

**MINUTES – REGULAR MEETING
BOONE TOWN COUNCIL
July 17, 2018**

CALL TO ORDER

A regular meeting of the Boone Town Council was called to order at 6:00 p.m., Tuesday, July 17, 2018, in the Council Chambers located at 1500 Blowing Rock Road. Mayor Rennie Brantz presided. Council Members present were Mayor Pro-Tem Loretta Clawson, Lynne Mason, Sam Furguele, Connie Ulmer and Marshall Ashcraft. Staff present were Town Manager John Ward, Town Clerk Nicole Worley, Public Works Director Rick Miller, Deputy Public Works Director Eric Gustaveson, Deputy Public Works Director Josh Eller, Deputy Public Works Director Todd Moody, Planning Director Jane Shook, Police Chief Dana Crawford, Fire Chief Jimmy Isaacs, Downtown Boone Development Coordinator Lane Weiss and Town Intern Syrena Travis. Town Attorney Allison Meade was also present.

ANNOUNCEMENTS

Mayor Brantz welcomed all in attendance and asked all who wished to speak during the Public Comment period to sign up on the sheet located by the door.

Mayor Brantz presented retiring Deputy Public Works Director Eric Gustaveson with a resolution of appreciation for his years of service with the Town of Boone and thanked Abie Bonevac and Becky Gosky for their service on the Town's Planning Commission.

TENTATIVE AGENDA ADOPTION

Town Manager John Ward announced the promotion of Lane Weiss to the Downtown Boone Development Coordinator position as well as Todd Moody as Deputy Director in the Public Works Department.

PUBLIC HEARING - CDBG FUNDING

Kelly Coffey, Senior Planner with the High Country Council of Governments began the public hearing at 6:07 p.m. on July 17, 2018 and stated that he would provide an explanation and description of the Fiscal Year 2018-19 North Carolina Department of Environmental Quality (DEQ) Community Development Block – Infrastructure Grant (CDBG-I). Mr. Coffey read the following statement:

We are present to discuss the purpose of the public hearing for the Town of Boone's CDBG-I funding application. The purpose of the public hearing is to obtain citizen's views and to allow response from the public to funding proposals and answer any questions posed by citizens. This public hearing will cover the town's community development needs, development of the proposed activities, and a review of program compliance before the submission of the Town's CDBG-I funding application to the State of North Carolina.

The Town proposes to request funding from NCDEQ'S CDBG-I program for the Deck Hill Water Tank Replacement. The purpose of the CDBG-I grant program is:

- To improve the quality of life for low to moderate income people by providing a safe, clean environment and clean drinking water through water and sewer infrastructure improvements and extensions of service.
- To benefit a residential area where at least 51% of the beneficiaries are low to moderate income as defined by the United States Department of Housing and Urban Development.
- To perform eligible activities.
- To minimize displacement, and
- Provide displacement assistance as necessary.

For the fiscal year of 2018-19 the CDBG-I funding available is expected to be \$21,725,000. The maximum available grant is \$2.0 million over a 3-year period. Applications for funding will be received September 28, 2018.

The CDBG program is able to fund a wide variety of community development activities. The State of North Carolina has chosen to fund two activities: water and sewer infrastructure, and economic development projects that lead to job creation or retention. The infrastructure program, or CDBG-I program can fund a range of water and sewer infrastructure activities, including, but not limited to the, following:

Water:

- Projects that resolve water loss in distribution systems.
- Projects that extend public water to areas with contaminated wells.

- Projects that extend water lines to areas with dry wells.
- Projects that assist with low water pressure in public water systems.
- Projects that regionalize two or more water systems.
- Projects that rehabilitate or replace a water treatment plant.

Wastewater:

- Projects that resolve inflow and infiltration to collection systems and surcharges from pumps stations and manholes.
- Projects that extend public sewer to areas with failed septic tanks.
- Projects that rehabilitate a wastewater treatment plant to allow for greater efficiency/compliance with regulations.

The Town is seeking an amount in CDBG-I funds not to exceed \$2.0 million for the Deck Hill Water Tank Replacement Project. The purpose of the Town's request is to replace, due to its age and deteriorating condition, the existing 500,000 gallon Deck Hill water tank with a new, prestressed concrete tank in order to ensure a reliable water supply for the town.

The project proposed by the Town of Boone was identified in the Town's 2016 Capital Improvement Plan.

A total of 100% of the CDBG- I funding will be used to benefit Low to Moderate Income (LMI) people. The project area in the town of Boone has been determined to have a town-wide LMI percentage of 69.33%. The project area includes the entire town.

The range of activities covered by the CDBG-I funds for the Deck Hill Water Tank Replacement includes:

- Construction.
- Environmental review
- Engineering design
- Construction administration and observation.
- Legal activities.
- Surveying.
- Grant administration.

If the Town of Boone is awarded a CDBG-I grant, the Town is required to adhere to federal procurement requirements and other federal regulations which include:

- American with Disabilities Act/Section 504 Survey
- Davis-Bacon & Related Labor Acts
- Adoption/Submittal of a Citizen's Participation Plan
- Adoption/Submittal of an Equal Opportunity Plan
- Adoption/Submittal of a Fair Housing Plan
- Adoption/Submittal of a Language Access Plan
- Adoption/Submittal of a Relocation Assistance Plan
- Adoption/Submittal of a Section 3 Plan
- Excess Force Provision

The State of North Carolina requires that if the Town of Boone receives CDBG grant funding that the Town will certify that they will comply with the requirements of the general displacement and relocation policy for CDBG grant funding. This policy assists low to moderate income people with costs associated with relocation or displacement, should such relocation become necessary due to the project activities. CDBG funds can be used for those costs, if necessary. However, no displacement and/or relocation will occur as a result of the proposed CDBG grant activity.

In the past, the Town has applied for and received for the following completed CDBG projects:

1988 Junaluska Water & Sewer Improvements

1994 Upper Junaluska Water & Sewer Improvements

1995 Sewer Pump Station on Hwy 421 and Force Main to Landfill Rd
1997 Water & Sewer Extension to Archie Carroll Rd

The Town will submit its CDBG-I application for the Deck Hill Water Tank Replacement Project on September 28, 2018. The CDBG-I application will be available for review during normal business hours at Boone Town Hall, 567 West King Street. Additional information is available from the Town Manager at 828-262-6200. Should you have any complaints or grievances regarding the subject public hearing, they should be addressed to the addressee mentioned above within 10 business days or by August 3, 2018 and a written response to the written complaints and/or grievances will be sent by the Town within 10 business days, where practicable.

We open the floor for comments and questions about the CDBG program, and about the proposed project.

Town Attorney Allison Meade opened the public hearing at 6:14 p.m. for discussion regarding the Town's intent to apply for CDBG grant funding for the replacement of the Deck Hill water tank. There being no comments from the public, Ms. Meade closed the hearing at 6:14 p.m.

PUBLIC COMMENT

REQUESTED APPEARANCES

YVONNE ZIEL AND AMBER MORETZ - RIVERSTONE CONDOMINIUM ASSOCIATION

Yvonne Ziel as representative of the Riverstone Condominium Association spoke to ask that Council consider moving forward with the acceptance of Eli Hartley Road as a Town street and presented them with a petition signed by 38 of the 48 property owners on the road. Phil Vignola as representative of the Riverstone Condominium Association stated that he believed that the property owners at Riverstone should be able to enjoy the same benefits in terms of road maintenance as other tax payers within the Town of Boone, and added that hiring a private snow removal company was costly. Discussion ensued regarding the property at the top of the mountain on Eli Hartley Road behind Riverstone Condos, as well as the property in question being located in the Town's former ETJ. Council Member Furguele expressed that if the Town did assume the maintenance of Eli Hartley Road, that it should be on the condition that the Riverstone Condominium Association not grant easements to anyone beyond the property to help prevent further development at the top of the mountain, stating that he did not want Council to facilitate unzoned development with the potential acceptance of Eli Hartley Road as a Town street. Council Member Furguele proposed that if the Town decided to accept Eli Harley Road as a Town street, that it should be on the agreement of Riverstone Condominiums to transfer less than the full road, retaining a narrow portion at the top of the mountain with the agreement that they would grant an easement to the Town to enter and cross the retained portion. Ms. Ziel stated that the association would be in agreement to this condition. Public Works Director Rick Miller stated that the Town could not accept the donated street until repairs were made to bring it up to standards. Deputy Public Works Director Eric Gustaveson gave a brief history of previous events at which time the association attempted to donate the street to the Town of Boone, stating that the reason that the donation was not accepted in the past was because the curb and guttering on the street was never replaced. He added that the estimated cost to repair the curb and gutter issues on the street was approximately \$35,000, but that there would still be an issue with the acceptance of the donation due to the lack of a turn around spot for snow plows, etc. without getting off public property. Town Attorney Allison Meade suggested Council consider the option of making special assessments to improve roads with the requirement that residents on a particular street come to Council with a petition signed by a majority of the property owners and that the property owners would potentially be responsible for a portion of the cost. Ms. Ziel stated that the POA did not currently have the funds to pay for 50% of the cost of repairs to the road and was concerned about asking residents for additional funds since monthly dues were recently raised to cover the cost of snow plowing. Ms. Ziel added that the cost to keep the road plowed in the winter was approximately \$4,000 a year equaling \$135 per unit and noted that condo ownership was comprised of mostly families and professionals with some students. Council Member Furguele stated that if staff was sure that the acceptance of the easement would prevent the use of the road to facilitate any additional development on the mountain, he would consider accepting the dedication even if the Town had to absorb the costs of the needed

repairs on the road. Mr. Miller cautioned Council on the standard that would be set throughout Town if Council did accept the donation of Eli Hartley Road and noted that while Powell Bill funds could be used for a portion of repairs and maintenance needed on Eli Hartley Road if it was accepted as a Town street, that the budget was tight and using funding for this would take away from another project. Mr. Miller suggested Council table this matter until the POA had a chance to meet. Council Member Furgiuele asked that the Town Attorney research deed restrictions on the property surrounding Eli Hartley Road. Upon a motion by Council Member Furgiuele, seconded by Council Member Ashcraft, Council voted to table this matter to allow for staff to research the questions previously asked.

