MINUTES - REGULAR MEETING
BOONE TOWN COUNCIL
AUGUST 16, 2011

A regular meeting of the Boone Town Council was called to order at 6:30 p.m., Tuesday, August 16, 2011 in the Council Chambers, 1500 Blowing Rock Road. Mayor Loretta Clawson presided. Council members present were Mayor Pro-Tem Lynne Mason, Andy Ball, Jamie Leigh, Rennie Brantz, and Stephen Phillips. Town Attorney Sam Furgiuele was also present. Staff members present were Town Manager Greg Young, Deputy Town Clerk Kim Brown, Assistant to the Manager Jim Byrne, Finance Director Amy Davis, Police Chief Dana Crawford, Planning and Inspections Director Bill Bailey, Planner Jane Shook, Fire Chief Jimmy Isaacs, Public Works Director Blake Brown, Public Utilities Director Rick Miller, Human Resources Director Peri Moretz, and Downtown Development Coordinator Pilar Fotta.

ANNOUNCEMENTS

Mayor Clawson announced that any persons wishing to address the Council on a non-agenda item should sign in to speak during the Public Comment period.

TENTATIVE AGENDA ADOPTION

Town Manager Greg Young presented the following changes to the agenda:

1. Deletion of Item 6.H. Adoption of Arts Council Lease & Contract as submitted by Town Manager Young and replacement with Council Action Request as submitted by Council member Brantz.
2. Deletion of Item 6.N. Adoption of Code Amendment Chapter 74, Parking Schedule.
3. Addition of Item 6.X. Adoption of MOU-WHS Dog Donation.
4. Request to move Item 6.G. to the first item heard under Council Matters.

On a motion by Council member Ball, seconded by Council member Mason, Council moved to adopt the agenda as amended.

VOTE: Aye - All
Nay - None

CONSENT AGENDA ADOPTION

On a motion by Council member Brantz, seconded by Council member Mason, Council moved to adopt the following consent agenda items:

Minutes: July 1, 2011 - Special Meeting.
July 11, 2011 - Special Meeting.
July 19&21, 2011 - Regular Meeting.
July 25, 2011 - Special Meeting.

Adoption of Code Amendment - Chapter 70: Increase Parking Fees.

§ 70.99 PENALTY.

(C) *Civil Penalties.*

(3)(a) Any violation of the following sections shall subject the offender to a penalty of ~~$10~~ **$12**: §§ 72.01(A)(1); (A)(3) through (A)(5); (A)(7) through (A)(12); 72.01(C); 72.02; 72.03; 72.04; 72.06 through 72.08; Chapter 74, Schedule III and IV.

VOTE: Aye - All
Nay - None

PUBLIC COMMENT

There was no one signed up to speak during the public comment period.

ADOPTION OF ORDINANCE - INITIATE CIVIL ACTION AGAINST ADR CAPITAL MANAGEMENT INC.

Attorney Joe Delk, representing ADR Capital Management Inc., appeared before the Council to inform it that some changes had been made to rectify the situation regarding the stormwater issues on the property located between Highway 321 and Faculty Street. He stated that the work on the stormwater system is almost finished; however, the applicant has had some engineering issues that had to be addressed as required by the Planning Department. In regard to the blighted property, the Scottish Inn, fencing has been erected around the property. Town Attorney Sam Furgiuele advised that the Council might table the matter so that the issue of fines can be addressed once the work is completed. He stated that the ordinance contained in the packet must be modified if it is still necessary to continue with legal action. Mr. Furgiuele explained that the Council could allow the Planning Staff to quantify the fines, inform the property owner of the amount and allow for an opportunity for the property owner to pay the fines. Upon a motion by Council member Ball, seconded by Council member Brantz, Council moved to table action on the matter until the October regular meeting.

VOTE: Aye - All
Nay - None

ONGOING DISCUSSION - TABLE OF PERMISSIBLE USES

Planning Director Bill Bailey informed the Council that there were no items for discussion at this time. He explained that the Planning Commission was unable to discuss any of the issues related to the Table of Permissible Uses due to lengthy discussion of zoning amendments. It was the consensus of the Council that Council members Phillips and Brantz will attend the next Planning Commission meeting for the continued discussion of the Table of Permissible Uses.

ADOPTION OF ZONING MAP AMENDMENTS

Case 20110120 Orchard at Park Street - Hackett Properties has filed a Zoning Map Amendment Petition for Conditional District Zoning for property located at 232 Park Street (2901-71-1410-000.) The request is to rezone the property of 20.457 acres from R-4 Two Family/Mobile Home District to Conditional District R-3 Multiple Family for a site specific development plan for a multi-family development (use 1.330) containing 48 townhomes with 144 bedrooms within 4 buildings. In addition, the proposed development triggers the requirements for Transitional Zones in accordance with Town of Boone Unified Development Ordinance Section 198. Planner Jane Shook informed the Council that the Planning Commission was unable to make a recommendation regarding the request and that pursuant to UDO Section 383(a), the Council must wait 30 days to consider the request. Upon a motion by Council member Mason, seconded by Council member Brantz, Council moved to table the request until the September regular meeting.

