

**MINUTES-REGULAR MEETING  
BOONE TOWN COUNCIL  
AUGUST 20, 2013**

A regular meeting of the Boone Town Council was called to order at 6:30 p.m., Tuesday, August 20, 2013, in the Council Chambers, 1500 Blowing Rock Road. Mayor Loretta Clawson presided. Council Members present were Mayor Pro-Tem Jamie Leigh, Lynne Mason, Rennie Brantz, Andy Ball, and Allan Scherlen. Town Attorney Sam Furguele was also present. Staff members present were Town Manager Greg Young, Town Clerk Kimberly Brown, Finance Director Amy Davis, Fire Chief Jimmy Isaacs, Police Chief Dana Crawford, Public Utilities Director Rick Miller, Public Works Director Blake Brown, Public Works Superintendent Eric Gustaveson, Human Resources Director Peri Moretz, Planning Director Bill Bailey, Cultural Resources Director Pilar Fotta, and Downtown Coordinator Virginia Falck.

**ANNOUNCEMENTS**

Mayor Clawson called the meeting to order and welcomed all in attendance. She noted that anyone wanting to sign up to speak during the public comment session would need to sign the public comment sign-up sheet.

Mayor Clawson made the following announcement: “In conjunction with the statewide Fall Litter Sweep 2013 campaign issued by Governor Pat McCrory for September 21, 2013 through October 5, 2013, the Town of Boone will hold a Fall Boone Clean-Up Day on Saturday, September 21, 2013. Interested participants may come by the Town of Boone Public Works Department located at 321 East King Street between 9 a.m.-2 p.m. to pick up cleaning supplies. For more information, contact Shannon Isaacs at (828)268-6230.”

**TENTATIVE AGENDA ADOPTION**

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

1. Addition of Item 6.I. – Approval of Fire Separation Area Lease Agreement between Town of Boone and Michael Vetro, Sr.
2. Addition of Item 14.E. – Water & Sewer Request – Blue Ridge Companies.

Upon a motion by Council Member Brantz, seconded by Council Member Scherlen, Council moved to adopt the agenda, as amended.

VOTE:       Aye – All  
              Nay – None

**CONSENT AGENDA ADOPTION**

Minutes:       June 11, 2013 – Special Meeting.  
                  July 9, 2013 – Special Meeting.  
                  July 16&18, 2013 – Regular Meetings.  
                  July 23, 2013 – Special Meeting.

Approval of Encroachment Agreement – King Street Creamery Projecting Sign. **(Copy permanently on file at Boone Town Hall.)**

Approval of Special Event Permit – ASU Homecoming Parade.

Approval of DBDA Contract Renewal. **(Copy permanently on file at Boone Town Hall.)**

Upon a motion by Council Member Ball, seconded by Council Member Mason, Council moved to adopt the consent agenda.

VOTE:           Aye – All  
                  Nay – None

**PUBLIC COMMENT**

There was no one signed up to speak during this time.

**ADOPTION OF RESOLUTION – SUPPORTING THE NAMING OF THE HIGHWAY 421 BRIDGE OVER THE SOUTH FORK OF THE NEW RIVER IN MEMORY OF DEPUTY SHERIFF WILLIAM RONALD MAST JR.**

Upon a motion by Council Member Mason, seconded by Council Member Ball, Council moved to adopt the following resolution:

**PROPOSED RESOLUTION REQUESTING TO NAME THE HIGHWAY 421  
BRIDGE OVER THE SOUTH FORK OF THE NEW RIVER  
IN MEMORY OF DEPUTY SHERIFF WILLIAM RONALD MAST, JR.**

WHEREAS, William Ronald Mast was born on August 16, 1988, in Watauga County;  
and

WHEREAS, William was active in his community, serving as a member of Snow Lodge #363 AF&AM and attending Bibleway Baptist Church, and

WHEREAS, William was a devoted and loving husband; and

WHEREAS, in 2009, William R. Mast was hired by the Watauga County Sheriff's Office; and

WHEREAS, Deputy Mast faithfully served, protected, and preserved the peace and well-being of the citizens and visitors of Watauga County; and

WHEREAS, on the morning of July 26, 2012, Deputy Sheriff William R. Mast, Jr. responded to a call for assistance resulting in him giving the ultimate sacrifice for his community;

NOW, THEREFORE, BE IT RESOLVED that the Boone Town Council supports the naming of the Highway 421 Bridge over the South Fork of the New River in Memory of Deputy Sheriff William Ronald Mast, Jr.

