MINUTES – REGULAR MEETING
BOONE TOWN COUNCIL
July 18, 2019

CALL TO ORDER

A regular meeting of the Boone Town Council was called to order on Thursday, July 18, 2019 at 6:00 p.m. in the Council Chambers located at 1500 Blowing Rock Road in Boone. Mayor Rennie Brantz presided. Council Members present included Mayor Pro-Tem Loretta Clawson, Connie Ulmer, Sam Furgiuele, Lynne Mason and Marshall Ashcraft. Staff present included Town Manager John Ward, Town Clerk Nicole Harmon, Planning Director Jane Shook, Building Inspector Stacey Miller, and Police Chief Dana Crawford. Town Attorney Allison Meade was also in attendance.

ANNOUNCEMENTS

Mayor Brantz welcomed all in attendance and asked anyone who wished to speak during public comment to please sign up.

Corporal Petey Hausley was recognized for acquiring the Advanced Law Enforcement Certification.

Seargant Donnie Goodman was presented with his service side arm and a resolution of appreciation ahead of his upcoming retirement at the end of the month.

Ms. Mason read the following statement:

"It has been both an honor and privilege to serve on the Boone Town Council for the past nineteen years. During my time on Council, I have had the honor of working with many community members, Council Members and Town Staff toward building a better Boone today and for generations to come. I brought a real passion and vision for our community and a commitment to work on preserving and enhancing the quality of life so unique to this area. I am proud of my record of accomplishments during my five terms.

After careful thought and consideration, I have decided not to seek another term. Anything that I commit to doing, I give 100 percent. When I first ran in 2001, I had to young adult children, one still in high school and the other in college. They both chose to return to Boone and I now have five wonderful grandsons, 9 months to 13 years of age that I enjoy spending time with. I also have a local independent family business to run that requires much of my time. Due to the number and length of Council meetings, I can no longer continue to commit the time required to be an effective Council Member and to have time for the other commitments and priorities in my life. This is a very hard decision, as I have so enjoyed serving our community.

Thank you Boone Community for your confidence and trust in allowing me to serve our community over the past 19 years! What an honor and privilege it has been. This is not goodbye, as I will remain active in our community, and I am not closing the door to future opportunities to serve our great community."

Mayor Brantz expressed his appreciation for all the work Ms. Mason had done for the community. Mr. Furgiuele stated that Ms. Mason had been instrumental in many of the accomplishments of the Town, especially the Appalachian Theatre. Mayor Pro-Tem Clawson stated that it had been a pleasure to serve with Ms. Mason. Mr. Ashcraft thanked Ms. Mason for all she had done for the Town, and that he appreciated his time served with her. Ms. Ulmer thanked Ms. Mason for her service.

The following board vacancies were announced:

BOARD OF ADJUSTMENT
One alternate position

COMMUNITY APPEARANCE COMMISSION
Four positions

CULTURAL RESOURCES ADVISORY BOARD
Two positions

DOWNTOWN BOONE DEVELOPMENT ASSOCIATION
Two Council appointed positions

HISTORIC PRESERVATION COMMISSION
Two positions

OUTSIDE AGENCY FUNDING REVIEW COMMITTEE
One position

PLANNING COMMISSION
One position

SUSTAINABILITY COMMITTEE
Two positions

WATER ADVISORY COMMITTEE
One position

TENTATIVE AGENDA ADOPTION

Mr. Ward announced that an item had been added for the consideration of a proposal from Withers/Ravenel for the Bolick property master plan, as well as the addition of a requested appearance by George Santucci of New River Conservancy. Upon a motion by Mr. Furgiuele, seconded by Mayor Pro-Tem Clawson, Council approved the agenda as amended.

VOTE:	Aye:	All
	Nay:	None

PUBLIC COMMENT

Skip Harkrador of Boone asked Council to reconsider supporting the Highway 105 project in that there were a number of safety issues along the highway, and believed that Council would regret not addressing it in the future.

Kristan Cockerill of Boone encouraged Council to regulate Airbnb type short term rentals within the restraints of the law, and asked them to work to protect R1 zoned neighborhoods in Boone. She referenced a study that showed the economic benefits of Airbnb to be highly overrated, and stated that she followed the rules with her rental property, but felt that it was economically unwise of her to continue to do so if no one else was made to follow the rules.