VOTE: Aye - All
Nay - None

Case 20110354 Helen Yount Estate Zoning - The Town of Boone has initiated a Zoning Map amendment to zone property currently in Watauga County's jurisdiction owned by the Helen Yount Estate in conjunction with the voluntary annexation of said property (Watauga County PINs 2900-91-4847-000 and 2900-92-5257-000) located off Temple Drive. The parcels currently contain portions located within the Town of Boone's corporate limits and are zoned R-3 Multi-Family. The southern portion of parcel 2900-91-4847-000 is located within the Town of Boone Extraterritorial Jurisdiction and is zoned R-A Residential/Agriculture and WS-II Watershed Areas Critical Area (WS-II-CA.) Both parcels have portions located within the Viewshed. Staff has recommended that Council consider the following zoning districts for this case: Viewshed, WS-II-CA, R-3 Multi-Family and R-A Residential/Agriculture. Planner Jane Shook noted that the Planning Commission has recommended approval with the following recommendations:

$ The proposal conforms to the existing zoning of the neighboring properties.

$ That un-zoned property is to be zoned R-3 and R-A with the split occurring as if the southern property line of the smaller tract were to be extended to the western property line of the larger tract with the R-3 area being north of the line and the R-A being south of the line.
$ A portion of the smaller tract be zoned R-3 and the viewshed be extended for both properties in conformance with the requirements in UDO Section 160.

Vote #1
Upon a motion by Council member Mason, seconded by Council member Brantz, Council moved that the proposed amendment to the Town's zoning map is consistent with the Town's Comprehensive Plan and other applicable adopted plans of the Town which relate to this application because of its impact on economic develop as cited in the staff report that the Town shall protect and enhance a high quality of life, image, cultural amenities and natural beauty as the most effective long-term component of an economic development strategy and that economic development efforts shall encourage the revitalization and use of currently unused and under-utilized structures, sites, and infrastructure in appropriately located areas.

VOTE: Aye - All
Nay - None

Vote #2
Upon a motion by Council member Mason, seconded by Council member Brantz, Council moved to approve the proposed amendment to the Town's zoning map and believes approval is both reasonable and in the public interest because it is consistent with adjacent zoning and will promote redevelopment, including mixed-use development along a commercial corridor, while protecting sensitive natural areas and to make it effective on the date of annexation.

VOTE: Aye - All
Nay - None

Case 20110320 Mountaineer Crossing Conditional District Rezoning - Mountaineer Crossing LLC has filed a Zoning Map Amendment Petition for Conditional District Zoning for property owned by the Estate of Helen Yount (Watauga County PINs 2900-91-4847-000 and 2900-92-5257-000) and Mountaineer Crossing LLC (140 High School Drive, Watauga County PIN 2900-92-2628-000.) This request is that the property be placed in Conditional District B-3 General Business, Conditional District R-3 Multi-Family, and Conditional District R-A Residential/Agricultural. The site specific plan for the property indicates a single-story commercial building (Use 2.0) and a four-story mixed-use building in which the ground floor contains commercial uses and the upper floors contain multi-family (Combination Use 29.1000) within the Conditional District B-3 General Business portion of the property. The project also contains two multi-family apartments (Use 1.330), one 3-story and one 4-story within the Conditional District R-3 Multi-Family portion of the project. The remaining undeveloped property has been requested to be placed in Conditional District R-A Residential/Agricultural for passive recreation for the development along with a conservation easement. Portions of the property are located with the Viewshed. In addition, the proposed development triggers the requirements for Transitional Zones in accordance with Town of Boone Unified Development Ordinance Section 198. Planner Jane Shook noted that the Planning Commission has recommended approval of the project with staff conditions.

Vote #1
Upon a motion by Council member Phillips, seconded by Council member Ball, Council moved that the proposed amendment to the Town's zoning map is consistent with the Town's Comprehensive Plan and other applicable adopted plans of the Town which relate to this application because it supports many of the commercial development goals of the comprehensive plan; it takes into account viewshed and watershed considerations; and it is close to public utility lines and public transportation, to make the effective date the date of annexation, and with the following conditions:
1. Where there is a conflict between the application information and the plans and supplemental information (bearing a received date of July 1, 2011-revised site plan bearing a received date of August 5, 2011), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.

2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop work order and/or permit revocation if violated.
3. Final plans shall be submitted that are in compliance with the provisions of the UDO and other provisions of the Town Code.
4. Based upon comments from the Fire Department, efforts shall be made to reduce the slope of the driveway while meeting all requirements of the UDO so long as the location of the driveway does not change.
5. The Conditional District Map Amendment approval shall be conditional on the zoning and annexation of the property outside the corporate limits.

VOTE: Aye - All
Nay - None

Vote #2
Upon a motion by Council member Phillips, seconded by Council member Ball, Council moved to approve the proposed amendment to the Town's zoning map and believes approval is both reasonable and in the public interest because it supports many of the commercial development goals of the comprehensive plan; it takes into account viewshed and watershed considerations; and it is close to public utility lines and public transportation, to make the effective date the date of annexation, and with the following conditions:

1. Where there is a conflict between the application information and the plans and supplemental information (bearing a received date of July 1, 2011-revised site plan bearing a received date of August 5, 2011), the plans shall control. Insignificant deviations may be permitted to comply with the requirements of the UDO.
2. Any commitments and representations concerning the proposed project made by the applicant or its (his or her) representatives at the public hearing shall also become a condition of the permit, and a basis for a stop-work order and/or permit revocation, if violated.
3. Final plans shall be submitted that are in compliance with the provisions of the UDO and other provisions of the Town Code.
4. Based upon comments from the Fire Department, efforts shall be made to reduce the slope of the driveway while meeting all requirements of the UDO so long as the location of the driveway does not change.
5. The Conditional District Map Amendment approval shall be conditional on the zoning and annexation of the property outside the corporate limits.