ADOPTED the 20<sup>th</sup> day of August, 2013.

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Loretta Clawson, Mayor

ATTEST:

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Kimberly S. Brown, Town Clerk

**(RESOLUTION TO BE TYPED IN BOOK 3, PAGE(S) 206 )**

VOTE:           Aye – All  
                  Nay – None

### **CONSIDERATION OF ZONING AMENDMENTS**

- **Case 20130377 Connie Keller – General Use Map Amendment** – The Town of Boone has initiated a Zoning Map amendment to zone property owned by Connie Keller in conjunction with the voluntary annexation of said property. The property is located at 119 Betsy’s Drive and is further identified as Watauga County PIN 2829-28-5755-000.

Planning Director Bill Bailey stated that the Planning Commission voted unanimously to recommend approval of the request. He also advised that, if approved by the Council, the zoning designation become effective on the date of annexation of the property.

#### **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 R-A, Residential/Agriculture and WS-IV-PA Watershed designation are the most logical and compatible given that the property is surrounded on three sides by other vacant rural property or low-density, single-family residential uses and that R-A, Residential/Agriculture is most compatible with existing land uses in the adjacent area.

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 believe approval is reasonable and in the public interest because the R-A, Residential/Agriculture zoning district with the WS-IV-PA Watershed is established as a district in which the principle use of the land is for low-density residential and agricultural purposes and that the zoning become effective on the date of annexation for the property.

VOTE:           Aye – All  
                  Nay – None

- **Case 20130408 Mountaineer Crossing – Conditional District Map Amendment** – Mountaineer Crossing LLC has filed a petition for a Conditional District Map Amendment modification to allow for additional phasing for the Mountaineer Crossing development located at the corner of NC Highway 105 and High School Drive and further identified as Watauga County PINs 2900-92-2629-000, 2900-92-5257-000, and 2900-91-4847-000.

Planning Director Bill Bailey noted that the Planning Commission voted unanimously to recommend approval of the request with conditions.

#### **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 this is an urban-type development within the urban growth area that will meet the Town’s standards in Comprehensive Plan 2.3.A *Urban type development within the*

*land planning and development practices shall be encouraged to create livable developments which better safeguard land, water, energy, and historic resources; the overall housing unit density will be compatible with the average density of existing areas, and because the applicant is not proposing a change of use but to break the project into three phases thereby extending occupancy by 30 days in the second phase.*

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 believe approval is reasonable and in the public interest because the project promotes mixed-use development along one of the Town's business corridors, the additional phasing makes the project more economically feasible, 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 23, 2013), 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. All previous conditions of approval not modified remain in effect.
4. Revised plans meeting the requirements of the Town Code, UDO, and other applicable plans shall be submitted for review and approval.
5. Sidewalk fee-in-lieu (based on rates at the time of approval) shall be paid prior to the issuance of a Certificate of Occupancy for Phase I.
6. The applicant shall take all precautions necessary to ensure the safety of the residents/visitors to the site due to the ongoing construction and land disturbing activities that will be occurring.
7. All applicable fees for this project must be paid regardless of phasing. All utility testing and inspection must be completed prior to completion and/or issuance of CO for each phase.
8. The roadway access shall be of stable, all-weather materials from entrance off High School Drive through project to Temple Drive. This allows for alternate route access to completed portions in case of blocked construction and other impeding actions. Southern parking lot of Phase I shall be cleared of construction materials and equipment for access of emergency equipment.
9. Applicant shall install the infrastructure, landscape and street yard as presented at the public hearing and that failure to complete Phase III of the project will result in revocation of the Certificate of Occupancy.

VOTE:           Aye – All  
                  Nay – None

## **ADOPTION OF RESOLUTION – FIXING DATE OF PUBLIC HEARING FOR ANNEXATION REQUEST**

Planning Director Bill Bailey noted that this is the next step in the process for a request made by Connie Keller for voluntary contiguous annexation for a parcel of land located at the intersection of Bamboo Road and Betsy's Drive. Upon a motion by Council Member Mason, seconded by Council Member Scherlen, Council moved to adopt the following resolution:

**RESOLUTION DIRECTING THE CLERK TO INVESTIGATE  
A PETITION RECEIVED UNDER G.S. 160A-58.1 (Connie  
Keller)**

WHEREAS, a petition requesting annexation of an area described in said petition was received on July 16, 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:

Section 1. A public hearing on the question of annexation of the non-contiguous area described herein will be held at Council Chambers on Blowing Rock Road at 6:30 p.m. on September 17, 2013.