REQUESTED APPEARANCES

GEORGE SANTUCCI - NEW RIVER CONSERVANCY

George Santucci of New River Conservancy updated Council on the progress of the Peacock Lot daylighting project on ASU campus, and stated that the current plan was to daylight the creek all the way to the varsity gym, which was 50% more than was originally planned. Mr. Santucci announced that investigations have shown that the bulk of the flooding in that area was caused by a drain pipe that was too small. He added that discussions continued regarding the proposed parking deck on the site, but that ASU needed to find approximately 400 replacement parking spaces for those lost with the construction of the parking deck before they could fully commit. Mr. Santucci asked Council for $7,000 in order to begin work on the project that would be reimbursed if and when the Town received grant funding in December. Mr. Furgiuele asked whether funds were available to fund this request, with Mr. Ward confirming that funds were available. Mr. Furgiuele felt that Council should support this request, and added that from his property, he had a good view of the creek and stated that it was extraordinary how quickly flood waters rose in the area. He made a motion to allocate the $7,000 as requested to New River Conservancy to be used to begin work on the Peacock Lot daylighting project. Mayor Pro-Tem Clawson seconded the motion. Mr. Furgiuele then withdrew his motion and made a second motion to amend the agenda to consider this request. Mayor Pro-Tem Clawson seconded the motion.

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

APPROVAL OF ITEMS ON CONSENT AGENDA

Mr. Furgiuele asked that the special meeting minutes be removed from the agenda in that he had not had a chance to review them. Upon a motion by Mr. Furgiuele, seconded by Mayor Pro-Tem Clawson, Council voted to table the following until the August regular meeting:

1. Minutes of Town Council Special Meeting March 5, 2019
2. Minutes of Town Council Special Meeting March 6, 2019
3. Minutes of Town Council Special Meeting April 10, 2019
4. Minutes of Town Council Special Meeting June 27, 2019

VOTE: Aye: All
Nay: None

Upon a motion by Mr. Furgiuele, seconded by Ms. Ulmer, Council voted to approve the following items on the consent agenda:

1. Resolution of Appreciation - Donnie Goodman
2. Minutes of Town Council Regular Meeting - May 7, 2019
3. Minutes of Town Council Regular Meeting - May 9, 2019

VOTE: Aye: All
Nay: None

Upon a motion by Mr. Furgiuele, seconded by Ms. Mason, Council voted to amend the agenda to include an action item as the first item under council matters to consider the request made earlier by Mr. Santucci.

VOTE: Aye: All
Nay: None

Upon a motion by Mr. Furgiuele, seconded by Mayor Pro-Tem Clawson, Council voted to approve the request made by George Santucci of New River Conservancy to allocate $7,000 to the Peacock Lot daylighting project.

VOTE: Aye: All
Nay: None

COUNCIL MATTERS

TOWN MANAGER UPDATE

Mr. Ward updated Council on the following topics:

1. Planning and Inspections staff has been authorized to purchase a new Toyota Corolla hybrid, which will make a total of six hybrid vehicles in the Town fleet. Mr. Furgiuele asked if the new hybrid police car would be able to be driven in the homecoming parade, with Mr. Ward stating that it would if it had arrived back from being upfitted, and noted that it would eventually be visible from the Police Officer parking spot located on King Street.
2. Resurfacing of New Market Boulevard from Highway 194 to Market Hills Drive has been completed. Crosswalk markings will be installed when the Town's traffic signal contractor completes installation of new pedestrian control heads at the rear entrance to Hardin Park School. Markings for the new crosswalk at Market Hills Drive will be installed at the same time. The grass median now has 11 new Armstrong Maple trees planted and the Town's landscape division will be hydroseeding the median next week.
3. The new street light pole for the King Street/Appalachian Street pedestrian project arrived yesterday and has been installed. NCDOT's contractor has been notified, and will begin installation of pedestrian control heads soon. Public Works has installed flowers and one new tree in the new landscape areas. Additionally, staff expects delivery of a new trash receptacle and bench for the Jimmy John's side of King Street next week.
4. The facilities maintenance department has purchased four new tree grates for Queen Street at a cost of $5,300. The grates are expected to arrive next week with installation soon following.