VOTE: Aye - All
Nay - None

DIRECTION REGARDING OVERLAY DISTRICTS

Planning Director Bill Bailey appeared before the Council to request clarification regarding potential overlay districts. He presented the following list of issues for clarification:

1. Front setbacks along corridors - Setbacks for other uses. **It was the consensus that flexibility regarding an increase in front setbacks can be exercised when other such uses as café seating or additional greenspace are being proposed.**

2. Height limits: Mixed-use allows taller structure; higher equals step back (as for residential?)

It was the consensus of Council to wait until some examples of the differing height restrictions can be considered; however, it was the firm consensus of the Council that it is important to maintain community character and not overshadow residential areas.

3. Building footprint versus Floor Area Ratio (FAR)? **It was consensus of the Council to direct the Planning Staff to investigate more about the Floor Area Ratio standards.**

4. Density/Intensity - Residential uses allow accessory apartments? **It was the consensus of the Council to consider the issue very carefully and to develop stringent safeguards in order to protect the integrity of single-family neighborhoods.**

Mr. Bailey informed the Council that Planning Staff will be studying the following issues as well: landscaping/trees, open space, sidewalks, cluster developments and design criteria.

ADOPTION OF RESOLUTION - DIRECTING CLERK TO INVESTIGATE WINKLER-YOUNT ANNEXATION PETITION

Planner Jane Shook presented a petition for voluntary contiguous annexation submitted by Richard W. Winkler, on behalf of the Estate of Helen W. Yount, for two parcels of land located off NC Highway 105, High School Drive, and Temple Drive. She stated that the presentation of the annexation petition and the adoption of a resolution directing the clerk to investigate the petition for annexation are the first steps in the annexation process. Upon a motion by Council member Mason, seconded by Council member Brantz, Council moved to adopt the following resolution:

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE
A PETITION RECEIVED UNDER G.S. 160A-58.1
(Helen Yount Estate)

WHEREAS, a petition requesting annexation of an area described in said petition was received on April 13, 2010 by the Town Council; and

WHEREAS, G.S. 160A-31 provides that the sufficiency of the petition shall be investigated by the Town Clerk before further annexation proceedings may take place; and

WHEREAS, the Town Council of the Town of Boone deems it advisable to proceed in response to this request for annexation;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Boone that:

The Town Clerk is hereby directed to investigate the sufficiency of the above described petition and to certify as soon as possible to the Town Council the result of her investigation.

Mayor

ATTEST:

Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 3 , PAGE(S) 162)

VOTE: Aye - All
Nay - None

PLANNING & INSPECTIONS MONTHLY STATUS REPORT

Planning and Inspections Director Bill Bailey presented the Planning and Inspections Monthly Report **(permanently on file in the August 2011 Town Council Packet.)**

DISCUSSION OF PROPOSED UDO TEXT AMENDMENT

Town Attorney Sam Furgiuele presented a draft text amendment **(copy of proposed text amendment language permanently on file in the August 2011 Council packet)** which allows for minor modifications to previously approved conditional zoning districts. He explained that this is a result of a request made by Brian Mueller who appeared before Council at the July meeting. Upon a motion by Council member Mason, seconded by Council member Ball, Council moved to schedule a special joint public hearing of the Planning Commission and the Council on Monday, October 10, 2011, at 6:30 p.m. in the Council Chambers in order to receive public comment on the proposed text amendment.

VOTE: Aye - 4 (Phillips, Mason, Ball, Brantz)
Nay - 1 (Leigh)

APPROVAL OF CONTRACT AND LEASE - WATAUGA ARTS COUNCIL

Council member Brantz presented a proposed lease and contract between the Town and the Watauga County Arts Council. Town Attorney Sam Furgiuele advised that the Council has already taken action on adopting a month-to-month lease and contract and that the Council must rescind the previous action on the contract and lease. He stated that the documents as presented in the packet and from the Arts Council are not satisfactory in his opinion. Council member Brantz raised a concern about the legality of transferring funds so that the Arts Council can meet its contractual obligations. Mr. Furgiuele pointed out that the previous action of the Council was to continue the contract and lease on a month-to-month basis with the current terms along with a couple of modifications. He advised that the Council could approve an amendment or addendum to the current contract outlining the modified terms and could grant authority to the Town Manager or the Mayor to execute the agreement. Council member Leigh asked about the status of the relocation of the copier at the Jones House. Council member Brantz stated that the Watauga Arts Council Board and the Jones House Advisory Board have unanimously voted to locate the copier in the Serendipity gallery. He noted that it has also been suggested to locate the copier in the parlor of the Jones House. Town Manager Greg Young stated that he has met with the Jones House Director to discuss the relocation of the copier but that it has not been moved from its current location. After lengthy discussion, Town Manager Greg Young stated that he will investigate the option of relocating the copier to the parlor room. It was the consensus of the Council to direct the Town Manager to manage the issue of the relocation of the copier in the Jones House Community Center. Upon a motion by Council member Brantz, seconded by Council member Mason, Council moved to grant authority to the Town Manager to sign the necessary documents to extend the current lease and contract according to the current terms as were amended at the July 1, 2011 special meeting on a month-to-month basis.

