter of support.

Aye: Furguele, Roseman, Hicks

Nay: None
Absent: Ulmer, LaPlaca

[DATE]

The Honorable Joseph R. Biden, Jr.
President of the United States
1600 Pennsylvania Ave NW
Washington, D.C. 20500

The Honorable Kamala Harris
Vice President of the United States
1600 Pennsylvania Ave NW
Washington, D.C. 20500

The Honorable Chuck Schumer
Majority Leader
United States Senate
322 Hart Senate Office Building
Washington, D.C. 20515

The Honorable Nancy Pelosi
Speaker of the House of Representatives
United States House of Representatives
U.S. Capitol
Washington, D.C. 20515

Dear President Biden, Vice President Harris, Majority Leader Schumer, and Speaker Pelosi:

We, the undersigned mayors, respectfully request that you prioritize the inclusion of a pathway to citizenship for Dreamers, Temporary Protected Status (TPS) holders, essential workers, and their families in any economic recovery legislation including through budget reconciliation.

Today, there are an estimated [5 million undocumented immigrants](#) working in construction, agriculture, food services and production, transportation, healthcare, and other essential industries who have risked their lives and the lives of their families to keep our nation running during one of the most challenging periods in modern history.

As our state and local communities continue to confront a public health and economic catastrophe that has claimed more than 500,000 lives and exacerbated deep racial and economic inequities, it is vital that Congress enact protections for Dreamers, TPS holders, and essential immigrant workers to secure the health of our nation and to lay the foundation for an equitable economic recovery for all communities across the country.

Providing a path to citizenship for these individuals and their families not only recognizes the sacrifices they have made for all Americans over the past year, but also the important role they continue to play in America's economic recovery and long-term global competitiveness.

It's time for Congress to act. The only way we can truly Build Back Better is to ensure that Dreamers, TPS holders, and essential workers are included in any economic recovery legislation including through budget reconciliation.

Sincerely,

[LIST OF MAYORS WITH CITY & STATE]

Upon a motion by Mr. Furgiuele, seconded by Ms. Roseman, Council voted to skip to agenda item numbers 4 & 5 to allow Mayor Pro-Tem Ulmer and Ms. LaPlaca time to join the meeting.

Aye: Furgiuele, Roseman, Hicks
Nay: None
Absent: Ulmer, LaPlaca

COUNCIL MATTERS

APPOINTMENT TO DOWNTOWN BOONE DEVELOPMENT ASSOCIATION

Mr. Furgiuele nominated Lisa Flanigan and Wayne Miller to serve on the Downtown Boone Development Association. Hearing no further nominations, Mayor Brantz called for a vote.

VOTE: Aye: Furgiuele, Ulmer, Hicks, Roseman
 Nay: None
 Absent: LaPlaca

Ms. Flanigan and Mr. Miller's terms will expire on July 31, 2024.

APPOINTMENT TO SUSTAINABILITY COMMITTEE

Ms. Roseman nominated Jeremy Love to serve on the Sustainability Commission for a three-year term. Hearing no further nominations, Mayor Brantz called for a vote.

VOTE: Aye: Furgiuele, Ulmer, Hicks, Roseman
 Nay: None
 Absent: LaPlaca

Mr. Love's term will expire on June 30, 2024.

TOWN MANAGER UPDATE

Town Manager John Ward updated Council on the following topics:

1. **Highway 194 Sidewalk Project:** The Street Department began installation of storm water piping and catch basins on July 6th and currently has half of this infrastructure installed. Some sections have been slow and frustrating due to solid rock which must be busted and removed before pipe can be installed. Facilities Maintenance has constructed a concrete retaining wall 10' high, 15' in length on the south side of Hardin Park Schools entrance. They've also installed all of the curbing and sidewalk planned for the west side of Hwy 194. The North Carolina Department of Transportation has scheduled installation of the HAWK signal and plans to have it completed before school starts. Public Works has made this a priority project with a goal of completion before students return mid-August.
2. **Traffic Markings and LED Streetlights:** Traffic Operations Division has re-striped over 11 miles of Town streets this summer as well as most of the town maintained parking areas along King Street in downtown Boone. This crew is also responsible for LED streetlight conversion, which as reported in May, remains at 58%. We now have additional LED streetlights ordered and will get this crew back to the task of converting these sometime in August.
3. **Downtown Sidewalks:** Greene's Construction has completed installation of brick paver sidewalk in front of Melanie's on King Street. They've now turned the corner and started up North Depot Street with sidewalk replacement. This project also involves installation of new streetlight poles on the west side of North Depot and is expected to be completed in the next 4 to 5 weeks.
4. **Street Resurfacing:** The Street Department is planning to resurface the following streets beginning in August: 1. Shadowline Drive; Meadowview Drive from Highway 321 to Greenway Road; Queen Street from North Water Street to Gladys Street; North Depot Street from King Street to Queen Street.
5. South Fork river restoration project has begun and will restore 1,700 linear feet of linear buffers to help reduce flooding, prevent erosion, improve water quality and restore habitat.