Section 2. The area proposed for annexation is described as follows:

A parcel of land lying on the southeast side of the intersection of Betsy's Drive with Bamboo Road and being the lands described in deed recorded in Book of Records 277 at page 400, bounded on the south by Lot 23, on the west by Betsy's Drive and Lot 1, on the north by Bamboo Road and Deer Valley Development Corp., and on the east by Lot 26 as surveyed by Frank Lee Hayes, P.L.S., L-1488, Job No. 88214 & 13122, dated January 02, 1989 as BEGINNING on a 5/8 inch rebar in the northern line of Lot 23 as conveyed to Gerry W. Keller Living Trust by deed recorded in Book of Records 1576 at page 730, said rebar being located North 46 degrees 05 minutes 55 seconds West 45.99 feet from a control monument at the common corner of Lots 19, 23 & 26; thence with the northern line of Lot 23, North 46 Degrees 05 minutes 55 seconds West, passing 5/8 rebar on line at 201.44 feet, a total of 228.83 feet to a point in the center of Betsy's Drive, a common corner to Lots 1 & 2; thence with the center line of Betsy's Drive and the eastern line of Lot 1 as conveyed to James Joseph Brown III and the City Limits in line, North 18 degrees 51 minutes 55 seconds East 208.25 feet to a point in the center line intersection of Betsy's Drive and Bamboo Road; thence with the center line of Bamboo Road and the southern line of the lands conveyed to Deer Valley Development Corp. (P.B. 10 pg. 35) and the City Limits Line, with a curve to the left having a radius of 350.00 feet, and arc length of 86.43 (chord: South 45 degrees 45 minutes 25 seconds East 86.21 feet to a point of tangency; thence South 52 degrees 49 minutes 50 seconds East 78.22 feet to a point in the center line of Bamboo Road, said point being the northwest corner of Lot 26; thence leaving the road and with the western line of Lot 26, South 06 degrees 06 minutes 05 seconds West, passing a 5/8 inch rebar on line at 34.60 feet, a total distance of 249.75 feet to the BEGINNING and covering an area of 0.869 acres as calculated by the coordinate geometry method and having bearings relative to Plat Book 11 at page 68 and all distances being horizontal measurements.

Section 3. Notice of the public hearing shall be published in the Watauga Democrat, a newspaper having general circulation in the Town of Boone, at least ten (10) days prior to the date of the public hearing.

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:

\_\_\_\_\_  
Clerk

**(RESOLUTION TO BE TYPED IN BOOK 3, PAGE(S) 207)**

VOTE:       Aye – All  
              Nay – None

**SCHEDULING OF SPECIAL MEETING – JOINT MEETING WITH PLANNING COMMISSION**

Upon a motion by Council Member Leigh, seconded by Council Member Brantz, Council moved to schedule a joint meeting with the Planning Commission for continuation of review of the proposed changes to the UDO on Tuesday, September 24, 2013, beginning at 6 p.m. in the Council Chambers, 1500 Blowing Rock Road.

VOTE:       Aye – All  
              Nay – None

**PRESENTATION OF RECOMMENDATION – GUARD TOP PAVEMENT SEALANT**

Planning Director Bill Bailey stated that his recommendation is a result of a request made by Mr. Williams of Hickory Sealing & Striping for exception from the current pavement sealant fees and regulations for the use of Guard Top Pavement Sealant, an environmentally-friendly sealant. He indicated that, due to the fact that he was unable to obtain sufficient information about this product from the manufacturer, he is recommending that no changes be made to the current rules, ordinances, and fees at this time. It was the consensus of the Council to take no action on the request at this time.

**PRESENTATION OF P&I MONTHLY REPORT**

Planning Director Bill Bailey presented the P&I Monthly report. **(Permanently on file in the August 2013 Town Council packet.)**

**PRESENTATION OF QUARTERLY REPORTS – CULTURAL RESOURCES AND APPALACHIAN THEATER**

Cultural Resources Director Pilar Fotta presented the Cultural Resources Department 2<sup>nd</sup> Quarter 2013 report and Appalachian Theater 2<sup>nd</sup> Quarter 2013 report. Downtown Coordinator Virginia Falck presented the DBDA 2<sup>nd</sup> Quarter 2013 report. **(Copies of quarterly reports permanently on file at Boone Town Hall.)**

**DISCUSSION OF HOLIDAY PARKING IN DOWNTOWN BOONE**

Cultural Resources Director Pilar Fotta explained that the Town has allowed for “No Exceeding Time” violations in downtown Boone for a few of the highest traffic days during the holiday seasons. She requested that the Council add three additional days to that exemption: Saturday, November 30, 2013, Friday, December 27, 2013, and Saturday, December 28, 2013. Upon a motion by Council Member Ball, seconded by Council Member Mason, Council moved to exempt the following dates from the issuance of “No Exceeding Times” parking citations in

downtown Boone: Saturday, November 30, 2013, Friday, December 27, 2013, and Saturday, December 28, 2013.