VOTE: Aye: All
 Nay: None

Council Member Furgiuele then asked that Council reconsider his previous motion to specify that this item be tabled until the September regular Town Council meeting. Council Member Furgiuele made a motion, which was seconded by Council Member Clawson that this item be tabled until the September Town Council meeting.

VOTE: Aye: All
 Nay: None

RESULT:	TABLED [UNANIMOUS]	Next: 9/18/2018 6:00 PM
MOVER:	Sam Furgiuele, Council Member	
SECONDER:	Loretta Clawson, Mayor Pro-Tem	
AYES:	Mason, Clawson, Furgiuele, Ulmer, Ashcraft	

APPROVAL OF ITEMS ON CONSENT AGENDA

Upon a motion by Council Member Clawson, seconded by Council Member Ashcraft, the following items on the Consent Agenda were approved:

1. Minutes of June 4, 2018 Special Town Council Meeting
2. Minutes of June 6, 2018 Special Town Council Meeting
3. Resolution of Appreciation for Eric Gustaveson (see below)
4. Resolution Designating the Town of Boone as a Bee City USA Affiliate (see below)
5. Budget Amendments
 - a. Public Works (Rebates from communication equipment)
 - b. Water Intake Project (USDA debt payment)
 - c. Police Department (Insurance reimbursement for repairs to patrol vehicles)

VOTE: Aye: All
 Nay: None

RESOLUTION OF APPRECIATION

WHEREAS, Eric Gustaveson will retire from the Town of Boone, North Carolina as of August 1, 2018; and,

WHEREAS, he has served the citizens of Boone as Public Works Superintendant and Deputy Public Works Director with great distinction since 1992, and;

WHEREAS, he has always shown great dedication and genuine concern for the citizens of the town, town employees and Town Council; and,

WHEREAS, he has been an honest, loyal and committed public servant to the town.

NOW, THEREFORE, BE IT RESOLVED, that the Town Council of the Town of Boone, North Carolina, hereby expresses their sincere appreciation and gratitude to Eric Gustaveson for his contributions to the Town of Boone.

BE IT FURTHER RESOLVED that the Town Council extends to Eric Gustaveson and his family blessings for good health and best wishes for the future.

Adopted by unanimous vote of the Town Council on the 17th day of July, 2018.

Mayor Rennie Brantz

ATTEST:

Nicole Worley, Town Clerk

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 for 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

COUNCIL MATTERS

CONSIDERATION AND ADOPTION OF POLICY RELATING TO NEW TOWN CONSTRUCTION

Council Member Furgiuele presented a request and a resolution for Council to consider adopting a policy in regards to new Town construction to ensure that any new buildings are designed and constructed to have no negative impact on the climate and to be consistent with the Town's commitment to convert to 100% clean, renewable energy by 2050. Upon a motion by Council Member Furgiuele, seconded by Council Member Ulmer, Council voted to approve the resolution as presented. Town Manager John Ward added that staff had met with potential partners and was working on researching options for the \$100,000 allocated toward solar power projects.

**RESOLUTION TO FACILITATE SUSTAINABILITY AND
COMBAT CLIMATE CHANGE IN TOWN CONSTRUCTION PROJECTS**

WHEREAS, the National Oceanic and Atmospheric Administration has concluded that the five warmest years in the global record have all come in the 2010s, the ten warmest years on record have all come since 1998, and the twenty warmest years on record have all come since 1995¹; and

WHEREAS, as early as the 1850s, scientists began predicting that greenhouse gases from burning fossil fuels would eventually lead to the warming of the Earth's surface²; and

WHEREAS, the current level of carbon dioxide (hereafter, "CO₂") in the atmosphere in March 2018 passed and remained above 400 parts per million³ (hereafter "ppm") for the first time in human history; and

WHEREAS, one of the world's leading climate scientists, Dr. James Hansen, stated in 2008, "If humanity wishes to preserve a planet similar to that on which civilization developed and to which life on Earth is adapted, paleo climate evidence and climate change suggest that CO₂ will need to be reduced from its current 385 ppm to at most 350ppm;⁴" and

WHEREAS, the current international pledges to address the climate crisis, even prior to the United States withdrawing from the Paris Climate Accords and even with full compliance, could still result in levels of 770 ppm CO₂ by 2100, raising the temperature by an estimated 6.3°F, a concentration of CO₂ incompatible with human life as we know it⁵; and

WHEREAS, ninety-seven percent of scientific experts are convinced that human activity is responsible for climate change, and there is a growing consensus among researchers that reducing atmospheric concentrations of CO₂ to 350 ppm or below as soon as possible is needed to avoid risking catastrophic and irreversible climate change⁶; and

WHEREAS, according to the World Health Organization climate change already seriously affects hundreds of millions of people and is responsible for hundreds of thousands of deaths, along with enormous economic losses worldwide⁷; and

¹<http://www.noaa.gov/news/noaa-2017-was-3rd-warmest-year-on-record-for-globe>

²<https://www.smithsonianmag.com/science-nature/lady-scientist-helped-revolutionize-climate-science-didnt-get-credit-180961291/>

³<http://400.350.org/>,
https://climate.nasa.gov/climate_resources/24/graphic-the-relentless-rise-of-carbon-dioxide/

⁴<https://arxiv.org/ftp/arxiv/papers/0804/0804.1126.pdf>

⁵See, e.g., <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4342988/> ,
<https://www.co2.earth/2100-projections>

⁶<https://climate.nasa.gov/scientific-consensus/>, <https://climate.nasa.gov/causes/>

⁷http://apps.who.int/iris/bitstream/handle/10665/43708/9789241595674_eng.pdf;jsessionid=5CD9763A1222B939803D720EDAA6A9CC?sequence=1

WHEREAS, extreme weather events are striking the United States with increased frequency, with deadly consequences for people, wildlife, and plant-life, with many cities hitting record-high temperatures⁸⁹; and

WHEREAS, the Town of Boone, North Carolina, located in one of the most important eco systems in the United States, wishes to be a leader in the fight against climate change; and

WHEREAS, the Boone Town Council has set a goal of carbon neutrality by no later than 2050, but is striving to meet this goal by 2030;

WHEREAS, in the coming decade the Town of Boone expects to undertake new construction projects to house various town departments and functions;

NOW THEREFORE BE IT RESOLVED, that the Town Council of the Town of Boone, North Carolina, adopts a policy that all future building construction undertaken by the town to house its various departments and functions will be designed, constructed and utilized with a goal of carbon neutrality, the avoidance of any and all methane emissions, and with the express expectation that the utilization of such buildings will have a net zero negative impact on the climate.

Adopted this ____ day of _____, 2018.