VOTE: Aye-All
Nay-None

Council discussed the procedure needed to begin the redrafting of a lease and contract between the Town and the Watauga County Arts Council. It was discussed to have a special meeting to include the Council, the Watauga Arts Council Board, and the Jones House Advisory Board to discuss the creation of a new lease and contract. Upon a motion by Council member Mason, seconded by Council member Brantz, Council moved to amend the agenda to take action to schedule a special meeting to discuss the creation of a new lease and contract with the Watauga County Arts Council.

VOTE: Aye - 4 (Phillips, Mason, Ball, Brantz)
Nay - 1 (Leigh)

The motion fails.

Mayor Clawson declared a break at 8:15 p.m. Council reconvened at 8:24 p.m.

APPROVAL OF PROPOSED CHANGES TO CURRENT STRUCTURE - DBDA BOARD OF DIRECTORS

Downtown Development Coordinator Pilar Fotta presented an update on the following:

1. A meeting with DBDA liaisons Council members Leigh and Mason to discuss the transition of the Downtown Coordinator and the new DBDA Board of Directors. Discussion included the need for a revised contract between the Town and the DBDA and revisions to the current by-laws of the DBDA.
2. Status update regarding the relocation of the office of the Downtown Development Coordinator from the previous DBDA office location to an office in the upstairs of the Jones House Community Center. Phone lines have been set up and the new phone numbers are as follows: Office (828)265-8557 and Fax (828)268-6217.

3. A meeting with the Jones House Advisory Board regarding a request for temporary signage at the Jones House Community Center. The request is for temporary signs indicating the new Downtown Development Coordinator's office to be located at the front of the Jones House lawn on the bank and one at the rear entrance of the building.
4. Rescheduling of office hours for the months of November and December to accommodate the closing of the Jones House Community Center.
5. Amendment to the Town's current requirements for DBDA Board appointments which is proposed as the addition of to the following requirements:
   a. MSD Property Owner
   b. MSD Business Owner
6. The annual meeting has been rescheduled to Thursday, September 29, 2011.

DISCUSSION OF POSSIBLE ORDINANCE - REQUIRE PET OWNERS TO CLEAN UP PET WASTE

Council member Leigh introduced discussion of the issue of requiring pet owners to clean up pet waste. Public Works Director Blake Brown pointed out that there are bags located along the Greenway Trail which pet owners can use to clean up after their pets. After a brief discussion, it was the consensus of the Council to direct Public Works Director Blake Brown and Downtown Development Coordinator Pilar Fotta to determine locations for bag dispensers for pet waste to be located on the new light poles in the downtown area. Upon a motion by Council member Mason, seconded by Council member Leigh, Council moved not to pursue an ordinance requiring pet owners to clean up pet waste at this time but to encourage voluntary compliance.

VOTE: Aye - All
Nay - None

UPDATE ON WILSON DRIVE CONNECTOR PROJECT

Assistant to the Manager Jim Byrne informed the Council that all the necessary paperwork has been submitted to the NC DOT and once review has been completed by the NC DOT Grant Manager, the documents will be submitted to the Federal Highway Administration for the release of funds so that the project can go out for bidding.

UPDATE ON 911 CONSOLIDATION COMMITTEE

Town Manager Greg Young stated that information regarding the Town's appointments for the 911 Consolidation Committee have been forwarded to Watauga County officials. He stated that the Town has not received any notification of meetings to date.

SCHEDULING OF SPECIAL MEETING

Upon a motion by Council member Ball, seconded by Council member Phillips, Council moved to schedule a special meeting with the Watauga County Board of Commissioners on Monday, September 12, 2011, at 5:00 p.m. in the Commissioners Board Room, 814 West King Street, for discussion of the following items:

1. ETJ Appointments.
2. Clarification of the water allocation for the old high school.
3. Centralized dispatch center.
4. Greenway expansion.

VOTE: Aye - All
Nay - None

AUTHORIZATION TO SIGN MOU WITH ARMY CORPS

Assistant to the Manager Jim Byrne appeared before the Council to request authorization to sign a Memorandum of Understanding (MOU) with the Army Corps of Engineers to begin the Phase II restoration project for the New River. He explained that the grant will require a local match of $890,000. Mr. Byrne stated that the Town has received a CDBG grant in the amount of $600,000 but that $120,000 is needed by November 2011 with the signing of the MOU. He

stated that the project is slated to begin in May 2012 and be completed by September of that same year. Upon a motion by Council member Ball, seconded by Council member Brantz, Council moved to authorize the Town to proceed with the signing of the Memorandum of Understanding with the Army Corps of Engineers for the Phase II Restoration Project of the New River and to authorize $120,000 be allocated from the fund balance.