VOTE:           Aye – All  
                  Nay – None

### **DISCUSSION OF DOWNTOWN PARKING RECOMMENDATIONS FROM DBDA**

Downtown Coordinator Virginia Falck presented the following parking recommendations made by the Downtown Boone Development Association:

*Downtown Boone  
Development Association  
Parking Management Recommendations for Town of Boone  
Council Members, Town Manager, and Mayor Clawson For  
August 20, 2013 Regular Town  
Council Meeting*

*The most recent parking recommendations made by the DBDA to Town Council members occurred at the July 16<sup>th</sup> Town Council meeting. Downtown coordinator Falck stated that the DBDA board respectfully suggests that the 21 meters on W. King St. across from the Turchin Center and in front of Capones Pizza be programed for \$1 per hour with the option for the citizen to continue to pay the meter after the original paid hour expired. The same plan was recommended for the Hamby Alley parking meters.*

*The DBDA board of directors voted to a hire a parking consultant to assist with Downtown Boone's parking management plan at the July 11<sup>th</sup> DBDA Board of Directors Meeting. The consultant will be paid with non MSD funds. After meeting with Mr. Edwards on August 13<sup>th</sup> the DBDA Board composed a list of recommendations for Town Council, the Town Manager, and Mayor Clawson to be present at the Regular Meeting of Town Council on August 20, 2013. Below are the DBDA Board's recommendations respectfully submitted for consideration.*

#### *I.) Time Limits*

##### ***King St.***

*A. King St. to be set to \$1 per hour with a one hour time limit Monday – Friday 8 to 5 pm. Saturday parking is set to \$1 an per hour with a two hour time limit.*

- 1. When the time limit expires the patron has the option to continue to feed the meter or pay station at one hour increments. The patron does not have to move their vehicle but does have to pay the meter or pay station in order to avoid an exceeding time limit volition.*

##### ***Queen St.***

*B. No proposed change to the current parking system on Queen St. \$.50 an hour for up to three hours Monday – Saturday 8 – 5 pm.*

- 1. Change the meters on Queen St. to accept coinage 8 – 5 pm instead of current time limit of 8 – 6 pm. Rational: Create a standard system throughout the downtown.*

##### ***Depot St.***

*C. Depot Lot be set to \$1 an hour with a two hour time limit Monday – Saturday 8 – 5 pm*

- 1. When the time limit expires the patron has the option to continue to feed the meter or pay station at two hour increments. The patron does not have to move their vehicle but does have to pay the meter or pay station in order to avoid an exceeding time limit volition.*
- 2. Depot Lot to be monitored by pay stations or smart meters.*

#### ***Town Hall***

- D. Town Hall Lot - \$1.50 an hour with a two hour time limit or \$3 for two hours Monday – Saturday 8 – 5 pm.
1. Requests that the entrance gate be removed from the Town Hall parking lot.
  2. Town Hall Lot to be monitored by pay stations or smart meters.
- E. Parking remains free on Sundays

## II.) Validations

- A. Allow merchants to purchase validations at a discounted rate to be determined by Town Council.
- B. Develop a time sensitive policy to accommodate the implementation of the new parking policy and procedure. Rationale: This will allow merchants and visitors to downtown a period of “forgiveness” during the new parking management plan’s learning curve.