Rennie Brantz, Mayor

Attested to:

Nicole Worley, Town Clerk
Clerk, Town of Boone, North Carolina

⁸<https://nca2014.globalchange.gov/highlights/report-findings/extreme-weather>

⁹https://www.wataugademocrat.com/news/warmest-year-on-record-for-high-country/article_71de2155-9882-598f-98d6-520b1b626503.html

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

PROPOSED AMENDMENT TO "ROADWAY & SIDEWALK PROGRAM HANDBOOK"

Council Member Furguele proposed an amendment to the Boone "Roadway & Sidewalk Program Handbook" to include standards that call for the use of permeable materials on Town sidewalks, though he stated that staff had expressed reservations with making it a requirement. He also noted that Virginia Tech had developed an analysis of the use of such materials and other locations, such as Portland, Oregon, were mandating their use and added that the handbook should be amended to include a provision that permeable materials be required to be used unless it was deemed unfeasible after an evaluation by an engineer. Deputy Public Works Director Eric Gustaveson noted that from a staff stand-point, issues with permeable materials were maintenance related, especially given the weather conditions in the area and snow removal methods. Council Member Furguele replied that he would be agreeable to the addition of the term "in all instances", but that the Town must take all feasible steps to try to deal with stormwater issues and that since the UDO adopts the standards from the Town's Roadway and Sidewalk Program Handbook as requirements for private developers who must build sidewalks, the Town should require permeable surfaces to the extent feasible. Mr. Gustaveson confirmed that the handbook was currently being revised and Council Member Furguele asked that changes on this matter be incorporated. Council Member Mason stated that Council needed to look at ways that the Town could foster development which would support the better accommodation of storm water without putting down impervious surfaces, adding that small businesses were often negatively impacted by regulations such as this. Council Member Ashcraft noted that the difference in cost for permeable concrete was more significant than for other permeable surfaces and stated he would like staff to look into amending parking lot and driveway standards to use porous asphalt. Council Member Mason asked that staff also gather information on the durability and life duration of the materials. Planning Director Jane Shook reminded Council that the UDO would need to be amended if the changes were to be relevant to all sidewalks in Town. Incentives were briefly discussed, with Council reaching consensus to have staff bring back additional information at the next meeting.

RESULT:	CONSENSUS
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CONSIDERATION OF APPROVAL OF AGREEMENT - REPUBLIC SERVICES

Town Attorney Allison Meade presented a draft contract with Republic Services for solid waste and recycling services. Changes were made to the agreement presented including the following substantial changes:

- Revisions were made to the definition to the word "Recyclables", "Hazardous Waste" and "Applicable Law"
- Rewording in Section 3a - Garbage Collection
- Change to 96 gallon containers
- Removal of the word "district" from Section 3a - Collection
- Change to collection every other week in section 3c - Recyclables
- Changes were made to Section 3c to allow for the provision of notice to the customer if they do not comply with quality standards
- Street Cans were specified as being located in the central business district and the Jones House was added to Section 3c Town of Boone Facilities
- Clarification was made that the contractor would furnish at its expense recycling carts to single and two-family residential customers
- Clarification was made to state that any change in pick-up schedule would be advertised in the local newspaper and on local radio stations
- Revisions were made to Section 3i - Collection Assistance
- Compliance with the Town of Boone Noise Ordinance was added to Section 5 - Legal Conditions

- Deletions were made to Section 13 - Dumpsters
- Notice to Council and reduction of rate of pay to the contractor in the event of cessation of collection of a type of recyclable was added to Section 21 - Changes

It was the consensus of Council that Ms. Meade make the changes discussed and bring the agreement back to Council during the July 19 Council meeting.

Mayor Brantz declared a break at 8:45 p.m. Reconvened at 8:55 p.m.

RESULT:	CONSENSUS
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CHANGE ORDER #5 - HARPER CORPORATION

Deputy Public Works Director Josh Eller presented Change Order #5 from the Harper Corporation. Council Member Furguele stated that he had recently received emails from concerned citizens regarding sand which had leaked from sand bags at the construction site and deposited into the New River and questioned whether the Harper Corporation would remove the sand from the river. Town Manager John Ward stated that he would discuss this matter at the project update meeting on Thursday and report the answer back to Council. Upon a motion by Council Member Mason, seconded by Council Member Furguele, Council voted to approve Change Order #5 from the Harper Corporation in the amount of \$290,355.00.

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

APPROVAL OF FINAL BONDS FOR WATER INTAKE PROJECT

Upon a motion by Council Member Mason, seconded by Council Member Ashcraft, Council voted to approve the Water and Sewer Revenue Bond Anticipation Note and accompanying resolution in the amount of \$7,456,000.

VOTE: Aye: All
 Nay: None

Resolution of the Town Council of the Town of Boone, North Carolina Providing for the Issuance of \$7,456,000 Water and Sewer Revenue Bonds of the Town of Boone, North Carolina

BE IT RESOLVED by the Town Council (the "*Town Council*") of the Town of Boone, North Carolina (the "*Town*") that:

The Town Council has determined and does hereby find and declare as follows:

A bond order authorizing Water and Sewer Revenue Bonds of the Town was adopted by the Town Council on December 15, 2016 (the "*Bond Order*"), which order was effective on approval.

It is necessary to issue \$7,456,000 of Water and Sewer Revenue Bonds, Series 2018 (the "*Bonds*") at this time, the proceeds of which will refinance the Town's \$7,456,000 Water and Sewer Revenue Bond Anticipation Note, maturing on July 26, 2018, the proceeds of which were used to finance certain improvements to the Town's water and sewer system (the "*Project*").

The maximum period of usefulness of the Project to be provided with the proceeds of the Bonds authorized hereby is estimated as a period of 40 years from July 24, 2018, the anticipated date of the Bonds, and such period expires on July 24, 2058.

Pursuant to the Bond Order, the Town will issue a bond in the amount of \$7,456,000, numbered R-1, dated as of the date of delivery thereof, and payable in annual installments on the first day of June in the following years and in the following amounts:

<u>YEAR OF MATURITY</u>	<u>PRINCIPAL AMOUNT</u>	<u>YEAR OF MATURITY</u>	<u>PRINCIPAL AMOUNT</u>
2019	117,000	2039	182,000
2020	120,000	2040	187,000
2021	122,000	2041	191,000
2022	125,000	2042	195,000
2023	128,000	2043	199,000
2024	131,000	2044	204,000
2025	134,000	2045	209,000
2026	137,000	2046	213,000
2027	140,000	2047	218,000
2028	143,000	2048	223,000
2029	146,000	2049	228,000
2030	149,000	2050	233,000
2031	153,000	2051	238,000
2032	156,000	2052	244,000
2033	160,000	2053	249,000
2034	163,000	2054	255,000
2035	167,000	2055	261,000
2036	171,000	2056	266,000
2037	175,000	2057	272,000
2038	178,000	2058	274,000

The Bonds will bear interest on the unpaid part of such principal at a rate of 2.25% per annum until payment thereof, such interest to be payable on June 1, 2019, and annually thereafter on the first day of June of each year until paid.

The Bonds will be sold to the United States of America, United States Department of Agriculture, Rural Development (“USDA”) by private sale in accordance with Sections 7 and 8 hereof. The Bonds may not be defeased without written consent of USDA during such time as USDA remains the registered owner of the Bonds.

The Bonds will bear interest from the date on which they are authenticated.

The principal of and the interest and any redemption premium on the Bonds are payable in any coin or currency of the United States of America which is legal tender for the payment of public and private debts on the respective dates of payment thereof.

The Bond Registrar (as defined in the Bond Order) will pay interest on the Bonds on each interest payment date to the person appearing on the registration books of the Town hereinafter provided for as the registered owner of such Bonds (or the previous Bond or Bonds evidencing the same debt as that evidenced by such Bonds) at the close of business on the record date for such interest, which is the 15th day (whether or not a business day) of the calendar month next preceding such interest payment date. During the time that USDA is the registered owner of the Bonds, payment of the installments of principal and interest when due and payable on the Bonds will be made at the office of such fiscal agent as USDA designates without presentation or surrender thereof and, during any such time as an assignee thereof is the registered owner of the Bonds, payment of the installments of principal when due and payable on the Bonds will be made at the designated trust office of the Trustee (as defined in the Bond Order or a Series Resolution), on the presentation and surrender thereof, and payment of the interest when due and payable on the Bonds will be made by check mailed, or such other method as to which the Town may agree, to such assignee at his address as it appears on the Bond registration books of the Town hereinafter mentioned without the presentation or surrender thereof.

The Bonds may be redeemed, at the option of the Town at any time before the maturity thereof, either in whole or in part, such redemption to be applied in the inverse order of the installments of principal or as otherwise agreed to by the registered owner thereof, from any money that may be made available for such purpose, at the aggregate principal amount of the installments of principal to be redeemed, together with the interest accrued thereon to the date fixed for redemption, but without any premium.

In case of a redemption of all or any part of the Bonds, a notice of redemption will be sent by registered mail, mailed at least 40 days before the date fixed for redemption, addressed (a) during the time that USDA is the owner of the Bonds, to such other address as USDA may designate by registered or certified mail forwarded to the Town at least 50 days before any redemption date, and (b) during any time that an assignee of USDA is the owner of the Bonds, to the address as it appears on the registration book of the Town hereinafter mentioned.

On the date fixed for redemption, notice having been given in the manner and under the conditions hereinabove provided, the Bonds or part thereof called for redemption are due and payable at the redemption price provided therefor, plus accrued interest to such date. If money sufficient to pay the redemption price of the Bonds or part thereof to be redeemed plus accrued interest thereon to the date fixed for redemption is held at such place as USDA may designate (or, if the Bond or Bonds have been assigned by USDA, at the designated trust office of the Trustee under Section 2 hereof) in trust for such purpose, interest on the Bonds or part thereof called for redemption ceases to accrue, such Bond, Bonds or part thereof ceases to be entitled to any benefits or security under the Bond Order or to be deemed outstanding, and the registered owners of such Bond, Bonds or part thereof have no rights in respect thereof except to receive payment of the redemption price thereof, plus accrued interest to the date of redemption.