5. Greene's Construction has progressed to 713 West King Street with the installation of brick paver sidewalks. No work was completed the week of July 4th due to the increased number of people in the downtown area. New sidewalk in front of Fire Station 1 bays will consist of a special mix of concrete without brick pavers due to the substantial weight of the fire trucks driving across the sidewalk. This area will be completed in sections, one bay at a time. When the drive area is completed, the contractor will skip past the awning of Fire Station 1 and Eggers Law Office until we have clear direction concerning its potential removal.
6. Public Notice Prior to Construction: Street resurfacing on Boone Heights Drive and State Farm Road. On August 5, 2019, Boone Heights Drive and State Farm Road between Hunting Hills Lane and Sunnyside Drive will be closed periodically from 7:00 p.m. to 6:00 a.m. for milling and resurfacing. Construction will continue beyond August 6th with intermittent road closures until the project is complete. All construction is weather dependant. Motorists are encouraged to use alternate routes during this time.
7. Staff has completed additional sidewalk and landscaping improvements on Green Street.
8. Charles and Gladys tank repairs update.
9. The new water intake and booster pump station are currently being used for normal operations. Most of the 1.8 million dollars in grant funds will be reimbursed by the USDA to the Town's water and sewer fund, with final amounts being presented in August. The tentative date for a dedication ceremony has been set for September 13, starting in the morning at the intake site, then moving to the water plant and finishing up at Council Chambers for refreshments. Staff reports that the project is on task to be closed out later this month. After brief discussion, it was the consensus of Council to change the date of the dedication ceremony to September 6.
10. 25 dogwood trees have been planted at the Wastewater Treatment Plant.
11. The new water intake has been used for approximately one month, with an average of 1.3 million gallons a day being withdrawn from the New River. Withdrawal at Winkler's Creek and Southfork pump stations have been reduced or not used at all during this time, though staff is working on a plan to develop a schedule to keep these stations in operation. Mr. Furgiuele asked whether staff was able to determine the change in water levels in the river at the new site. Mr. Ward indicated that at full withdrawal of 3 million gallons, the river should drop less than a quarter of an inch and that a change in the river would not be able to be seen at a withdrawal rate of 1.3 million gallons. The State soil erosion inspector cleared the site and certified it as being complete, and the bank area has been completely repaired.
12. Updated meetings and events list. Ms. Mason stated that she would be out of town on August 13 and will miss the Council meeting.
13. Update on carbon impacts of recent Town tree plantings. Staff has been working with the area cooperative extension to come up with a feasible method for calculation of these impacts. Mr. Ward indicated that the largest impact would be made when the solar array project was able to move forward, noting that ASU planned to complete a tree study and will replant any trees removed inside the Town limits. Mr. Ward also noted the mass planting planned for the new municipal complex.
14. Mr. Ward stated that Council's action tonight by advancing funds to New River Conservancy would open the gates for progress on the potential ASU parking garage. He added that he had discussions with ASU about the benefits of greening up the Raley lot and the Duncan Hall parking lot as a part of this project as well. Staff has reiterated to ASU the need for additional parking for events as well as commercial parking. Mayor Brantz asked what the Town's cost for this project would be, with Mr. Ward explaining that the Town had not committed anything yet and would know more when the study has been completed.
15. Staff is still working with New River Light and Power and NTE on the solar array. Since it will be constructed on university property, Mr. Ward stated that there would be fewer tax credits available, though both parties have reiterated that they were planning on moving forward with array, though it may take longer than initially planned with a goal of a 2022 completion. Mr. Ward confirmed that NTE still expressed an interested to provide the Town with renewable power.
16. Announced a wellness event in August for employees that offered a free health screening.
17. Mr. Ward stated that the parking transition was going well. Offices have been relocated, morale has increased, full time positions are filled and staff has been working to fill part time positions.
18. Junaluska Road update: NCDOT did an evaluation on the road and stated in an email that they were unwilling to turn over any portion of the road to the Town due to connectivity issues.

19. The Northern Peaks Trail approval by Council set off a ripple effect, and was recently listed as official state trail by legislative action.

Mr. Furgiuele stated that he had received an email from a concerned citizen about not being able to reach their home due to construction on Poplar Grove Road near the Riverswalk project. Mr. Ward indicated construction permits had been erroneously issued by the NCDOT that blocked off access to residential driveways, and believed that crews were currently operating within the right of way of Poplar Grove Road. Mr. Ward added that trash pick-up was not available to these residents due to construction, and NCDOT has offered to pick up their trash until the area was open again, which would be approximately one month. Mr. Ward reminded Council of State paving projects in the Rivers Street and Highway 105 areas. Mr. Furgiuele believed that traffic had been traveling closer to the posted speed limit along Highway 105 recently, and that the increase in enforcement had been effective.

TOWN ATTORNEY UPDATE

The Town Attorney updated Council on the following topics:

1. Town's authority or lack of authority to regulate styrofoam: Ms. Meade stated that the future of this project was uncertain, and that the Town would need to develop more justification and records if they wished to move forward. She added that there was no express authority for a town to regulate styrofoam, but that general police powers could give the Town power to regulate in certain situations when there was a threat to public health and safety. Ms. Meade stated that in case law from 2014, the Courts construed police powers of the Town of Chapel Hill broadly and that in that case, though there were no express statutes to regulate, the Courts ruled that the Town's police powers were supported by statute. She did note that the Court struck down the Town's imposition of fee caps on towing, and that the Supreme Court was more leery of towns imposing economic regulations. Ms. Meade stated that she did not believe there to be a clear answer in the matter and that the argument could be made that styrofoam was a threat to public health and safety, though it would be much more clear to say this about all littering instead of targeting only styrofoam. Ms. Meade continued by stating that similar to the plastic bag ban that was discussed by Council in the past, if they wished to pursue a ban of styrofoam, they would need to establish a reason as to why they chose to ban that particular product. She noted that any action taken by Council could provoke State legislation. Mr. Furgiuele suggested that the Town invite people, such as Lee Ball, who were knowledgeable about styrofoam and its effects to address Council in more detail. He believed that the fact that Maine banned styrofoam suggested that there were findings to support banning it, and that staff may want to try to find out the basis for this action. Ms. Mason felt that the use of reusable bags should be incentivized and encouraged, as should the purchase of locally grown food. Mr. Ward asked if it was good or bad if authority had not been granted to a municipality from legislators to impose this type of restriction, with Ms. Meade indicating that it could go either way. Mr. Furgiuele suggested that the Town work to facilitate education on the alternatives to styrofoam, and stated that he was unsure that prohibiting the product was the proper first step, but felt that staff should do further research on the topic. It was the consensus of Council to direct the Town Manager to reach out to Lee Ball and to invite him and other experts to come speak at a future meeting about the impacts of styrofoam. Ms. Meade noted that there was a limitation on a town's authority to limit interstate commerce as far as shipping materials and the like. Mr. Furgiuele felt that it would be good to recognize people who used styrofoam alternatives, and wondered if the DBDA could be tasked with recognizing businesses in the downtown area. Mr. Ward agreed, and added that Public Works staff and interns could be utilized as well. Mr. Furgiuele felt that it would be worth inviting the Chamber of Commerce into the discussion in terms of a recognition program. Mayor Pro-Tem Clawson suggested that a lunch and learn on the topic would also be beneficial.