## III.) Smart Meters and Pay Stations (Pay and Post)

- A. Smart Meters are offered as single or double headed parking meters that accept coins, credit cards, smart cards, and coupons. Smart cards are pre-paid cards that are used by the patron to pay for parking. Smart meters use electric, solar, and battery power to operate. The cost of a single head smart meter is about \$500. Smart meters use wireless technology to transmit credit card. Most Smart Meter retailers have a PCI (Payment Card Industry) data security service certificate which indicates that the machine and wireless network comply with a high level of wireless data transmission security.
  1. Pro – Smart Meters are less expensive than pay stations.
  2. Pro - They are cited as being an efficient method of communicating to the visitor, “park here, pay here.” Rational: This would help eliminate and minimize signage downtown.
  3. Pro - If one meter breaks then it does not affect surrounding meters whereas if a pay station malfunctions then several spots are not in operation.
  4. Con – Adds additional obstacles to the sidewalks, requires greater man hours to install and maintain.
  5. Con – extra batteries to change, more coinage to collect, overall more maintenance.
- B. Pay stations are used for several parking spots in one area. They may accept credit cards, smart cards, coupons, and coins. Pay stations use wireless technology to transmit credit card data. Most pay station retailers have a PCI (Payment Card Industry) data security service certificate which indicates that the machine and wireless network comply with a high level of wireless data transmission security. Depending on what function a pay station is programmed to perform their price range medium is about \$14,500. Pay stations use electric, solar, and battery power to operate. Pay stations offer several options to indicate that the patron has paid for parking: pay and display, pay by parking space number, or pay by license plate. The Pay and Display system is used by other towns such as Boulder, Colorado as the best system for dealing with winter weather and a collegiate population.
  1. Pro – Are less obstruction to downtown sidewalks.
  2. Pro – Requires less maintenance, uses less batteries, and man power hours.
  3. Pro – Pay and display does not require numbers on parking spaces.
  4. Pro – Pay and display alleviates confusion over parking space numbers.
  5. Con – More expensive per space than the smart meters.
  6. Con – Not as immediately understandable as the smart meter. Greater learning curve.
  7. Con – If a pay station is broken more than one parking space is unavailable.

- C. Both machines offer flexibility in setting time and rate limits. Both use wireless technology. Both accept credit cards and are able to run on solar and batteries.

## IV.) Education Program

- A. In conjunction with a new parking management plan a new parking education program should be in place. The DBDA can work with the Town of Boone to

*development an education program for the public to help inform businesses, property owners, and visitors to downtown of the new parking management plan.*

- 1. Create a brochure that includes a map of downtown parking, rates, and time limits.*
- 2. Continue to update the DBDA website with parking information*
- 3. Assist with new signs and way finding materials to support new parking management system.*

Lengthy discussion ensued regarding the pros and cons of both pay stations and parking meters. She noted that there are approximately 207 parking spaces on King Street, including 11 handicap-accessible spaces and 16 30-minute parking spaces for the post office. It was the consensus of the Council that the parking spaces on Linney Street be limited to 30-minute parking and that the seven spaces in front of the post office be one-hour parking. Council discussed at length the cost of installing parking meters and/or pay stations. Steve McLaurin, of McLaurin Parking Company, stated that he agrees with the DBDA recommendation with the exception of the pay-parking lot adjacent to Town Hall. He advised that there should be a lot where all-day parking is available. Additionally, he suggested that pay stations be utilized in the Town Hall and Depot parking lots. It was the consensus of the Council that more information is needed before a final decision is made concerning the use of parking meters and pay stations in downtown. The Council requested that a plan containing detailed figures be created and that this issue be placed on the September regular meeting agenda.

**SCHEDULING OF SPECIAL MEETING – WATER USE COMMITTEE**

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to schedule a special meeting of the Water Study Committee on Wednesday, September 25, 2013, at 5:30 p.m. in the Council Chambers, 1500 Blowing Rock Road.

VOTE:           Aye – 4 (Scherlen, Mason, Ball, Brantz)  
                  Nay – 1 (Leigh)

**MONTHLY WATER USE STATUS REPORT**

Public Utilities Director Rick Miller presented the monthly water status report. **(Copy of report permanently on file in the August 2013 Town Council packet.)**

**DISCUSSION OF TOURISM SUPPORTED EXPENDITURES FOR FY2013/2014**

Town Manager Greg Young stated that he and Finance Director Amy Davis met with TDA Director Wright Tilley, TDA Board President Sheri Moretz, and Council Member Mason, who is the council representative to the TDA, to discuss the Tourism-Supported Expenditures for FY2013-2014. Upon a motion by Council Member Ball, seconded by Council Member Brantz, Council moved to approve the following list of Tourism-Supported Expenditures for the Fiscal Year 2013-2014:

|                                   |                  |
|-----------------------------------|------------------|
| Community Appearance              | \$22,500         |
| Cultural Resources                | \$50,000         |
| Downtown Development Coordinator  | \$30,000         |
| Downtown Improvements             | \$2,000          |
| Greenway Expansion                | \$25,000         |
| Jones House                       | \$23,000         |
| July 4 <sup>th</sup> Celebration  | \$6,500          |
| Maintenance-Greenway              | \$15,000         |
| Saturday Parking Enforcement      | \$15,000         |
| SAHA/Watauga TDA Capital Campaign | \$15,000         |
| Seasonal Decorations              | \$13,000         |
| Sidewalk Construction             | \$16,000         |
| USPS King Street Building         | <u>\$198,000</u> |
| <b>Total:</b>                     | <b>\$431,000</b> |