VOTE: Aye - All
Nay - None

ADOPTION OF PEDESTRIAN PLAN

Public Works Director Blake Brown appeared before the Council, on behalf of the Pedestrian Plan Steering Committee, to request approval of the Boone Pedestrian Plan as prepared by Alta/Greenway, Inc. and presented to the Council at the June 2011 regular meeting. Upon a motion by Council member Brantz, seconded by Council member Ball, Council moved to adopt the Boone Pedestrian Plan **(copy of Boone Pedestrian Plan permanently on file at Town Hall.)**

VOTE: Aye - All
Nay - None

ADOPTION OF WATER COMMITTEE RECOMMENDATION - REQUIRING INDIVIDUAL WATER METERS

Public Utilities Director Rick Miller presented a recommendation from the Water Use Committee for an amendment to the Water & Sewer Code and the Unified Development Ordinance to require individual water meters on all Multi-family uses. Upon a motion by Council member Mason, seconded by Council member Brantz, Council moved to approve the recommendation, to direct the
staff to draft an amendment to the Water & Sewer Code and to work on a draft to the UDO to present to Council.

VOTE: Aye - All
Nay - None

ADOPTION OF WATER COMMITTEE RECOMMENDATION - USE OF GREY WATER

Public Utilities Director Rick Miller presented a recommendation from the Water Use Committee for an amendment to the Water & Sewer Code to allow for the use of grey water as a conservation method in accordance with the N.C. State Building Code. He explained that the use of grey water could include watering of lawns and plants and washing of vehicles. Upon a motion by Council member Ball, seconded by Council member Mason, Council moved to direct the staff to draft an amendment to the Water & Sewer Code.

VOTE: Aye - All
Nay - None

ADOPTION OF WATER COMMITTEE RECOMMENDATION - EXTENSION OF ORDINANCE 11-01

Public Utilities Director Rick Miller presented a recommendation from the Water Use Committee for an amendment to Ordinance #11-01 in order to extend the ordinance until December 31, 2013 and to earmark 110,000 gallons per day for each year's allocation amount. Council directed the staff to draft a press release for future publication regarding the several changes to the Water & Sewer Code. Upon a motion by Council member Ball, seconded by Council member Brantz, Council moved to approve the recommendation of the Water Study Committee and to direct staff to prepare a draft amendment to Ordinance #11-01.

VOTE: Aye - All
Nay - None

ADOPTION OF WATER COMMITTEE RECOMMENDATION - PROPOSED DELETION OF SEWER USE SECTION OF ORDINANCE #11-01

Public Utilities Director Rick Miller presented a recommendation from the Water Use Committee for an amendment to Ordinance #11-01 to delete the section of the ordinance which allows for sewer-only connections and to provide further clarification regarding this in the Water & Sewer Code. Upon a motion by Council member Mason, seconded by Council member Brantz, Council moved to direct the staff to prepare an amendment to Ordinance #11-01 to delete the section of the ordinance which allows for sewer-only connections and to draft an amendment to the Water & Sewer Code which provides for further clarification of this action.

VOTE: Aye - All
Nay - None

ADOPTION OF WATER COMMITTEE RECOMMENDATION - PROPOSED AMENDMENT TO ORDINANCE #11-01

Public Utilities Director Rick Miller presented a recommendation from the Water Use Committee for an amendment to Ordinance #11-01 to allow for staff approval of allocations up to 5000 gallons per day for in-city requests and up to 500 gallons per day for ETJ requests. Upon a motion by Council member Ball, seconded by Council member Mason, Council moved to approve the recommendation and to direct staff to prepare a draft amendment to Ordinance #11-01 which will allow for staff approval of allocations up to 5000 gallons per day for in-city requests and up to 500 gallons per day for ETJ requests.

VOTE: Aye - All
Nay - None

MONTHLY WATER USE STATUS REPORT

Public Utilities Director Rick Miller presented the monthly water-use status report. **(Permanently on file in the August 2011 Boone Town Council meeting packet.)**

APPROVAL OF BUDGET AMENDMENTS

On a motion by Council member Brantz, seconded by Council member Ball, Council moved to adopt the following budget amendments:

Town of Boone
Re-encumbrance of
Funds from FY
2010/2011 to 2011/2012
August 16, 2011

Account #	*Vendor*	*Description*	*Department*	*Amount*
010-600-401-574804		Chestnut Street Connector Project	Street	167,450.00
010-600-401-574803		Delmar Street Project	Street	202,939.00
010-600-401-574003		King Street-Street Light Project	Street	325,000.00
010-600-401-574004		Street Light Project	Street	35,000.00
010-600-405-514303		State Farm Road Sidewalk Project	Facilities	56,431.00
010-600-405-525102	Appalachian Signs	Community Appearance-Special	Facilities	2,195.00
010-600-401-525210	Haynes Electric Utility	State Farm Rd/Shadowline Drive	Street	3,380.00