If an installment of principal of the Bonds is redeemed, the Bond Registrar will direct the registered owner thereof to evidence such redemption by appropriate notation on a schedule to be attached to such Bond for such purpose.

The Bonds, on surrender thereof at the principal office or designated trust office of the Bond Registrar, together with an assignment duly executed by the registered owner or his or her attorney or legal representative in such form as is satisfactory to the Bond Registrar, may, at the option of the registered owner thereof, be exchanged for Bonds having maturities corresponding to the maturities of the installments of principal of such Bonds then unpaid, issuable in fully registered form in the denomination of \$1,000 or any integral multiple thereof, and bearing interest at the same rate.

The transfer of the Bond or Bonds may be registered by the registered owner thereof only on execution of an assignment thereof duly executed by such registered owner or his or her attorney or legal representative. Notice of such assignment will be given promptly by the assignor to the Bond Registrar by registered mail, such notice to be in such form as is satisfactory to the Bond Registrar, and on receipt of such notice, such Bond or Bonds will be registered as to both principal and interest on such registration books in the name of the assignee named in such notice.

The transfer of any bond issued in exchange for the Bond or Bonds as provided above may be registered only on the registration books of the Town on the surrender thereof to the Bond Registrar together with an assignment duly executed by the registered owner or his or her attorney or legal representative in such form as is satisfactory to the Bond Registrar. On any such registration of transfer, the Bond Registrar will authenticate and deliver in exchange for such Bond or Bonds a new bond or bonds, registered in the name of the transferee, of any denomination or denominations authorized by this resolution, in an aggregate principal amount equal to the unredeemed principal amount of such Bond or Bonds so surrendered, of the same maturity and bearing interest at the same rate.

When the Bond or Bonds are exchanged or the transfer of the Bond or Bonds is registered hereunder and a new bond or bonds will be delivered in exchange therefor, the Bond Registrar will authenticate and deliver at the earliest practicable time bonds in accordance with the provisions of this resolution. The Bond Registrar will cancel all Bonds surrendered in any such exchange or registration of transfer. The Bond Registrar is not required to make any such exchange or registration of transfer of (a) any Bond or Bonds during a period beginning at the opening of business fifteen (15) days before the day of the mailing of a notice of redemption of Bonds or any portion thereof and ending at the close of business on the day of such mailing or (b) any Bond or Bonds called for redemption in whole or in part under Section 3 of this resolution.

As to any Bond, the person in whose name it is registered is deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal or redemption price of any such Bond and the interest on any such Bond is to be made only to or on the order of the registered owner thereof or his or her legal representative. All such payments are valid and effectual to satisfy and discharge the liability on such Bond, including the redemption premium, if any, and interest thereon, to the extent of the sum or sums so paid.

The Town will appoint such registrars, transfer agents, depositaries or other agents as may be necessary for the registration, registration of transfer and exchange of Bonds within a reasonable time according to then current commercial standards and for the timely payment of installments of principal and interest with respect to the Bond or Bonds. The Finance Officer of the Town is hereby appointed the registrar, transfer agent and paying agent (the “Bond Registrar”) for the Bonds, subject to the right of the Town Council to appoint another Bond Registrar, and as such will keep at his or her office the books of the Town for the registration, registration of transfer, exchange and payment of the Bonds as provided in this resolution; provided, however, that, if the Bond or Bonds registered in the name of USDA are assigned, the paying agent with respect to such Bond or Bonds will be the Trustee.

The Bonds will bear the manual or facsimile signatures of the Mayor and the Town Clerk of the Town, and the corporate seal or a facsimile of the corporate seal of the Town will be impressed or imprinted, as the case may be, on the Bonds.

The certificate of the Local Government Commission of North Carolina to be endorsed on the Bonds will bear the manual or facsimile signature of the Secretary of said Commission, and the certificate of authentication of the Bond Registrar to be endorsed on the Bonds will be executed as provided hereinafter.

If any officer of the Town or the Local Government Commission of North Carolina whose manual or facsimile signature appears on the Bonds ceases to be such officer before the delivery of such Bonds, such manual or facsimile signature is nevertheless valid and sufficient for purposes the same as if he or she had remained in office until such delivery, and the Bonds may bear the manual or facsimile signatures of such persons as at the actual time of the execution of such Bonds are the proper officers to sign such Bonds although at the date of such Bonds such persons may not have been such officers.

No Bond is valid or obligatory for any purpose or entitled to any benefit or security under this resolution until it has been authenticated by the execution by the Bond Registrar of the certificate of authentication endorsed thereon.

The Bonds and the endorsements thereon will be in substantially the form attached as Exhibit A hereto.

The Town covenants to take such action as may be required in the opinion of nationally recognized bond counsel to cause the Bonds and all actions of the Town with respect to the proceeds thereof to comply with Internal Revenue Code of 1986, as amended (the “Code”). In particular, the Town covenants as follows:

At least one of the following two conditions will be satisfied: (i) less than 10% of the proceeds of the Bonds reduced by costs of issuance will be used directly or indirectly in the business of a person other than a state or local governmental unit or (ii) less than 10% of the principal or interest on the Bonds will be (under the terms of such issue or any underlying arrangement) directly or indirectly (A) secured by an interest in property used or to be used in a private business or by any interest in payments made with respect to such property or (B) derived from payments made with respect to property, or borrowed money, used or to be used in a private business;

Less than 5% of the proceeds of the Bonds reduced by costs of issuance will be used by nongovernmental persons for a use unrelated to the purposes for which the Bonds will be issued;

It will not loan directly or indirectly more than 5% of the Bond proceeds to nongovernmental persons;

It has not and will not enter into any management contract with respect to the facilities financed with the proceeds of the Bonds unless it obtains an opinion of nationally recognized bond counsel that such management contract will not impair the exclusion from a recipient’s gross income for federal income tax purposes of the interest on the Bond;

The Town acknowledges that the continued exclusion of interest on the Bonds from a recipient’s gross income for federal income tax purposes depends, in part, upon compliance with the arbitrage limitations imposed by Section 148 of the Code. The Town covenants to comply with all the requirements of Section 148 of the Code, including the rebate requirements, and it will not permit at any time any of the proceeds of the Bonds to be used, directly or indirectly, to acquire any asset or obligation, the acquisition of which would cause the Bonds to be “arbitrage bonds” for purposes of Section 148 of the Code;

The Bonds are not and will not be “federally guaranteed” as defined in Section 149(b) of the Code;

The Town covenants to file or cause to be filed Form 8038-G in accordance with Section 149(e) of the Code.

The Local Government Commission of North Carolina is hereby requested to sell the Bonds at private sale pursuant to G.S. 159-123 to USDA, subject to the approval of the Mayor of the Town; provided, however, that the purchase price of the Bonds is at least \$7,456,000 plus 100% of accrued interest, if any, and that the maximum interest rate does not exceed 2.25% per annum.

The Mayor is hereby authorized to approve the purchase price of the Bonds and the rate of interest on the Bonds in connection with the private sale of the Bonds, subject to the provisions of Section 7 of this resolution.

This resolution may be amended or supplemented, from time to time, without the consent of the holder of the Bonds if in the opinion of nationally recognized bond counsel, such amendment or supplement would not adversely affect the interests of the registered owners of the Bonds and would not cause the interest on the Bonds to be included in the gross income of a recipient thereof for federal income tax purposes. This resolution may be amended or supplemented with the consent of the registered owners of a majority in aggregate principal amount of the outstanding Bonds, but a modification or amendment may not, without the express consent of any registered owner of Bonds affected, reduce the principal amount of any Bonds, reduce the interest rate payable on it, extend its maturity or the times for paying interest, change the monetary medium in which principal and interest is payable, or reduce the percentage of consent required for amendment or modification.

Any act done pursuant to a modification or amendment consented to by the registered owners of the Bonds is binding on all holders of the Bonds and will not be deemed an infringement of any of the provisions of this resolution, whatever the character of the act may be, and may be done and performed as fully and freely as if expressly permitted by the terms of this resolution, and after consent has been given, no registered owner of the Bonds has any right or interest to object to the action, to question its propriety or to enjoin or restrain the Town from taking any action pursuant to a modification or amendment.

If the Town proposes an amendment or supplemental resolution to this resolution requiring the consent of the registered owners of the Bonds, the Town will cause notice of the proposed amendment to be sent to each registered owner by first-class mail, postage prepaid, to the address of such registered owner as it appears on the registration books; but the failure to receive such notice by mail by any registered owner, or any defect in the mailing thereof, will not affect the validity of any proceedings pursuant hereto. Such notice will briefly set forth the nature of the proposed amendment and will state that copies thereof are on file in the Town Clerk's office for inspection by the registered owners. If, within 60 days or such longer period as is prescribed by the Town following the giving of such notice, the registered owners of a majority in aggregate principal amount of the Bonds then outstanding have consented to the proposed amendment, the amendment will be effective as of the date stated in the notice.