VOTE:           Aye – All  
                  Nay – None

**APPROVAL OF BUDGET AMENDMENTS**

Upon a motion by Council Member Brantz, seconded by Council Member Scherlen, Council moved to approve the following budget amendments:

| DESCRIPTION                                 | ACCOUNT#           | TO:      | FROM:      |
|---------------------------------------------|--------------------|----------|------------|
| BICYCLE PLANNING GRANT                      | 010-411-000-545101 | \$19,286 |            |
| APPROPRIATED FUND<br>BALANCE (GENERAL FUND) | 010-000-000-499900 |          | (\$19,286) |

VOTE:           Aye – All  
                  Nay – None

**APPROVAL OF FIRE SEPARATION AREA LEASE AGREEMENT**

Town Manager Greg Young presented a fire separation lease agreement between the Town of Boone and Michael Vetro, Sr. for approval by the Council. He noted that the Town has had a lease agreement with Mr. Vetro for the fire separation area since 2002 and that the new agreement includes an increased rental rate for a five-year term. He noted the Mr. Vetro has not accepted the parking agreement for rental of Town-owned parking spaces behind his business. Upon a motion by Council Member Ball, seconded by Council Member Scherlen, Council moved to approve the following lease agreement with Michael Vetro, Sr. and to authorize the Mayor to execute the agreement on behalf of the Town:

STATE OF NORTH CAROLINA

LEASE AGREEMENT  
FIRE SEPARATION AREA

COUNTY OF WATAUGA

THIS LEASE AGREEMENT is made this the 20<sup>th</sup> day of August, 2013, by and between the Town of Boone, a North Carolina Municipal Corporation, hereinafter referred to as “Lessor” and Michael Vetro, Sr., hereinafter referred to as “Lessee,” collectively referred to as the “parties.”

1. Leased Premises: The Lessor hereby leases to the Lessee, with reservations as stated herein, that certain piece, parcel or lot of land situated, lying and being in Boone Township, Watauga County, North Carolina, more particularly described in attachments “A-1” and “A-2,” hereinafter referred to as “the premises,” reserving all rights not specifically granted hereunder.
2. Term: The term of this Lease shall be five (5) years, commencing on July 1, 2013, and ending on June 30, 2018.
3. Rent: The rent for the above-described premises is seven hundred dollars (\$700.00) for the first twelve-month period (hereafter, “year”) dating from July 1, 2013, through June 30, 2014, due and payable in full upon the execution of this lease, and a like amount, adjusted each year to reflect the change in the consumer price index during the prior lease year, due and payable prior in each subsequent year on or before July 1 of that year. There shall be no penalty for pre-payment of rent in whole or part.
4. Repairs and Maintenance: Lessee shall provide all maintenance necessary to keep the premises in good and sanitary condition from the use of the premises by Lessee, his agents, contractors, employees and invitees. Lessee shall be responsible for all damages to the premises which result from Lessee’s activities thereon, or from Lessee’s encroachment thereupon. Lessee agrees that he will undertake no repairs to the premises without first notifying Lessor in writing, at least ten days in advance, of Lessee’s intention to undertake or make such repairs, or in the event of an emergency, without first notifying Lessor by telephone at (828) 268-6200 of the condition and repairs contemplated. No such repairs may

be made without Lessor's approval. Any approved repairs made to the premises by Lessee shall be done in a workmanlike manner and shall become the property of Lessor. In making any repairs, Lessee shall comply with the North Carolina State Building Code, all ordinances of the Town of Boone and Watauga County, and any relevant federal and state laws. Lessor shall be entitled, at its sole option and whether or not requested to do so by Lessee, to make any repairs to the premises and conduct any maintenance to the premises as it deems necessary or expedient.