6. Postcards notifying neighboring properties of the Winkler/Hodges and Boone Creek restoration projects have been mailed out.
7. Facility Maintenance Superintendent Justin Stines worked with Sustainability and Special Projects Manager George Santucci and the North Carolina Department of Agriculture to release invasive plant-eating weevils along the Greenway close to Clawson Burley Park.
8. The Trash Trout has removed over 1,000 pieces of trash from Winkler's Creek to date.
9. Staff is continuing to work with CivicPlus on the design phase of the new website.
10. Staff is working to implement a plan for in-person meetings beginning in August. He indicated that the meeting will be structured in a hybrid manner to allow in-person public participation while continuing to offer a virtual option for those who did not feel comfortable attending a public meeting.

Mr. Furgiuele asked that a press release be issued regarding the restoration project at the Bolick property. Mr. Ward indicated that one had been sent out previously, but that staff would send a second one out to remind people that the trees being removed were due to the erosion on the property. Discussion turned back to in-person meetings, with Mr. Furgiuele noting that some members of the DBDA board were eager to get back to in-person meetings and did not want to wait until August to be able to do so. He felt that the decision for boards and committees to meet in-person should be left up to staff. Mr. Ward then reported that Intern Adam Zebzda had assisted him in researching and brainstorming human relations commissions as directed by Council on Tuesday. He indicated that the State of North Carolina Human Relations Commission was established in the 1960's and currently held 22 seats. Mr. Ward noted that the Commission was charged with ensuring equal opportunities in employment, housing, public accommodations, recreation, education, justice and governmental services, as well as enforcing the State Fair Housing Act. He stated that there were 23 local agencies across the state who had human relations commissions and that the majority had staff dedicated to the commission and the enforcement of non-discrimination regulations. Mr. Ward noted that a few other local entities, most of which were counties, had commissions which served as standalone commissions and made recommendations to the governing board, similar to the way Boone's Police Committee works. He reiterated his concerns shared on Tuesday night regarding a lack of staff who could designate time to the commission. Mr. Ward added that in his research, he found that many town/county attorneys were dedicated to investigations. He then gave options for Council's consideration, including moving forward with a committee, whether Town operated or not. Mr. Ward indicated that the Human Resources department consisted of two employees, one of which also took on safety and risk officer responsibilities when that position was absorbed to all for the creation of the Sustainability position. Mr. Ward also suggested that, instead of creating its own human relations committee, the Town Council could ask a Council member liaison or that he or a member of the public could submit an application at the Council's request for an open position on the State Human Relations Commission. Mr. Furgiuele understood Mr. Ward's concerns about staffing a commission, but felt that the Town would be potentially losing out on some of the benefits of having a local committee or small working group. He added that he thought it was a good idea to have someone local on the State Human Relations Commission if the Governor would agree to it. Mr. Furgiuele suggested that a committee be put together for a limited duration and then make recommendations back to Council about how to go forward to make sure that the issue was not abandoned. Mayor Pro-Tem Ulmer was concerned also about overloading staff. After brief discussion, Ms. Roseman made a motion to direct the Town Manager to investigate how to appoint someone to the North Carolina Human Relations Commission, and to also pursue a the creation of a local committee structured similar to the Police Committee. Mr. Furgiuele did not believe that Council should assume that a local person would be appointed to the State Human Relations Commission, and felt that the matter should be revisited quickly if a local appointment was not made. He

added that he believed that the Town Attorney should be assigned to the potential local committee since legal issues could be involved. Mr. Furguele indicated that the Town Attorney should also be the contact person for discrimination complaints. He further suggested that staff reach out to a professor at ASU, Amy Dellinger Page, who had been involved with many humane relations and equity issues in different contexts, and with whom he had had a preliminary conversation during which she indicated her willingness to lend her expertise. Mr. Ward reminded Council that the assignment of the Town Attorney to a potential human relations commission could become a budget discussion. Mayor Pro-Tem Ulmer seconded the motion, which carried unanimously.

TOWN ATTORNEY UPDATE

Ms. Meade stated that the Town would be installing poles to place equipment on to read the automatic water meters that Council had previously approved and staff had purchased. She explained that under the UDO, if the Town wanted to install an AMI service pole in its own right of way, it could do so without any further ado. However, if the Town wanted to put up the same pole on its own utility properties, such as at the Water Treatment Plant, under the current UDO, the Town would have to go to the Board of Adjustment and get a variance for height limitation. Mr. Furguele was logged off at 7:34 p.m. He logged back onto the meeting at 7:35 p.m. Ms. Meade was of the view that this placed the Board of Adjustment in a difficult and potentially unfair position to require it to decide whether or not to grant a variance to the Town. Mr. Miller stated that an initial proposal indicated three tower sites would be needed at approximately 60-80 feet per pole. He added that staff had requested the vendor to evaluate all Town properties, and that all options would be investigated. Mr. Furguele agreed with Ms. Meade that the Town should not have to go through the variance process and that the Town should proceed with the installation of the poles. He asked that if any of the poles were to be placed in transitional zones that the Town should hold a public hearing for the sole purpose of obtaining input on mitigation measures in terms of landscaping. He then made a motion to direct the Town Attorney to draft a UDO amendment which would authorize the use discussed. Ms. LaPlaca seconded the motion which carried unanimously. It was the consensus of Council to conduct a public hearing to give people an opportunity to weigh in on mitigation measures.