2. Sustainability Committee issues: Ms. Meade stated that problems within the Sustainability Committee raised a question of the need for institutionalized training of committee members, and asked Council to consider instituting a board member training that was mandatory. Ms. Meade believed it would make sense to have general sessions so that members could come to whichever one best suited their schedule. Ms. Meade felt that for committees such as the Planning Commission and Board of Adjustment, separate, more substantive trainings could be held. Ms. Mason suggested that a video be put together, with Ms. Meade noting that training videos were not always all inclusive of the needed information. Mr. Furgiuele stated that staff was currently spending a lot of time reacting to issues that arise from the Sustainability Committee including open meetings violations and unilateralism among members. He felt that the committee did not understand that they had to act as a group,

and noted that in the past, the Board of Adjustment held a training event every two years. Mr. Furgiuele agreed with the Town Attorney that people learned better if there was interaction instead of just a video training. Ms. Meade felt that it might be helpful to have members watch an informational video followed by discussion. Ms. Mason asked how the code of ethics was distributed to committee members, with Ms. Shook stating that members were given copies of the code of ethics and other pertinent documents. Mr. Ward stated that some issues involved the staff assigned to work with the committees in that committee members often viewed staff as working for them, and that when staff tried to guide members, it was not always taken seriously. Mr. Ward felt that another issue with the Sustainability Committee was that there was not consensus within the committee involving their assignments. Mr. Furgiuele indicated that there was also a problem with committees trying to spend money without Council approval. Ms. Meade stated that it was problematic for committee members to be directing staff to do work, and that only Council should direct staff. Ms. Shook added that these situations often depended on the staff member present at the meeting and previous direction given. Mr. Furgiuele felt that even small tasks accumulated and could eat up a lot of staff time, and added that committee members often did not have the Town-wide perspective in terms of operations. He indicated that some members were concerned that Council was trying to micromanage, and believed that the Town Manager and Town Attorney should design and present the training program. Mr. Furgiuele made a motion to direct the Town Manager and Town Attorney to put together a training program for members of Town committees, and to explore the possibility of a training video, and that it would be mandatory for committee members to attend this training. Ms. Mason seconded the motion. Ms. Meade asked for clarification as to whether there would be one or two sessions each spring for new committee members. Mr. Furgiuele agreed that this would be the case, but that everyone should be invited to all events. He added that the Town Attorney should conduct the training of those committees effected by changes in State law.

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

3. Ms. Meade suggested that Council schedule a Water Use Committee meeting to address auto meter reading pricing and hardship provisions. She felt that, as written, hardship provisions were very black and white with no alternatives and that there should be discussion about whether that was too strict in terms of environmental and financial circumstances. Upon a motion by Mr. Furgiuele, Council voted to schedule a Water Use Committee meeting on Thursday, August 29, 2019 at 9:00 a.m. at Council Chambers. Mayor Pro-Tem Clawson seconded the motion.

VOTE: Aye: All
Nay: None

4. Ms. Meade suggested that Council consider updating the UDO and its treatment of bars and other establishments that serve alcohol, and noted that Planning Staff had recently had to deal with a situation involving axe throwing. Ms. Meade indicated that the code was limited and did not deal with weapons or alcohol and believed that this should be addressed. Mr. Furgiuele stated that he was not against updating the UDO, but was against the idea of the Town being bullied by the State for having procedural safeguards when alcohol was involved. Ms. Meade stated that she had seen other UDOs that regulated alcohol more directly than the Town's. It was the consensus of Council to have staff and the Town Attorney to move forward with this update.