010-600-401-525210	CED-Boone	Cobra Head Streetlight/Brackets	Street	5,892.00
010-408-000-525101	Ashe County Garage Doors	Garage Door-Brown Building	Brown Bldg.	1,100.00
010-408-000-525101	Padco Excavating	Gate Replacement	Brown Bldg.	2,700.00
010-500-350-514110	Dell	Dell Latitude Laptops	Fire	3,534.00
010-409-000-525101	Edmisten Heating &Cooling	Heat	Jones House	10,540.00
010-500-350-525301	Seagrave Fire Apparatus	Fire Truck Repair	Fire	2,261.00
010-411-000-545100		ATP/Greenway Expansion	Special Projects	455,421.00
010-411-000-545101	Greenways, Inc.	Pedestrian Planning Grant	Special Projects	7,918.00
010-411-000-549111		IT-Special Projects	Special Projects	3,133.00
010-411-000-549121	NCDOT	U-4020	Special Projects	1,422,028.00
010-411-000-549122		Horn in the West	Special Projects	87,885.00
010-411-000-549123		Clawson-Burnley Park	Special Projects	58,365.00
010-411-000-549128		Tree Planting Project	Special Projects	17,805.00
010-411-000-549133		Stream Bank Restoration	Special Projects	10,000.00
010-417-000-574001		USPS King Street Improvements	USPS King St	631,403.00
010-600-403-577401		Paving & Resurfacing	Powell Bill	23,405.00
010-000-000-448025	***NC DOT Project E-4955***			***(269,985.00)***
010-000-000-499900	***Appropriated Fund Balance-General Fund***			***(3,265,800.00)***
011-500-304-519900	Dell	Dell Latitude Laptops	E-911	10,603.00
011-500-000-499900	***Appropriated Fund Balance-E-911***			***(10,603.00)***
030-700-801-577000	WK Dickson/Parker Poe	Contracted Serv-Raw Water Intake	Water/Sewer	217,515.00
030-700-806-545009	Temple Consulting Group	Computer Services	Water/Sewer	6055.00
030-000-000-499900	***Appropriated Fund Balance-Water & Sewer***			***(223,570.00)***

VOTE: Aye - All
Nay - None

ADOPTION OF MOU - WHS DOG DONATION

Police Chief Dana Crawford appeared before the Council to request authorization to execute a Memorandum of Understanding (MOU) to accept the donation of a controlled substance trained canine for Watauga County High School. He stated that the canine is a chocolate Labrador which was rescued from the Watauga Humane Society and is undergoing training by Sergeant Donnie Goodman. Chief Crawford explained that the canine will begin service with the School Resource Officer on September 13, 2011, if approved by Council. Upon a motion by Council member Ball, seconded by Council member Brantz, Council moved to approve the request to accept the donation of a controlled substance trained canine.

VOTE: Aye - All
Nay - None

RECESS

On a motion by Council member Brantz, seconded by Council member Mason, Council moved to recess the meeting at 9:42 p.m. until Thursday, August 18, 2011 at 6:30 p.m.

VOTE: Aye - All
Nay - None

A recessed meeting from Tuesday, August 16, 2011 was called to order at 6:30 p.m. on Thursday, August 18, 2011 in the Council Chambers, 1500 Blowing Rock Road. Mayor Loretta Clawson presided. Council members present were Mayor Pro-Tem Lynne Mason, Andy Ball, Rennie Brantz, Jamie Leigh and Stephen Phillips. Town Attorney Sam Furgiuele was also present. Staff members present were Town Manager Greg Young, Town Clerk Freida Van Allen, Finance Director Amy Davis, Planning Director Bill Bailey, Police Chief Dana Crawford, Fire Chief Jimmy Isaacs, Public Works Director Blake Brown and Public Utilities Director Rick Miller.

PUBLIC COMMENT

Damon Mallatere appeared before Council to give a brief update on the redevelopment project for the new Olive Garden. Mr. Mallatere hoped that the Town of Boone would consider working with him to secure grants to relocate the creek.

Justin Church of Blue Ridge Environmental Consultants appeared before Council to discuss the redevelopment project for the new Olive Garden. Mr. Church said there are many difficulties in relocating the creek and that he also hopes the Town will consider a public/private partnership. Council member Mason asked how quickly direction is needed from the Town Council. Mr. Church said the developer needs to know as soon as possible if the Town will participate in the costs to relocate the creek.

Mr. Derek Goddard, Project Planner with Blue Ridge Environmental Consultants, appeared before Council to discuss the redevelopment project for the new Olive Garden. Mr. Goddard said the application deadline for a Clean Water Management Trust Fund grant is February 1, 2012. Council member Mason suggested that the developer appear before Council at its September meeting.

DISCUSSION OF RECENTLY ADOPTED CODE AMENDMENT - NOISE ORDINANCE

Town Attorney Sam Furgiuele said the recent redraft of the noise ordinance was made to eliminate confusion for the Police Department. Mr. Furgiuele reviewed in detail the new features of the ordinance and stated that as before the noise ordinance is complaint driven. Mr. Furgiuele explained the new provision regarding live music and said that a permit can now be

obtained to conduct live music outdoors until 10 p.m. and indoors until 2:00 a.m. Mr. Furgiuele also explained in detail the permit and the fines associated with violations and said that revocation of the permit is the ultimate penalty, but that an appeals process will be in place for any permit revocations. Police Chief Dana Crawford felt that the new noise ordinance protects businesses from frivolous complaints. Council member Ball asked if the noise permit application is now available. Mr. Crawford said yes that the form has been available to the public for about two weeks. The Mayor then opened the floor for public comment.
Bill Close of High Country Entertainment Events said he leases the old fairgrounds property and asked if the noise ordinance will be enforced in that area. Town Attorney Furgiuele said the noise ordinance is not enforceable in the ETJ.