This resolution is effective on its passage.

READ, APPROVED AND ADOPTED this 17th day of July, 2018.

* * * * *

EXHIBIT A REGISTERED BOND WITHOUT COUPONS

(Registered as to both principal and interest)

United States of America	North Carolina	
State of	Boone, North Carolina	
Town of		
Water and Sewer Revenue Bond, Series 2018		

No. R-1 **\$7,456,000**

The Town of Boone, North Carolina (the "Town"), a municipal corporation duly organized under the laws of the State of North Carolina, is justly indebted and for value received hereby promises to pay to the

United States Of America

United States Department Of Agriculture, Rural Development

or its registered assigns, the principal sum of

Seven Million Four Hundred Fifty-Six Thousand Dollars

Section 1. in annual installments on the 1st day of June in the following years and amounts:

<u>YEAR OF MATURITY</u>	<u>PRINCIPAL AMOUNT</u>	<u>YEAR OF MATURITY</u>	<u>PRINCIPAL AMOUNT</u>
2019	117,000	2039	182,000
2020	120,000	2040	187,000
2021	122,000	2041	191,000
2022	125,000	2042	195,000
2023	128,000	2043	199,000
2024	131,000	2044	204,000

<u>YEAR OF MATURITY</u>	<u>PRINCIPAL AMOUNT</u>	<u>YEAR OF MATURITY</u>	<u>PRINCIPAL AMOUNT</u>
2025	134,000	2045	209,000
2026	137,000	2046	213,000
2027	140,000	2047	218,000
2028	143,000	2048	223,000
2029	146,000	2049	228,000
2030	149,000	2050	233,000
2031	153,000	2051	238,000
2032	156,000	2052	244,000
2033	160,000	2053	249,000
2034	163,000	2054	255,000
2035	167,000	2055	261,000
2036	171,000	2056	266,000
2037	175,000	2057	272,000
2038	178,000	2058	274,000

and to pay interest from the date hereof on the unpaid part of such principal sum at the rate of 2.25% per annum until payment thereof, such interest to be payable on June 1, 2019, and annually thereafter on the first day of June of each year until paid. The interest so payable on any such interest payment date will be paid to the person in whose name this Bond is registered at the close of business on the record date for such interest, which will be the 15th day (whether or not a business day) of the calendar month next preceding such interest payment date. Both the principal of and the interest on this Bond are payable in any coin or currency of the United States of America which, at the respective date of payment thereof, is legal tender for the payment of public and private debts.

During the time that the United States of America, United States Department of Agriculture, Rural Development is the registered owner of this Bond, payment of the installments of principal and interest when due and payable on this Bond will be made at the office of such fiscal agent as the United States of America designates without presentation or surrender hereof and, during any such time as an assignee hereof is the registered owner of this Bond, payment of the installments of principal when due and payable on this Bond will be made at the designated trust office of the Trustee (as defined in the Bond Order defined herein or a series resolution), on the presentation and surrender hereof, and payment of the interest when due and payable on this Bond will be made by check mailed to such assignee at his address as it appears on the Bond registration books of the Town hereinafter mentioned without the presentation or surrender hereof. On receipt of said payments of principal and interest, written acknowledgment of the receipt thereof will be given promptly to the Bond Registrar hereinafter mentioned, and the Town will be fully discharged of its obligation on this Bond to the extent of the payment so made. On final payment, this Bond must be surrendered to the Bond Registrar for cancellation.

This Bond is issued pursuant to and in accordance with Article 5 and Article 9 of Chapter 159 of the General Statutes of North Carolina, both as amended, a bond order (the "*Bond Order*") adopted by the Town of Boone, North Carolina (the "*Town*") on December 15, 2016 and effective thereon and a resolution adopted by the Town on July 17, 2018 (the "*Bond Resolution*"). The proceeds of this Bond are to be used to refinance obligations, the proceeds of which were used to pay a portion of the cost of the certain improvements to the water and sewer system (the "*Project*").

The Bond is a special obligation of the Town payable solely from the Net Revenues (as defined in the Bond Order) of the Town's Water and Sewer System and from the proceeds of the Water and Sewer Revenue Bonds of the Town. NEITHER THE CREDIT NOR THE TAXING POWER OF THE TOWN IS PLEDGED FOR THE PAYMENT OF THIS BOND AND NO HOLDER OF THIS BOND HAS THE RIGHT TO COMPEL EXERCISE OF THE TAXING POWER BY THE TOWN OR THE FORFEITURE OF ANY OF THE TOWN'S PROPERTY IN CONNECTION WITH ANY DEFAULT HEREON. Reference is hereby made to the Bond Order and the Bond Resolution and to all amendments and supplements thereto for a description of the provisions, among other, respecting the nature and extent of the security, the

rights, duties and obligations of the Town, the rights of the holder of this Bond and the terms on which this Bond is issued and secured.

At the office of the Bond Registrar, in the manner and subject to the conditions provided in the Bond Resolution, this Bond may be exchanged for an equal aggregate principal amount of Bonds having maturities corresponding to the maturities of the installments of principal of this Bond then unpaid, issuable in fully registered form in the denomination of \$1,000 or any integral multiple thereof and bearing interest at the same rate.

This Bond is registered as to both principal and interest in the name of the United States of America, United States Department of Agriculture, Rural Development on books of the Town kept by the Finance Officer, as Bond Registrar, and the transfer hereof may hereafter be registered by the registered owner hereof only on execution of an assignment hereon duly executed by such registered owner or his or her attorney or legal representative. Notice of such assignment is to be given promptly by the assignor to the Bond Registrar by registered mail, such notice to be in such form as is satisfactory to the Bond Registrar, and on receipt of such notice this Bond is to be registered as to both principal and interest on such registration books in the name of the assignee named in such notice.

This Bond may be redeemed, at the option of the Town at any time before the maturity thereof, either in whole or in part, such redemption to be applied in the inverse order of the installments of principal or as otherwise agreed to by the registered owner thereof, from any money that may be made available for such purpose, at the aggregate principal amount of the installments of principal to be redeemed, together with the interest accrued thereon to the date fixed for redemption, but without any premium.

On the date designated for redemption, notice having been given and money for payment of the redemption price being held in trust for such purposes, all as provided in the Bond Resolution, this Bond or part hereof becomes due and payable, and the interest on this Bond or part hereof so redeemed ceases to accrue.

The Bond Registrar will not be required to exchange or register any transfer of (a) any Bond during a period beginning at the opening of business 15 days before the day of the mailing of a notice of redemption of Bonds or any portion thereof and ending at the close of business on the day of such mailing or (b) any Bond called for redemption in whole or in part pursuant to the Bond Resolution.

It is hereby certified and recited that all acts, conditions and things required by the Constitution and laws of the State of North Carolina to happen, exist and be performed precedent to and in the issuance of this Bond have happened, exist and have been performed in regular and due form and time as so required, and that the total indebtedness of said Town, including this Bond, does not exceed any constitutional or statutory limitation thereon.

IN WITNESS WHEREOF, the Town of Boone, North Carolina has caused this Bond to bear the original or facsimile of the signatures of the Mayor of the Town and the Town Clerk and an original or facsimile of the seal of the Town to be imprinted hereon.

(SEAL)

Mayor

Town Clerk

Date of Execution: July 24, 2018

Upon a motion by Council Member Mason, seconded by Council Member Ulmer, Council voted to approve the General Obligation Water System Bond Anticipation Notes and the accompanying resolution in the amount of \$25,000,000.