5. Ms. Meade asked for Council's consideration on requesting and negotiating an updated franchise agreement with New River Light and Power. She stated that because the current agreement was so old and said so little, there were some common issues that could be addressed, including the encouragement that they share their utility poles for collocators which may reduce a burden on the Town to accept all collocators. Ms. Meade felt that underground utilities should also be addressed in a new agreement, and added that there were certain things that could not be regulated the agreement. It was the consensus of Council to direct the Town Attorney to move forward with requesting and negotiating an updated franchise agreement with New River Light and Power.

BOARD LIAISON REPORT

Ms. Mason stated that the DBDA had adopted a new logo and was in the process of having a mural made for the side of the Anna Banana's building. She hoped that an unveiling ceremony would be tied in with the September First Friday event. Ms. Mason stated that the Transportation Committee had recently expressed concerns regarding traffic on Stadium Drive, and that Public Works would reevaluate traffic volume

information to see if there were any remedies. She added that the walkability study would take place on upcoming walk to school days and the Saturday following, and hoped that Council members would participate. Mr. Ashcraft stated that the Sustainability Committee had heard a couple more department reports and noted that Public Works staff brought particularly useful information. He noted the limited capacity staff had to make a material impact, and stated that there was some tension within the committee on staying focused on the charge of the group. Mr. Furgiuele stated that as a result of Public Works staff's presentation, he realized that there were many more street lights in Town than he realized, and that only a small percentage were LED. He believed that there was a measurable cost savings to be had with changing out all Town owned street lights to LED, with a cost recapture period of approximately five years. Ms. Ulmer indicated that the Cultural Resources Advisory Board was excited to have new Cultural Resources Director Mark Freed move into the position. Mayor Brantz state that the Historic Preservation Commission was working on a plan to preserve the Turner House, as well as a historical marker in the Junaluska area.

Mayor Brantz declared a break at 8:19 p.m. Council reconvened at 8:29 p.m.

CONSIDERATION OF AMENDMENT TO CHAPTER 50 TO ENFORCE TIMELY PAYMENT OF FEES

Ms. Meade presented revisions to Chapter 50 of the Town Code for Council's consideration and stated that she was unsure that it was worth including the extenuating circumstances clause since she was unsure of a situation in which it would be applicable. Mr. Furgiuele felt that the clause should remain in the text. Mr. Ashcraft asked if she was aware of any past cases where this clause would have been applied, with Ms. Meade responding that she was not aware of any, and that in the past, people have been granted a grace period until the customer obtained their certificate of occupancy. Mr. Furgiuele indicated that there had been issues in the past to which this exception may have applied. Upon a motion by Mr. Furgiuele, seconded by Mr. Ashcraft, Council voted to adopt the text as presented.

AN ORDINANCE TO REVISE CHAPTER 50 OF THE TOWN OF BOONE CODE OF ORDINANCES RELATING TO PAYMENT OF SYSTEM DEVELOPMENT FEES

WHEREAS, the Town of Boone imposes certain substantial, one-time fees and charges in connection with new and expanded use of its water and sewer systems, including but not limited to new connection and extension fees, tap fees, and system development fees;

WHEREAS, it is appropriate, fair and in the interests of all Boone utility system users for such fees and charges to be paid in a timely fashion and for the Town to be compensated for the time value of money when payments are late;

WHEREAS, the Boone Town Council is authorized to enact this Ordinance pursuant to its powers to set rates, fees, charges and penalties for utility services pursuant to G.S. Chapter162A, Article 8 and G.S. §160A-314;

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

SECTION 1. Chapter 50 of the Boone Code of Ordinances is hereby amended by the addition of a new section 461 as follows:

§ 50.461 OVERDUE FEES AND OTHER CHARGES

(A) Except for monthly water and sewer consumption fees that are subject to late penalty charges, all fees and charges assessed pursuant to this Chapter, including but not limited to connection or extension fees, meter fees, and system development fees, must be paid within 30 days of the date of invoicing. In the event fees and charges are not paid within 30 days of invoicing, interest shall accrue at the rate of 1.25% per month or the highest rate allowed by law, whichever is lowest, and in addition, the town may revoke or suspend any permits it has issued authorizing the construction or use and/or issue a stop work order until such fees and charges are paid.

(B) The Administrator may in his or her discretion allow construction or use to proceed without payment in full of all fees and charges but subject to interest charges as previously specified where the applicant signs a written agreement to pay such fees, charges, and interest prior to issuance of a Certificate of Occupancy or other final approval authorizing the use or occupancy ("final certificate").

The Administrator ordinarily will allow such late payment, subject to interest charges, in the absence of extenuating circumstances. Extenuating circumstances include, but are not limited to, circumstances in which the Administrator has reasonable grounds to believe that all fees, charges and interest will not be paid by the applicant before a Certificate of Occupancy or other final certificate is issued, and in cases where the applicant has failed to pay all fees, charges and/or interest when due on one or more other projects.

(C) All fees, charges and accrued interest must be paid before a Certificate of Occupancy or other final certificate may be issued and before a permanent service account may be opened.