Stephen Sinanian of the Boone Saloon felt that Section 93.05 d.4. was too subjective and vulnerable to abuses. Mr. Sinanian felt that commercial businesses should be exempt from the noise ordinance.
Liz Aycock of Boone felt that it was unreasonable to require a permit and that businesses should be excluded from the noise ordinance.

Mark Dixon of Galileo's said that businesses need to know what the Boone Police is considering as reasonable. Mr. Dixon also asked if Galileo's would be able to get a permit since it has received previous complaints. Town Attorney Sam Furgiuele answered yes.

Scott Willifred of Boone felt it was unreasonable for a police officer to disturb a live show.

Jesse Kellogg of Boone felt that businesses and Town Council should work together and suggested having special meetings to discuss the Town's noise ordinance.

Glen Buchard of Boone said many people here enjoy music and questioned if a non-profit agency could obtain a noise permit for ASU property. Police Chief Dana Crawford clarified that Town of Boone Police Department enforces all Town of Boone ordinances on ASU property.

Daniel Sullivan of 221 Orchard Street commented that he sleeps with his windows open and that he does not hear bands playing on King Street.

Madison Smith of Grand Blvd commented that she sleeps with her windows open and that she supports all the downtown music businesses.

Samantha Alexander, owner of Boone Taxi, commented that regulating the music will hinder many other businesses such as Boone Taxi.

David Johnson of Tarleton Circle asked, "What is reasonable?"

Hayden Johnson of Boone said he was in a band that was born and bred here in Boone and that he would like a resolution that provided peace.

Parker Stephens of Queen Street said he enjoys the live music and that these businesses provide economic opportunities to ASU students.

Jeremiah Brown of Zionville said the downtown business should be excluded as Boone is a music town.

After public comment, Council member Phillips made a motion to provide for a three-month grace/educational period and to delay the effective date of the new noise ordinance until November 1, 2011. Council member Ball seconded.

VOTE: Aye-All
Nay-None

Town Attorney Sam Furgiuele pointed out that the motion basically leaves the Town without a noise ordinance until November 1st.

Council member Phillips then made a motion to reconsider the previous motion. Council member Ball seconded.

VOTE: Aye-All
Nay-None

On a motion by Council member Phillips, seconded by Council member Ball, Council moved to provide for a three-month grace/educational period and to delay the effective date of the new noise ordinance until November 1, 2011 for businesses in commercial districts which as part of their business activities present live performances of music.

VOTE: Aye-All
Nay-None

On a motion by Council member Ball, seconded by Council member Phillips, Council moved that on November 1st, when the Noise Ordinance take effect, that all warnings be waived and all establishments and citizens essentially start with a clean slate.

VOTE: Aye-All
Nay-None

On a motion by Council member Phillips, seconded by Council member Leigh, Council moved to waive, repeal, forgive or refund all fines issued because businesses were not given ample time to apply for permits nor to prepare themselves for the technicalities of the new ordinance.

VOTE: Aye-All
Nay-None

On a motion by Council member Mason, seconded by Council member Brantz, Council moved to amend the agenda to schedule a special meeting.

VOTE: Aye-All
Nay-None

SCHEDULING OF SPECIAL MEETING

On a motion by Council member Mason, seconded by Council member Ball, Council moved to schedule a special meeting for Thursday, September 15, 2011 at 7:00 p.m. in order to meet with representatives from downtown businesses for the purpose of reviewing and making modifications to the Noise Ordinance.

VOTE: Aye-All
Nay-None

Mayor Clawson declared a break at 8:31 p.m. Council reconvened at 8:46 p.m.

ANNOUNCEMENT OF BOARD VACANCIES

Mayor Clawson announced three vacancies on the Boone TDA and one vacancy on the Affordable Housing Task Force. The Town Clerk will advertise these vacancies.

AFFORDABLE HOUSING TASK FORCE APPOINTMENT

There were no applications submitted for the vacancy; however on a motion by Council member Ball, seconded by Council member Mason, Council moved to confirm Dr. Cameron Lippard as a Planning Commission representative on that board.

VOTE: Aye-All
Nay-None

BOARD OF ADJUSTMENT APPOINTMENTS

There were no applications submitted for the vacancies.

COMMUNITY APPEARANCE COMMISSION APPOINTMENTS

There were no applications submitted for the vacancies.

DBDA BOARD OF DIRECTORS APPOINTMENTS

The following votes were cast for the following list of nominees:

Jamie Goodman - 5 votes - 3-year term
Janet Mahala - 5 votes - 1-year term
Marsha Walpole - 5 votes - 3-year term
Evalyn Sudderth - 5 votes - 2-year term
Brad Harmon - 5 votes - 1-year term
Jill Reeves - 4 votes (Ball, Brantz, Leigh, Mason) - 2-year term

Leigh Jacobs - 1 vote (Phillips)

All nominees, with the exception of Leigh Jacobs, was appointed to the DBDA Board of Directors.

GREENWAY, PARKS AND GARDEN COMMITTEE APPOINTMENTS

Council member Ball nominated Mike Curcio and Council member Mason nominated Susan Tumbleston. There being no further nominations, both were appointed to the Greenway,Parks and Garden Committee for another three-year term. Their terms will expire July 31, 2014.

HISTORIC PRESERVATION COMMISSION APPOINTMENTS

An application was received by Bill Bake; however, Council decided to advertise for another month to determine whether or not additional applications are forthcoming.