VOTE: Aye: All
 Nay: None

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BOONE, NORTH CAROLINA PROVIDING FOR THE ISSUANCE OF \$25,000,000 GENERAL OBLIGATION WATER SYSTEM BONDS OF THE TOWN OF BOONE, NORTH CAROLINA BE IT RESOLVED by the Town Council (the "Town Council") of the Town of Boone, North Carolina (the "Town") that: Section 1. The Town Council has determined and does hereby find and declare as follows: (a) A bond order authorizing \$25,000,000 General Obligation Water System Bonds of the Town was adopted by the Town Council on August 21, 2008 (the "Original Bond Order"), which bond order became effective on its approval by the vote of a majority of the qualified voters of the Town who voted thereon at a referendum duly called and held on November 4, 2008. (b) The Town Council subsequently filed with the Secretary of the Local Government Commission of North Carolina (the "LGC") an application requesting an extension of the maximum time period for issuing bonds under the Original Bond Order from seven to ten years after November 4, 2008 in accordance with North Carolina Gen. Stat. §159-64, and such application was duly approved by the LGC on October 7, 2014. (c) There is outstanding \$25,000,000 General Obligation Water System Bond Anticipation Notes (the "Notes"), dated October 26, 2017, maturing July 26, 2018, and bearing interest at the rate of 2.00% per annum, which notes were issued in anticipation of the receipt of the proceeds of the sale of a like amount of bonds. (d) It is necessary to issue at this time general obligation water system bonds of the Town in an aggregate principal amount of \$25,000,000, in multiple series, as designated and described in Section 2 herein (collectively, the "Bonds"), the proceeds of which will be applied to the payment of the outstanding Notes at their maturity. (e) The maximum period of usefulness of the water system to be provided with the proceeds of the Bonds authorized hereby is estimated as a period of 40 years from July 24, 2018, the anticipated date of the Bonds, and such period expires on July 24, 2058. Section 2. (a) Pursuant to said order, there will be issued one bond of the Town in the principal amount of \$9,000,000, numbered RA-1, designated "General Obligation Water System Bond, Series 2018A" dated as of the date of delivery thereof, and payable in annual installments on the first day of June in the following years and in the following amounts: YEAR OF MATURITY PRINCIPAL AMOUNT YEAR OF MATURITY PRINCIPAL AMOUNT 2019 \$119,000 2039 \$215,000 2020 120,000 2040 222,000 2021 123,000 2041 228,000 2022 127,000 2042 236,000 2023 131,000 2043 243,000 2024 135,000 2044 251,000 2025 140,000 2045 258,000 3 PPAB 4302255v2 YEAR OF MATURITY PRINCIPAL AMOUNT YEAR OF MATUR 4 PPAB 4302255v2 and bearing interest on the unpaid part of such principal at a rate of 3.125% per annum until payment thereof, such interest to be payable on June 1, 2019, and annually thereafter on the first day of June of each year until paid. (c) Pursuant to said order, there will be issued one bond of the Town in the principal amount of \$3,456,000, numbered RC-1, designated "General Obligation Water System Bond, Series 2018C" dated as of the date of delivery thereof, and payable in annual installments on the first day of June in the following years and in the following amounts: YEAR OF MATURITY PRINCIPAL AMOUNT YEAR OF MATURITY PRINCIPAL AMOUNT 2019 \$46,000 2039 \$83,000 2020 46,000 2040 85,000 2021 47,000 2041 88,000 2022 49,000 2042 91,000 2023 50,000 2043 93,000 2024 52,000 2044 96,000 2025 54,000 2045 99,000 2026 55,000 2046 102,000 2027 57,000 2047 106,000 2028 59,000 2048 109,000 2029 61,000 2049 112,000 2030 63,000 2050 116,000 2031 65,000 2051 119,000 2032 67,000 2052 123,000 2033 69,000

2053 127,000 2034 71,000 2054 131,000 2035 73,000 2055 135,000 2036 75,000 2056 139,000 2037 78,000 2057 144,000 2038 80,000 2058 141,000 and bearing interest on the unpaid part of such principal at a rate of 3.125% per annum until payment thereof, such interest to be payable on June 1, 2019, and annually thereafter on the first day of June of each year until paid. (d) Pursuant to said order, there will be issued one bond of the Town in the principal amount of \$4,544,000, numbered RD-1, designated "General Obligation Water System Bond, Series 2018D" dated as of the date of delivery thereof, and payable in annual installments on the first day of June in the following years and in the following amounts: YEAR OF MATURITY PRINCIPAL AMOUNT YEAR OF MATURITY PRINCIPAL AMOUNT 2019 73,000 2039 111,000 2020 73,000 2040 114,000 2021 75,000 2041 116,000 2022 76,000 2042 119,000 2023 78,000 2043 122,000 2024 80,000 2044 124,000 5 PPAB 4302255v2 YEAR OF MATURITY PRINCIPAL AMOUNT YEAR OF MATURITY PRINCIPAL AMOUNT 2025 81,000 2045 127,000 2026 83,000 2046 130,000 2027 85,000 2047 133,000 2028 87,000 2048 136,000 2029 89,000 2049 139,000 2030 91,000 2050 142,000 2031 93,000 2051 145,000 2032 95,000 2052 149,000 2033 97,000 2053 152,000 2034 99,000 2054 155,000 2035 102,000 2055 159,000 2036 104,000 2056 162,000 2037 106,000 2057 166,000 2038 109,000 2058 167,000 and bearing interest on the unpaid part of such principal at a rate of 2.25% per annum until payment thereof, such interest to be payable on June 1, 2019, and annually thereafter on the first day of June of each year until paid. The Bonds will be sold to the United States of America, United States Department of Agriculture, Rural Development ("USDA") by private sale in accordance with Sections 7 and 8 hereof. The Bonds may not be defeased without written consent of USDA during such time as USDA remains the registered owner of the Bonds. The Bonds will bear interest from the date on which they are authenticated. The principal of and the interest and any redemption premium on the Bonds are payable in any coin or currency of the United States of America which is legal tender for the payment of public and private debts on the respective dates of payment thereof. The Town will pay interest on the Bonds on each interest payment date to the person appearing on the registration books of the Town hereinafter provided for as the registered owner of such Bonds (or the previous Bond or Bonds evidencing the same debt as that evidenced by such Bonds) at the close of business on the record date for such interest, which is the 15th day (whether or not a business day) of the calendar month next preceding such interest payment date. During the time that USDA is the registered owner of the Bonds, payment of the installments of principal and interest when due and payable on the Bonds will be made at the office of such fiscal agent as USDA designates without presentation or surrender thereof and, during any such time as an assignee thereof is the registered owner of the Bonds, payment of the installments of principal when due and payable on the Bonds will be made on the presentation and surrender thereof, and payment of the interest when due and payable on the Bonds will be made by check mailed, or such other method as to which the Town may agree, to such assignee at his address as it appears on the Bond registration books of the Town hereinafter mentioned without the presentation or surrender thereof. Section 3. The Bonds may be redeemed, at the option of the Town at any time before the maturity thereof, either in whole or in part, such redemption to be applied in the inverse order of the installments of principal or as otherwise agreed to by the registered owner thereof, from any money that may be made available for such purpose, at the aggregate principal amount of the installments of principal 6 PPAB 4302255v2 to be redeemed, together with the interest accrued thereon to the date fixed for redemption, but without any premium. In case of a redemption of all or any part of the Bonds, a notice of redemption will be sent by registered mail, mailed at least 40 days before the date fixed for redemption, addressed (a) during the time that USDA is the owner of the Bonds, to such other address as USDA may designate by registered or certified mail forwarded to the Town at least 50 days before any redemption date, and (b) during any time that an assignee of USDA is the owner of the Bonds, to the address as it appears on the registration book of the Town hereinafter mentioned. On the date fixed for redemption, notice having been given in the manner and under the conditions hereinabove provided, the Bonds or part thereof called for redemption are due and payable at the redemption price provided therefor, plus accrued interest to such date. If money sufficient to pay the redemption price of the Bonds or part thereof to be redeemed plus accrued interest thereon to the date fixed for redemption is held at such place as USDA may designate (or, if the Bond or Bonds have been assigned by USDA, by the Town) in trust for such purpose, interest on the Bonds or part thereof called for redemption ceases to accrue, such Bond, Bonds or part thereof ceases to be entitled to any benefits or security under this resolution or to be deemed outstanding, and the registered owners of such Bond, Bonds or part thereof will have no rights in respect thereof except to receive payment of the redemption price thereof, plus accrued interest to the date of redemption. If an installment of principal of the Bonds is redeemed, the Bond Registrar will direct the registered owner thereof to evidence such redemption by appropriate notation on a schedule to be attached to such Bonds for such purpose. Section 4. The Bonds, on surrender thereof at the principal office or designated trust office of the Bond Registrar, together with an assignment duly executed by the registered owner or his or