SECTION 2: This Ordinance shall be effective upon the date it is adopted by Town Council. With respect to fees and charges that have been invoiced prior to this date and remain unpaid, all such outstanding fees and charges shall be deemed due to be paid 30 days after the effective date of this Ordinance, and interest shall accrue on said fees and charges thereafter as specified at Section 1.

Adopted this _____th day of _____, _____.

_____ ATTEST: _____

Rennie Brantz, Mayor Town Clerk

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

CONSIDERATION OF WITHERS/RAVENEL PROPOSAL FOR BOLICK SITE MASTER PLAN PROFESSIONAL SERVICES

Mr. Ward asked for Council's consideration on a proposal by Withers/Ravenel for the municipal complex site master plan, and stated that the next step was to work with the Fire and Police Chiefs and Public Works Director to blend the design with sustainable elements. He anticipated the site plan would take seven months or more, and suggested that Council approve the allocation of funds now and allow the Town Attorney time to work with the company to make needed revisions to the contract. Ms. Mason made a motion to approve the recommendation and to direct Staff and the Town Attorney to work on amending the contract to include sustainability elements and other changes as needed and to bring back to Council in August. Mr. Furgiuele seconded the motion.

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

CONSIDERATION OF ADDITIONAL INFORMATION SUBMITTED BY COMMERCIAL REAL ESTATE AGENTS

Mr. Ward presented to Council additional information submitted by the two applicants who submitted applications after a recently issued request for qualifications for commercial real estate agent services. He suggested that Council may wish to delay a decision on an agent until the municipal complex master plan was closer to completion, and worried about what would happen if the property was purchased and the new owners wanted to take immediate possession of the property. Ms. Mason stated that the complex would take a while to construct, and felt that it was better for the Town to know where they stood going into the project and to have the opportunity to negotiate staying in the spaces until the complex was complete. She felt that the Town should go ahead and market the two properties while the market conditions were good and believed this action would help inform additional decisions later on. Mr. Furgiuele agreed that the properties should be marketed now with

the stipulation that a buyer would not be able to take immediate possession of the properties. Applicant James Milner was asked for his opinion on the subject, and stated that he agreed that it would be better to get the properties on the market now. He further noted that there was work that would have to be done before the properties actually hit the market. Mr. Milner believed that the marketing period for the properties once they were exposed to the market was approximately twelve months. He added that he was familiar with a sales lease-back option and that there were a number of ways to approach a situation such as this. Mr. Milner stated that a purchaser would have quite a bit of planning related tasks to complete after purchase, and noted that the standard due diligence period was six months before closing. Ms. Meade noted that there was not a reference in Mr. Milner's proposal as to the amount of time the properties would be listed. Mr. Ward noted that there had been direct inquires about the properties recently, and that there were currently thirteen properties listed at over one million dollars in Town. Ms. Meade asked Mr. Milner whether he would be inclined to list the properties at their appraised value, with Mr. Milner answering that if his services were selected, he would then have that conversation with Council and staff. Ms. Meade suggested that if Council approved, to include in the listing agreement a twelve month listing period that would start as soon as the agreement was signed to ensure that the Town was getting good representation. Mr. Milner stated that he had reviewed the most recent appraisals on the properties and felt that the Town should have both the properties surveyed. Mr. Furgiuele asked if staff knew why the other applicant did not attend the night's meeting. Mr. Ward stated that there was a conflict on the part of the applicant, and that he anticipated the topic would be delayed based on the time frame given for the municipal complex site master plan. Mr. Furgiuele asked if staff told the applicant there might be a delay, with Mr. Ward stating that he told the applicant he was unsure but that there might be a delay. Mr. Furgiuele asked if Mr. Ward thought it would be unfair for Council to make a decision tonight based on the other applicant not attending the meeting. Ms. Mason felt that Mr. Milner was more comprehensive and noted that he attended the first meeting at which this topic was discussed as well. Mr. Ward indicated that there was no discussion at all with the other applicant prior to the first meeting. Ms. Mason liked the detail and communication promised by Mr. Milner in his proposal, and felt like his was a better proposal overall. Mr. Furgiuele asked Mr. Ward for his recommendation, with Mr. Ward stating that Mr. Milner had returned the most information, though he had experience with both. He noted that the other applicant represented the Town in the purchase of the Bolick property with no issues, and that Mr. Milner had moved most of the downtown properties that had sold recently. Mr. Furgiuele agreed that Mr. Milner's proposal was superior, but that alone did not guarantee that the quality of the outcome would match. He stated that he had confidence in Mr. Milner, and again asked for staff's recommendation. Mr. Ward stated that he thought the price would be the main determination, but they turned out to be identical. He was unsure why the other applicant did not attend the initial meeting, and stated that he did not see any reason not to move forward with a decision tonight if Council wished. Mr. Ward expressed that his only hesitation was putting the buildings up for sale without having an answer of when the buyer could take possession. He added that he was concerned that community facility grant monies would not be available if Council chose to wait to act after census information was released, since they were only available to towns with populations up to 20,000. Ms. Mason reiterated that she believed the Town would be better off knowing what they were going to get for the properties before starting the municipal complex project. When asked if his rates of commission were firm, Mr. Milner stated that he would go back to his original commission of 4% for the Police Department building and 6% for the Public Works building. Mr. Furgiuele felt that the original rate was a better deal for the Town. Mr. Ward reminded Council that the parking area to the right of the Public Works building was leased for employee parking, and that this would factor into the sale in some way. Mr. Furgiuele asked if the property owner had been approached about a potential joint enterprise. Mr. Ward answered that staff was awaiting Council's direction before moving forward. Ms. Mason made a motion to approve Appalachian Commercial Real Estate's proposal and to name James Milner as the agent to market the Police Department and Public Works buildings; to direct the Town Manager and the Town Attorney to negotiate a twelve month listing agreement; the commission for the Police Department building to be set at 4% (split between brokers if applicable) and 6% (split between brokers if applicable) for the Public Works building and if there was no other broker involved, the commission for both would be reduced by 1% each. Ms. Meade suggested that Ms. Mason not specify co-broker information, as that agreement would be between the brokers. Ms. Mason accepted this amendment to her motion and restated it: Ms. Mason made a motion to approve Appalachian Commercial Real Estate as the agent to market the Police Department and Public Works buildings; to direct the Town Manager and the Town Attorney to negotiate a twelve month listing agreement; the commission for the Police Department building to be set at 4% and 6% for the Public Works building. Mr. Furgiuele seconded this motion.