OUTSIDE AGENCY FUNDING COMMITTEE APPOINTMENTS

There were no applications submitted for the vacancy.

TREE BOARD APPOINTMENTS

There were no applications submitted for the vacancies.

WATER STUDY COMMITTEE APPOINTMENTS

There were no applications submitted for the vacancies.

REQUESTED APPEARANCE - KRIS FOWLER

Ms. Becky Fowler appeared before Council to request approval of a special events permit for the 7th annual High Country Toy Run. This event will be held on Saturday, October 8, 2011 at 9:00 a.m. The annual motorcycle ride begins and ends at the Boone Mall, with Boone Police providing escorts and traffic direction for the event. Ms. Fowler requested that Council waive the $250 permit fee and certificate of insurance requirement. After little discussion, on a motion by Council member Brantz, seconded by Council member Ball, Council moved to approve the Special Event Permit for the 7th Annual High Country Toy Run and to waive the permit fee of $250 and the certificate of insurance requirement for this year's event.

VOTE: Aye-All
Nay-None

REQUESTED APPEARANCE - RANDY McDONOUGH

Mr. Randy McDonough, Chairman of the Greenway, Parks and Garden Committee, appeared before Council to request that Council approve the Town of Boone Commemorative Program as presented in the **August, 2011 Boone Town Council packet**. On a motion by Council member Mason, seconded by Council member Ball, Council moved t approve the Commemorative Bench and Plaque program.

VOTE: Aye-All
Nay-None

REQUESTED APPEARANCE - RANDY McDONOUGH

Mr. Randy McDonough, Chairman of the Greenway, Parks and Garden Committee, appeared before Council to request that Council approve the use of the Alta Greenways greenway trail entrance design as presented in the **August, 2011 Boone Town Council packet**. Council discussed at length the use of the greenway trail after dark. Council member Mason requested that Council revisit this discussion as the greenway trails are being used as a mode of transportation for citizens to go to work. Public Services Director Blake Brown said that the new signs will be purchased using grant funds. Council member Brantz felt the sign was too busy to the eye. On a motion by Council member Mason, seconded by Council member Leigh, Council moved to implement the Alta Greenways greenway trail entrance sign.

VOTE: Aye-4 (Ball, Leigh, Mason, Phillips)
Nay-1 (Brantz)

REQUESTED APPEARANCE - RANDY McDONOUGH

Mr. Randy McDonough, Chairman of the Greenway, Parks and Garden Committee, appeared before Council to request that Council approve the implementation of a fee/deposit for the use of all greenways, parks and gardens throughout the Town of Boone. Council member Brantz noted that if the Town charges fees, then there will be expectations and that additional staff will be required. Town Manager Greg Young agreed and said the Town will basically be operating a parks and recreation department. After little discussion, on a motion by Council member Mason, seconded by Council member Phillips, Council moved to have the Greenway Committee develop of guidelines for the use of the Greenway which include a registration process.

VOTE: Aye-All
Nay-None

REQUESTED APPEARANCE - ERIC WOOLRIDGE

Mr. Eric Woolridge, Planner with the Watauga County TDA, appeared before Council to request the release of Town funds in the amount of $15,000 to SAHA to develop the Horn in the West/Daniel Boone Park Master Plan. Mr. Woolridge said once the plan is completed and approved by the Town, he would then request an additional $15,000 to begin a marketing campaign. Mr. Woolridge also asked that two Council members service on the master plan steering committee. Town Manager Greg Young pointed out that the Town has statutory requirements for the use of Town funds. Town Attorney Sam Furgiuele said a memorandum of understanding will also need to be developed for the use and expenditure of the funds. Council agreed. After some discussion, on a motion by Council member Brantz, seconded Council member Mason, Council moved to release $15,000 from reserve Horn in the West funds to initiate phase one of the capital campaign for the development of a master plan, as long as the expenditures meet the statutory requirements, and to give the Town Manager the authority to work out all details.

VOTE: Aye-All
Nay-None

On a motion by Council member Mason, seconded by Council member Ball, Council moved to appoint Rennie Brantz, Jamie Leigh and any staff as needed to the master plan steering committee.

VOTE: Aye-All
Nay-None

CLOSED SESSION

On a motion by Council member Brantz, seconded by Council member Ball, Council moved to enter Closed Session at 10:02 p.m. pursuant to NCGS 1430318.11a)3) in order to discuss legal advice on the raw water intake, legal advice on post office update and legal advice on Gang of Five, LLC.

VOTE: Aye-All
Nay-None

On a motion by Council member Ball, seconded by Council member Mason, Council moved to exit Closed Session at 11:05 p.m.

VOTE: Aye-All
Nay-None

On a motion by Council member Ball, seconded by Council member Mason, Council moved to schedule a special meeting for Tuesday, August 30, 2011 at 6:45 p.m., in order to allow Council to attend the NC DEHNR public hearing on the proposed reclassification of a segment of the South Fork of the New River. The hearing will be held at the Green Valley Elementary School.

VOTE: Aye-All
Nay-None

ADJOURNMENT

On a motion by Council member Brantz, seconded by Council member Mason, Council moved to adjourn at 11:06 p.m.

VOTE: Aye-All
Nay-None

_____ _____

Town Clerk Mayor

_____

Deputy Town Clerk