her attorney or legal representative in such form as is satisfactory to the Bond Registrar, may, at the option of the registered owner thereof, be exchanged for Bonds having maturities corresponding to the maturities of the installments of principal of such Bonds then unpaid issuable in fully registered form in the denomination of \$1,000 or any integral multiple thereof, and bearing interest at the same rate. The transfer of the Bond or Bonds may be registered by the registered owner thereof only on execution of an assignment thereof duly executed by such registered owner or his or her attorney or legal representative. Notice of such assignment will be given promptly by the assignor to the Bond Registrar by registered mail, such notice to be in such form as is satisfactory to the Bond Registrar, and on receipt of such notice, such Bond or Bonds will be registered as to both principal and interest on such registration books in the name of the assignee named in such notice. The transfer of any bond issued in exchange for the Bond or Bonds as provided above may be registered only on the registration books of the Town on the surrender thereof to the Bond Registrar together with an assignment duly executed by the registered owner or his or her attorney or legal representative in such form as is satisfactory to the Bond Registrar. On any such registration of transfer, the Bond Registrar will authenticate and deliver in exchange for such Bond or Bonds a new bond or bonds, registered in the name of the transferee, of any denomination or denominations authorized by this resolution, in an aggregate principal amount equal to the unredeemed principal amount of such Bond or Bonds so surrendered, of the same maturity and bearing interest at the same rate. When the Bond or Bonds are exchanged or the transfer of the Bond or Bonds is registered hereunder and a new bond or bonds will be delivered in exchange therefor, the Bond Registrar will authenticate and deliver at the earliest practicable time bonds in accordance with the provisions of this 7 PPAB 4302255v2 resolution. The Bond Registrar will cancel all Bonds surrendered in any such exchange or registration of transfer. The Bond Registrar is not required to make any such exchange or registration of transfer of (a) any Bond or Bonds during a period beginning at the opening of business fifteen (15) days before the day of the mailing of a notice of redemption of Bonds or any portion thereof and ending at the close of business on the day of such mailing or (b) any Bond or Bonds called for redemption in whole or in part under Section 3 of this resolution. As to any Bond, the person in whose name it is registered is deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal or redemption price of any such Bond and the interest on any such Bond will be made only to or on the order of the registered owner thereof or his or her legal representative. All such payments are valid and effectual to satisfy and discharge the liability on such Bond, including the redemption premium, if any, and interest thereon, to the extent of the sum or sums so paid. The Town will appoint such registrars, transfer agents, depositaries or other agents as may be necessary for the registration, registration of transfer and exchange of Bonds within a reasonable time according to then current commercial standards and for the timely payment of installments of principal and interest with respect to the Bond or Bonds. The Finance Officer of the Town is hereby appointed the registrar, transfer agent and paying agent (the "Bond Registrar") for the Bonds, subject to the right of the Town Council to appoint another Bond Registrar, and as such will keep at his or her office the books of the Town for the registration, registration of transfer, exchange and payment of the Bonds as provided in this resolution. Section 5. The Bonds will bear the manual or facsimile signatures of the Mayor and the Town Clerk of the Town, and the corporate seal or a facsimile of the corporate seal of the Town will be impressed or imprinted, as the case may be, on the Bonds. The certificate of the Local Government Commission of North Carolina to be endorsed on the Bonds will bear the manual or facsimile signature of the Secretary of said Commission, and the certificate of authentication of the Bond Registrar to be endorsed on the Bonds will be executed as provided hereinafter. If any officer of the Town or the Local Government Commission of North Carolina whose manual or facsimile signature appears on the Bonds ceases to be such officer before the delivery of such Bonds, such manual or facsimile signature is nevertheless valid and sufficient for purposes the same as if he or she had remained in office until such delivery, and the Bonds may bear the manual or facsimile signatures of such persons as at the actual time of the execution of such Bonds are the proper officers to sign such Bonds although at the date of such Bonds such persons may not have been such officers. No Bond is valid or obligatory for any purpose or entitled to any benefit or security under this resolution until it has been authenticated by the execution by the Bond Registrar of the certificate of authentication endorsed thereon. The Bonds and the endorsements thereon will be in substantially the form attached as Exhibits A, B, C and D hereto. Section 6. The Town covenants to take such action as may be required in the opinion of nationally recognized bond counsel to cause the Bonds and all actions of the Town with respect to the proceeds thereof to comply with Internal Revenue Code of 1986, as amended (the "Code"). In particular, the Town covenants as follows: 8 PPAB 4302255v2 (a) At least one of the following two conditions will be satisfied: (i) less than 10% of the proceeds of the Bonds reduced by costs of issuance will be used directly or indirectly in the business of a person other than a state or local governmental unit or (ii) less than 10% of the principal or interest on the Bonds will be (under the terms of such issue or any underlying

arrangement) directly or indirectly (A) secured by an interest in property used or to be used in a private business or by any interest in payments made with respect to such property or (B) derived from payments made with respect to property, or borrowed money, used or to be used in a private business; (b) Less than 5% of the proceeds of the Bonds reduced by costs of issuance will be used by nongovernmental persons for a use unrelated to the purposes for which the Bonds will be issued; (c) It will not loan directly or indirectly more than 5% of the Bond proceeds to nongovernmental persons; (d) It has not and will not enter into any management contract with respect to the facilities financed with the proceeds of the Bonds unless it obtains an opinion of nationally recognized bond counsel that such management contract will not impair the exclusion from a recipient's gross income for federal income tax purposes of the interest on the Bond; (e) The Town acknowledges that the continued exclusion of interest on the Bonds from a recipient's gross income for federal income tax purposes depends, in part, upon compliance with the arbitrage limitations imposed by Section 148 of the Code. The Town covenants to comply with all the requirements of Section 148 of the Code, including the rebate requirements, and it will not permit at any time any of the proceeds of the Bonds to be used, directly or indirectly, to acquire any asset or obligation, the acquisition of which would cause the Bonds to be "arbitrage bonds" for purposes of Section 148 of the Code; (f) The Bonds are not and will not be "federally guaranteed" as defined in Section 149(b) of the Code; (g) The Town covenants to file or cause to be filed Form 8038-G in accordance with Section 149(e) of the Code. Section 7. The Local Government Commission of North Carolina is hereby requested to sell the Bonds at private sale pursuant to G.S. 159-123 to USDA, subject to the approval of the Mayor of the Town; provided, however, that the aggregate purchase price of the Bonds is at least \$25,000,000 plus 100% of accrued interest, if any, and that the maximum interest rate does not exceed (a) 3.125% per annum with respect to General Obligation Water System Bond, Series 2018A, (b) 3.125% per annum with respect to General Obligation Water System Bond, Series 2018B, (c) 3.125% per annum with respect to General Obligation Water System Bond, Series 2018C and (d) 2.25% per annum with respect to General Obligation Water System Bond, Series 2018D. Section 8. The Mayor is hereby authorized to approve the purchase price of the Bonds and the rates of interest on the Bonds in connection with the private sale of the Bonds, subject to the provisions of Section 7 of this resolution. Section 9. This resolution may be amended or supplemented, from time to time, without the consent of the holder of the Bonds if in the opinion of nationally recognized bond counsel, such amendment or supplement would not adversely affect the interests of the registered owners of the Bonds 9 PPAB 4302255v2 and would not cause the interest on the Bonds to be included in the gross income of a recipient thereof for federal income tax purposes. This resolution may be amended or supplemented with the consent of the registered owners of a majority in aggregate principal amount of the outstanding Bonds, but a modification or amendment may not, without the express consent of any registered owner of Bonds affected, reduce the principal amount of any Bonds, reduce the interest rate payable on it, extend its maturity or the times for paying interest, change the monetary medium in which principal and interest is payable, or reduce the percentage of consent required for amendment or modification. Any act done pursuant to a modification or amendment consented to by the registered owners of the Bonds is binding on all holders of the Bonds and will not be deemed an infringement of any of the provisions of this resolution, whatever the character of the act may be, and may be done and performed as fully and freely as if expressly permitted by the terms of this resolution, and after consent has been given, no registered owner of the Bonds has any right or interest to object to the action, to question its propriety or to enjoin or restrain the Town from taking any action pursuant to a modification or amendment. If the Town proposes an amendment or supplemental resolution to this resolution requiring the consent of the registered owners of the Bonds, the Town will cause notice of the proposed amendment to be sent to each registered owner by first-class mail, postage prepaid, to the address of such registered owner as it appears on the registration books; but the failure to receive such notice by mail by any registered owner, or any defect in the mailing thereof, will not affect the validity of any proceedings pursuant hereto. Such notice will briefly set forth the nature of the proposed amendment and will state that copies thereof are on file in the Town Clerk's office for inspection by the registered owners. If, within 60 days or such longer period as prescribed by the Town following the giving of such notice, the registered owners of a majority in aggregate principal amount of the Bonds then outstanding have consented to the proposed amendment, the amendment will be effective as of the date stated in the notice. Section 10. This resolution is effective on its passage. READ, APPROVED AND ADOPTED this 17th day of July, 2018.

APPROVAL OF COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM RESOLUTION

Deputy Public Works Director Josh Eller presented the resolution of support for the Community Development

Block Grant Program for the replacement of the water tank on Deck Hill Road and stated that the Town may be responsible for overage in the approximate amount of \$285,000 which would need to be budgeted at a future time. Upon a motion by Council Member Furguele, seconded by Council Member Clawson, Council voted to approve the resolution of support to apply for CDBG funding for the replacement of the water tank on Deck Hill Road.

RESOLUTION BY THE BOONE TOWN COUNCIL

WHEREAS, Title I of the Federal Housing and Community Development Act of 1974, as amended, has established the U.S. Housing and Urban Development (HUD) Community Development Block Grant (CDBG) Program, and has authorized the making of grants to aid eligible units of government in funding the cost of construction, replacement, or rehabilitation of water and wastewater infrastructure, and that the North Carolina Department of Environmental Wuality (NCDEQ) Division of Water Infrastructure (DWI) was delegated the authority by the state ligistlature to administer the water and wastewater infrastructure portion of the state grant monies received from the U.S. HUD CDBG program by Session Law 2013-360, Section 15.15(a) as amended by Section 5.3 of Session Law 2013-363, and

WHEREAS, The Town of Boone has need for and intends to construct a water storage tank, and

WHEREAS, The Town of Boone intends to request state grant assistance for the project,

NOW THEREFORE BE IT RESOLVED, BY THE TOWN COUNCIL OF THE TOWN OF BOONE:

That the Town of Boone, the Applicant, will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system.