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

DISCUSSION AND POSSIBLE DIRECTION REGARDING AN ORDINANCE TO ADDRESS AIRBNB-TYPE SHORT-TERM RENTALS

Mr. Furgiuele presented a request for continued discussion regarding an ordinance to address AirBnb-type short-term rentals, and passed out a proposed draft outline for an ordinance. He stated that having heard comments, he believed that owners generally kept a close eye on their properties, though believed there to be a problem with off-site absentee owners. Mr. Furgiuele felt that there may be some property owners who have been engaging in this rental practice for so long, they were past the statute of limitations time period for enforcement. Ms. Mason stated that there was more uncertainty with stand alone rentals, and indicated that she had recently talked with a friend who operated an AirBnB rental in another state. She stated that there were regulations in place so that when an owner was not on site that there was signage on the house with their contact information and the planning department's contact information in the case of problems. Ms. Mason added that there were some people who rented out their property in order to pay their bills, and felt that Council should work to protect single family neighborhoods while adapting to the changing times. Mr. Ward announced that there was a bill that would potentially prohibit any local ordinance from regulating AirBnb rentals and would retroactively remove any ordinances that had been passed and would prohibit them from being enforced. He add that he believed that a new bill was released that would remove the retroactive clause. Mr. Furgiuele clarified that since AirBnB rentals were currently illegal in the Town, and if Council chose not to act, that they would potentially continue to be illegal if the bill was passed. Mr. Ward confirmed this statement, and added that the most taxed department would have a whole new registration process added to their duties. Mr. Furgiuele felt that this responsibility was not required to be on the Planning Department and could be given to Administration or the Police Department. He believed that the Town should not inspect the properties in that there would be more liability. Mr. Ward added that AirBnB's could trigger a fire inspection through the Fire Department since they would be operated as a business. Ms. Shook indicated that the current fire code required annual fire inspections for bed and breakfast establishments, and felt that AirBnB's should fall under the same category. Mr. Furgiuele felt that there was value in identifying the properties and was worried that some were already past the statute of limitations time period, though it would ultimately depend on the trigger. Ms. Meade stated that the Town code did not allow occupancy violations to determine a non-conformity. Mr. Ward expressed concern at the registration and enforcement process, and noted that the Town of Blowing Rock had a contract with a company to monitor these types of properties and run a registration program, with the fees essentially paying for the contract. Mr. Ashcraft stated that he was unclear as to whether Mr. Furgiuele was proposing the permissive use of off premises management for AirBnBs. Ms. Meade asked whether Council only wished to allow homestays versus whole house rentals, and noted that the Town of Asheville distinguished between the two categories. She added that in Asheville, homestays were more broadly allowed and that in larger cities, corporations were buying homes only to turn them into short-term rental properties and that this was effecting the affordable housing market. Mr. Ward referenced at 2018 study that showed that 3% of Asheville's housing stock was solely used as AirBnb properties. Brief discussion ensued on the proposed outline, with Ms. Meade suggesting that Council invite neighborhoods in which there was a non-conforming short term rental property to petition Council by 90% of ownership to ask Council to rezone the property in order to disallow the short term rental. Ms. Ulmer felt that before moving forward, Council should work to identify and define the terms they planned to use in the ordinance. Mr. Ashcraft preferred that Council start by differentiating between on and off premises owners, and was curious as to whether the Town could limit the number or density of these units. Ms. Meade indicated that this was a part of Asheville's original plan and that it was run on a lottery basis. She added that Asheville allowed homestays with registrations, using no more than two rooms of the house and without a separate kitchen space. She noted that no whole house AirBnBs were allowed without conditional district zoning. Ms. Meade also expressed concern with occupancy language in the current UDO and felt that a clean up was needed. Ms. Shook asked Council to consider the enforceability element. Mr. Furgiuele was not against