BOARD LIAISON REPORT

Mayor Pro-Tem Ulmer announced that AppalCart had recently reinstated 2 a.m. rides and had installed a real-time passenger notification system.

CONSIDERATION OF FINAL PLAT APPROVAL FOR HAMPTON ESTATES PHASE II

Ms. Shook presented a plat for Hampton Estates Phase II for final approval by Council, and indicated that Mr. Porter was very close to finishing the infrastructure. Ms. Meade added that she believed this was the first time that a subdivision plat approval had come before Council, and noted that this was not a legislative decision but was a quasi-judicial decision. Ms. Shook disagreed and indicated that Council had always been given the authority to approve final plats. Ms. Meade responded that her view of the statutes and the UDO, this matter would be a quasi-judicial decision and believed a discussion should be held regarding whether the requirement of final approval by the board should be in the UDO, as an applicant was legally entitled to approval in situations such as this where the applicant sought approval of a final plat that did not materially deviate from a preliminary plat that had already been approved. Mr. Furguele then made a motion to approve the final plat as presented. Mayor Pro-Tem Ulmer seconded the motion which carried unanimously. Ms. Meade added that Boone did not see many subdivision matters, but did not feel it made sense for a matter to come back to Council. There was consensus by Council that Ms. Meade produce a UDO amendment to resolve this situation

CONSIDERATION OF POSSIBLE APPROACHES TO SHORT TERM RENTAL (AIRBNB) REGULATIONS

Ms. Meade presented Council with a memo that included possible approaches to short term rental regulations, and stated that she could use the language in the memo to prepare an ordinance. She advised against having an

inspection program, at least in the initial phases, and noted that she did not see an upside to an inspection program that went beyond making sure that property owners were complying with regulations and obtaining the needed permits. Ms. Meade indicated that an inspection program would require additional staffing and that liability issues could arise. She added that mechanisms would be needed to allow enforcement of any regulations Council chose to implement. In response to a question raised by Ms. Roseman, Ms. Meade answered that she believed there to be exceptions to the Fair Housing Act when renting out only one home. Mr. Furgiuele was in favor of moving ahead in the regulation process, with Ms. LaPlaca suggesting holding public hearings on the matter to gather public input. Mr. Furgiuele pointed out that the prior Town Council had held a well-attended public hearing which was the basis of the items currently under discussion, that many such rentals were currently operating illegally, and that there would be a public hearing during the formal ordinance adoption process so he was not in favor of further delays. Mr. Furgiuele was in favor of moving ahead in the regulation process, with Ms. LaPlaca suggesting holding public hearings on the matter to gather public input. Ms. Shook stated that Planning staff often received complaints and inquiries regarding short term rentals and how they were permitted, and that it would be helpful to have direction regarding permitting and/or enforcement. It was the consensus of Council to direct the Town Attorney to draft an ordinance further highlighting and narrowing down Council's options.

UPDATE ON DETAILS FOR THE SPECIAL PUBLIC HEARING SCHEDULED FOR MONDAY, AUGUST 23, 2021

Ms. Shook indicated that a special public hearing was scheduled for Monday, August 23, 2021 at 6:00 p.m. at Council Chambers and would be open to the public. She noted that approximately 500 mailings went out, which included the property owners within the district, as well as the adjoining district. Ms. Shook added that signage advertising the public hearing would be installed later in the month, and that staff would update the downtown planning projects website.

CLOSED SESSION

Upon a motion by Mayor Pro-Tem Ulmer, seconded by Ms. Roseman, Council voted unanimously to enter into closed session at 8:56 p.m. pursuant to:

1. N.C. Gen. Stat. § 143-318.11(a)(1), to review, approve and seal closed session minutes from Council's prior closed session(s).
2. N.C. Gen. Stat. § 143-318.11(a)(3), to consult with the Town Attorney in order to preserve the attorney-client privilege between the attorney and the Town Council and obtain legal advice, consider and/or give instructions to the attorney concerning one or more potential legal claims.
3. N.C. Gen. Stat. § 143-318.11(a)(3), to consult with the Town Attorney in order to preserve the attorney-client privilege between the attorney and the Town Council and obtain legal advice, consider and/or give instructions to the attorney concerning the lawsuits involving Watauga County.

Upon a motion by Ms. LaPlaca, seconded by Mayor Pro-Tem Ulmer, Council voted unanimously to exit closed session at 9:33 p.m.

ADJOURNMENT

Upon a motion by Ms. LaPlaca, seconded by Mayor Pro-Tem Ulmer, Council voted unanimously to adjourn the meeting at 9:34 p.m.

Nicole Harmon, Town Clerk

Rennie Brantz, Mayor