That the Applicant will provide for efficient operation and maintenance of the project on completion of construction thereof.

That Rennie Brantz, Mayor of the Town of Boone, the Authorized Officiel, and successors so titled, is hereby authorized to execute and file an application on behalf of the Applicant with the State of North Carolina for a grant to aid in the construction of the project described above.

That the Authorized Official, and successors so titled is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project; to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the Applicant has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the 17th day of July, 2018 in Boone, North Carolina.

(Signature of Chief Executive Officer)

(Title)

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

WATER AND SEWER RATE STUDY

Deputy Public Works Director Josh Eller presented the water and sewer rate study prepared by Raftelis Financial Consultants. Rate increases were briefly discussed, with Mr. Eller noting that the study recommended a rate increase in the FY 2019/20 budget. In response to questions raised by Council Member Furgiuele, Town Attorney Allison Meade replied that the State had adopted the rate schedule and that it was utilized by other communities in the State for estimating their projected water needs for various types of development. A copy of the study may be viewed online at <http://boonenc.iqm2.com/Citizens/Default.aspx>

CONSIDERATION OF CHANGES TO §113 OF CHAPTER 50 SYSTEM DEVELOPMENT FEES

Town Attorney Allison Meade presented Council with changes to Section 113 of Chapter 50 of the Town Code which were a result of recent changes in state legislature. Upon a motion by Council Member Furgiuele, seconded by Council Member Clawson, Council voted to approve the changes presented. Council Member Mason added that although staff did not receive comments from the public on the topic of System Development Fees during the recent public comment period, this change has been a big hit to small businesses and is creating difficult situations.

§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 at the later of either at (1) the time of plat recordation, or (2) 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 earlier of (1) the time of application for connection of the individual unit of development to the service or facilities, or (2) when water or sewer service is committed by the Town.

For purposes of this section, water and/or sewer service shall be deemed committed by the Town as such time as the Public Works department has approved the connection and building permit(s) for the development are issued. ~~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 such may be 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.

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

REQUEST FOR APPROVAL TO SEEK FUNDING FROM USDA FOR HOWARD STREET IMPROVEMENT PROJECT

Town Manager John Ward requested Council's approval to seek funding from the USDA for grant assistance on the Howard Street project as well as direction on the placement of utilities. He stated that he had briefed the USDA on the project, and that the grant application needed to be submitted before October 2018. Mr. Ward added that the payment for this debt would come from the approximately \$400,000 that was gathered from the hotel/motel tax in conjunction with the Tourism Development Authority. Discussion ensued regarding the incorporation of water and sewer improvements in the project, and with Mr. Ward noting that the project design was consistent with the newly updated MSD streetscape plan. Council Member Furguele stated that he would support borrowing funds to help with the Howard Street project only if members could be assured that the

current TDA could bind future TDA boards to direct the committed funds to retire the debt until the loan was paid off. He also stated that he believed financing from the TDA was an important factor, and that the Town should move forward with the Howard Street project. Council Member Mason expressed that she believed it was important to move ahead with Howard Street improvements. Discussion ensued regarding placing all utilities underground at an estimated cost of \$2,000,000, with members supporting that approach if it were paid for in advance and the TDA would be held to direct the repayment to the Town. Council Member Clawson expressed concern with the Town attempting to take on every project, but stated that if other Council Members were comfortable moving forward then she would support their efforts. Council Member Ulmer stated that the Howard Street project has been ongoing for years and that the Town should move forward with the full Howard Street project plan. It was the consensus of Council to direct the Town Attorney to investigate whether future TDA boards could be bound by the current TDA board to direct funding to the project until the loan was paid in full.

RESULT: CONSENSUS

CONSIDERATION OF 10-YEAR MSD STREETSCAPE PLAN

Town Manager John Ward presented to Council for their input a newly drafted 10-year Streetscape Plan for the Municipal Service District. He noted the approximately 82,000 square feet of sidewalks in the area that needed improvements as well as the opportunity for a hybrid method of execution of the plan that could accelerate implementation. Mr. Ward expressed his desire to work with the contractors at the PNC Bank building for their assistance in supplementing what Town staff was currently working on. Council Member Mason stated that she would like to see goals created yearly so that businesses could anticipate improvements in their area. Council Member Furgiuele clarified that he was in favor of working toward a schedule for improvements to different sections of the MSD, but that he was not opposed to parts of the plan extending past the 10-year time frame if there were cost savings involved. He stated that he was pleased with the concept presented and that he was not opposed to increase the MSD tax in the future and added that he hoped that staff would look into a diversity of trees, but that consistency in terms of trash cans and items such as these was important. It was the consensus of Council to move forward with the plan presented.

RESULT: CONSENSUS

REVIEW OF MSD INFORMATION AND DIRECTION CONCERNING EXPANSION OF MSD

Town of Boone Intern Syrena Travis presented her report on the history of the Town's Municipal Service District, with Town Manager John Ward asking for direction from Council as to the inclusion of the current Ale House building and Daniel Boone Condominiums in the MSD, as they have been excluded in the past. Discussion ensued regarding the area on King Street near Earthfare and Bill's Garage as well as the Rivers Walk area. Council Member Furgiuele expressed concern with including new properties into the MSD while others who have been paying MSD taxes since 1988 have received minimal improvements and that he would not support the expansion unless the businesses which had been paying MSD taxes over the years first received the streetscape and other improvements. He continued to say that he would not be opposed to it so long as they held their place in line and that improvements to the areas of downtown extending into the new areas waited their turn in line also. Discussion ensued regarding the expansion of the MSD to the area around Bill's Garage and Earthfare, with Council Member Furgiuele suggesting that if this happened, Council should include the areas on the west of downtown identified by the Community Appearance Commission as the "gateway" to downtown on that side. It was the consensus of Council to have staff explore the possibility of adding R2 zoned properties including the Rivers Walk property, the Ale House property and Daniel Boone Condominiums to the Boone MSD.

RESULT:	CONSENSUS
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REVIEW OF TOWN CODE CHAPTERS BY TOWN ATTORNEY

RESULT:	TABLED [UNANIMOUS]	Next: 7/19/2018 6:00 PM
MOVER:	Sam Furgiuele, Council Member	
SECONDER:	Loretta Clawson, Mayor Pro-Tem	
AYES:	Mason, Clawson, Furgiuele, Ulmer, Ashcraft	

ADOPTION OF REVISIONS TO THE COMPREHENSIVE PLAN, SECTION 2.2.5 ENVIRONMENTAL QUALITY

RESULT:	TABLED [UNANIMOUS]	Next: 7/19/2018 6:00 PM
MOVER:	Sam Furgiuele, Council Member	
SECONDER:	Loretta Clawson, Mayor Pro-Tem	
AYES:	Mason, Clawson, Furgiuele, Ulmer, Ashcraft	

UPDATE/CONSIDERATION OF PLANNING AND INSPECTIONS DEPARTMENT WORK PLAN

RESULT:	TABLED [UNANIMOUS]	Next: 7/19/2018 6:00 PM
MOVER:	Sam Furgiuele, Council Member	
SECONDER:	Loretta Clawson, Mayor Pro-Tem	
AYES:	Mason, Clawson, Furgiuele, Ulmer, Ashcraft	

AUTHORIZATION FOR TRANSPORTATION COMMITTEE TO SERVE AS A PERPETUAL COMMITTEE

RESULT:	TABLED [UNANIMOUS]	Next: 7/19/2018 6:00 PM
MOVER:	Sam Furgiuele, Council Member	
SECONDER:	Loretta Clawson, Mayor Pro-Tem	
AYES:	Mason, Clawson, Furgiuele, Ulmer, Ashcraft	

REVIEW OF COUNCIL LIAISON POSITIONS

RESULT:	TABLED [UNANIMOUS]	Next: 7/19/2018 6:00 PM
MOVER:	Sam Furgiuele, Council Member	
SECONDER:	Loretta Clawson, Mayor Pro-Tem	
AYES:	Mason, Clawson, Furgiuele, Ulmer, Ashcraft	

ADJOURNMENT

Upon a motion by Council Member Furgiuele, seconded by Council Member Clawson, Council voted to table all remaining items on the agenda until the Thursday, July 19, 2018 regular meeting beginning at 6:00 p.m. in the Town Council Chambers. The agenda will begin with item number 12 - Review of Town Code Chapters by Town Attorney.

VOTE: Aye: All
 Nay: None

Council Member Furgiuele made a motion, which was seconded by Council Member Mason to recess the July 17, 2018 regular meeting until Thursday, July 19, 2018 beginning at 6:00 p.m. in the Town Council Chambers.

VOTE: Aye: All
 Nay: None

Nicole Worley, Town Clerk

Rennie Brantz, Mayor