comparing what other towns have done in this situation, but would like to see the concepts he used in his outline incorporated into a new ordinance. When asked if he felt a special meeting should be scheduled to discuss this topic further, Mr. Furgiuele felt that Council should wait to see what the General Assembly did before taking any further action. Mr. Ward suggested that there may be a way to tie registration to a property owner's water account. Ms. Shook added that there may be a way to cross-reference the planning software with the water billing software and incorporate a registration system within. Ms. Shook stated that staff would work to pull sample ordinances for Council's consideration. Mr. Ashcraft asked members whether they felt short term rentals should be prohibited altogether, and stated he did not believe they should be completed banned. Mayor Pro-Tem Clawson felt that short term rentals should not be banned altogether. Ms. Ulmer stated that she was still unsure about the term Council was using to describe this type of rental, and felt that there were pros and cons to them. Mr. Furgiuele did not believe they should be completely prohibited and felt that conservation districts should be treated differently to where they have more exclusions and have special deference.

DISCUSSION AND POTENTIAL DIRECTION REGARDING AN ORDINANCE TO ADDRESS AMORTIZATION

RESULT:	**TABLED [UNANIMOUS]**	**Next: 8/13/2019 6:00 PM**
MOVER:	Lynne Mason, Council Member	
SECONDER:	Loretta Clawson, Mayor Pro-Tem	
AYES:	Mason, Clawson, Furgiuele, Ulmer, Ashcraft	

CONSIDERATION OF POLICY REGARDING GIFTS TO COUNCIL AND TOWN COMMITTEE MEMBERS

RESULT:	**TABLED [UNANIMOUS]**	**Next: 8/13/2019 6:00 PM**
MOVER:	Lynne Mason, Council Member	
SECONDER:	Loretta Clawson, Mayor Pro-Tem	
AYES:	Mason, Clawson, Furgiuele, Ulmer, Ashcraft	

DRAFT OF AMENDMENT TO TOWN'S CODE OF ETHICS (CHAPTER 30), PER COUNCIL'S DIRECTION

RESULT:	**TABLED [UNANIMOUS]**	**Next: 8/13/2019 6:00 PM**
MOVER:	Lynne Mason, Council Member	
SECONDER:	Loretta Clawson, Mayor Pro-Tem	
AYES:	Mason, Clawson, Furgiuele, Ulmer, Ashcraft	

DISCUSSION OF POLICY REGARDING PROVISION OF SERVICES TO AND TAXATION OF SPLIT JURISDICTION PARCELS

RESULT:	**TABLED [UNANIMOUS]**	**Next: 8/13/2019 6:00 PM**
MOVER:	Lynne Mason, Council Member	
SECONDER:	Loretta Clawson, Mayor Pro-Tem	
AYES:	Mason, Clawson, Furgiuele, Ulmer, Ashcraft	

CLOSED SESSION

Mr. Ward stated that the owner of property to be discussed in closed session had accepted the Town's offer of $200,000 and requested that the property remain in its natural state as a park. Ms. Meade clarified that this was a

request from the property owner and not a requirement, to which Mr. Ward responded that he assumed this was the case. Mr. Furgiuele stated he was unsure about accommodating that request, with Mayor Pro-Tem Clawson agreeing. Ms. Meade then suggested that Council move in to closed session to discuss further.

Upon a motion by Mayor Pro-Tem Clawson, seconded by Ms. Ulmer, Council voted to enter into closed session at 10:34 p.m. pursuant to:

1. N.C.Gen.Stat.§ 143-318-11 (a)(1), to review, approve and seal closed session minutes from Council's prior closed session(s).

2. N.C.Gen.Stat.§143.318.11 (a)(5), to establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (I) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease (Winkler Property PIN 2910-16-9677-000).

VOTE: Aye: All
Nay: None

ADJOURNMENT

Upon a motion by Ms. Mason, seconded by Ms. Ulmer, Council voted to exit closed session at 10:47 p.m.

VOTE: Aye: All
Nay: None

Upon a motion by Ms. Mason, seconded by Mayor Pro-Tem Clawson, Council voted to adjourn the meeting at 10:50 p.m.

VOTE: Aye: All
Nay: None

Nicole Harmon, Town Clerk

Rennie Brantz, Mayor