5. Alterations: Lessee shall make no alterations to the premises.
6. Assignments, Subleases and Licenses: Lessee shall not assign, sublease, nor license the use of the premises to another party without the prior written consent of the Lessor. No sublease or assignment shall be approved by Lessor unless the sub-lessee, assignee, or licensee is the owner of the Vetro Building. Other than for its use as a fire separation area and for maintenance, repair and replacement of the authorized encroachments, Lessee's right to use the premises shall be the same as it is members of the general public.
7. Insurance: Lessee shall provide and maintain insurance coverage against loss, destruction, or other damage to its own property located on the premises, as well as against all risks for which Lessee is required to indemnify and hold Lessor harmless. Lessee's liability insurance coverage shall provide coverage for personal injury or bodily harm occurring during the term of the lease, whensoever a claim is made, in an amount no less than two million dollars (\$2,000,000.00) per occurrence. Certificates of insurance for each insurance policy required to be obtained by Lessee in compliance with this paragraph shall be provided to Lessor upon its request during the term of the Lease. Lessee shall immediately advise Lessor of any assertion of claim or litigation that may result in a claim of liability against Lessor.
8. Indemnity by Lessee: Lessee shall defend, indemnify and hold harmless Lessor from any and all claims, actions, damages, and liability associated with personal injury and/or damage to property and/or any other matter arising out of any occurrence in, upon or at the premises, associated with any act or omission of Lessee, his agents, employees, licensees or invitees, or associated with Lessee's use of the premises. In the event that Lessor is made a party to any litigation brought against Lessee or by reason of Lessee's use or occupancy of the premise, Lessee shall defend, protect and hold Lessor harmless from any and all liability that may result therefrom, including Lessor's costs in defending itself against any claim, action, litigation or other assertion of liability.
9. Indemnity by Lessor: Lessor shall defend, indemnify and hold harmless Lessee from any and all claims, actions, damages, and liability associated with personal injury and/or damage to property and/or any other matter arising out of any occurrence in, upon or at the premises, associated with any act or omission of Lessor, its agents, employees, licensees or invitees, or associated with Lessor's use of the premises. In the event that Lessee is made a party to any litigation brought against Lessor or by reason of Lessor's use or occupancy of the premises, Lessor shall defend, protect and hold Lessee harmless from any and all liability that may result therefrom, including Lessee's costs in defending himself against any claim, action, litigation or other assertion of liability.
10. Lessor's Right to Enter and Use Premises: Lessor reserves the right and may enter the premises at any time for any purpose, including inspecting said premises, making such repairs as Lessor, in its sole discretion, desires to make, maintaining the premises, and for any other purpose in any way related to Lessor's ownership of the premises. Lessor shall be entitled to continue to use the premises as part of its open air parking lot, pedestrian sitting area or any other use it deems advisable. Lessor agrees, however, that it will not place or construct any structure within the premises which interferes with the use of the premises by Lessee to meet the requirements of the North Carolina Building Code, North Carolina Fire Code, nor the ordinances of the Town of Boone relating to the separation of structures for fire protection, and it shall not interfere with Lessee's authorized encroachments.
11. Lessee's Use of Premises: This lease is for the sole purposes for the term of this lease of allowing Lessee to maintain an internal corridor in the "Vetro Building" with wall openings, as well as to authorize exterior windows and Lessee's encroachments into the premises with

currently existing stucco, awnings and shutters. Lessee may not enlarge its encroachments nor change the essential character of the encroachments, although from time to time, Lessee is entitled to replace awnings and shutters, and to repair stucco, so long as these actions do not increase the depth of the encroachments. No uses beyond what are described are allowed, and no use which interferes with Lessor's continued uses of its property as an open air parking lot and pedestrian sitting area is allowed or authorized.

12. Default and Early Termination: If Lessee defaults in the payment of rent or in the performance of any of the conditions of this Lease or its responsibilities thereunder, all of which are deemed material, Lessor may terminate the Lease with written notice, without affording Lessee an opportunity to cure its violation. On the date specified in any notice of termination, the lease shall terminate and Lessee shall at once quite and surrender the premises to the Lessor.
13. Abandoned Property: Following the early termination of this lease or the expiration of the term without renewal, Lessee shall have a ten day period to remove any of his property and encroachments from the premises. Thereafter, such property will be deemed abandoned and may be removed and disposed of by Lessor.
14. Modification of Lease: This lease contains all of the terms and conditions agreed to by the Lessor and the Lessee concerning the lease of the above-described premises. There are no oral terms or conditions agreed to by the parties which are not contained herein. There shall be no modification of this lease unless the modification is in writing and signed by both parties.
15. Waiver: Lessor's failure to strictly enforce its rights under this Lease shall not constitute a waiver of such rights with respect to any violation of the lease, and the parties agree that this provision may itself not be waived by the conduct of the parties.
16. Partial Invalidity: If any term, covenant, condition or provision of this lease shall, to any extent, be held invalid or unenforceable, the remainder of this lease shall not be affected thereby, and it shall be valid and enforceable to the greatest extent permitted by law.
17. Governing Law and Venue: This Lease shall be governed by and construed in accordance with the laws of the State of North Carolina, and venue of any dispute between the parties shall be in Watauga County, North Carolina.
18. Notices: All notices, requests, demands, and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, to the following addresses:

If to Lessor, to:       Greg Young  
                                  Town Manager  
                                  Town of Boone  
                                  P.O. Drawer 192  
                                  Boone, NC 28607

If to Lessee, to:       Michael Vetro  
                                  P.O. Drawer 71  
                                  Boone, NC 28607

IN WITNESS WHEREOF, the Lessor and Lessee have executed this Lease Agreement in duplicate originals, and agree to all of the terms and conditions set forth above, the day and year first above written.

VOTE:           Aye – All  
                      Nay – None

**RECESS MEETING**

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to recess the meeting at 8:42 p.m. until Thursday, August 22, 2013, at 6:30 p.m. in the Council Chambers, 1500 Blowing Rock Road.

VOTE:           Aye – All  
                  Nay – None

### **CALL TO RECONVENE**

A recessed meeting of the Boone Town Council was called to order at 6:30 p.m., Thursday, September 19, 2013, in the Council Chambers, 1500 Blowing Rock Road. Mayor Loretta Clawson presided. Council members present were Mayor Pro-Tem Jamie Leigh, Lynne Mason, Rennie Brantz, Andy Ball, and Allan Scherlen. Town Attorney Sam Furgiuele was also present. Staff members present were Town Manager Greg Young, Town Clerk Kimberly Brown, Finance Director Amy Davis, Police Chief Dana Crawford, Fire Chief Jimmy Isaacs, Public Utilities Director Rick Miller, Public Works Director Blake Brown, Public Works Superintendent Eric Gustaveson, Planning Director Bill Bailey, Human Resources Director Peri Moretz, and Downtown Coordinator Virginia Falck.

### **ANNOUNCEMENTS**

Mayor Clawson called the meeting to order and welcomed all in attendance. She noted that anyone wanting to sign up to speak during the public comment session would need to sign the public comment sign-up sheet.

### **TENTATIVE AGENDA ADOPTION**

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

1. Addition of Item 12.B. – Adoption of Resolution – Opposing the Recent Actions of the Watauga County Board of Elections.
2. Addition of Item to Closed Session (Pursuant to NCGS 143-318.11(a)(6) – To consider the conditions of appointment of the Town Attorney.
3. Reconsideration of Item 6.D. – Scheduling of Special Meeting with the Planning Commission for UDO Review.

Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to adopt the agenda, as amended.

VOTE:           Aye – All  
                  Nay – None

### **PUBLIC COMMENT**

Michelle Ligon, chair of the SAHA Board, appeared before the Council to request extension of a license for use of the Horn in the West property for the entire year of 2014. Town Attorney Sam Furgiuele pointed out that the proposed license will extend through the calendar year 2014.

Chris Gottswald, with Samaritan's Purse, appeared before the Council to request amending the agenda to discuss and possibly take action on a proposed zoning amendment to UDO Section 180 Temporary Uses to allow for the placement of trailers on the old Lowe's Hardware property for storage during the Operation Christmas Child campaign. Upon a motion by Council Member

Mason, seconded by Council Member Ball, Council moved to amend the agenda to add this request as Item 13.D.

VOTE:           Aye – 4 (Scherlen, Mason, Ball, Brantz)  
                  Nay – 1 (Leigh)

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to amend the agenda to add the request from Mr. Gottswald for a zoning text amendment as Item 13.D. under “Requested Appearances” for information only.

VOTE:           Aye – All  
                  Nay – None

Rio Tazewell requested for Council to amend the agenda to discuss a possible fee waiver for the Howard Street Exchange special event permit. Council Member Ball moved to amend the agenda to hear Mr. Tazewell’s request as Item 13.E. under “Requested Appearances.” Council Member Brantz seconded the motion.

VOTE:           Aye – 3 (Scherlen, Ball, Brantz)  
                  Nay – 2 (Leigh, Mason)

The motion failed.

Bettina Rhoden stated that she is part of a new student group that would like to oversee the final Howard Street Exchange event. She stated that her group is interested in learning how to organize street festivals and how to integrate events with the town and citizens.

## **BOARD APPOINTMENTS**

### **Board of Adjustment**

*Three positions open:*

*-One Resident Position*

*-Two Alternate Resident Positions*

Mayor Clawson called for nominations for these positions. Council Member Ball nominated David Welsh for the resident position. With no other nominations, Mayor Clawson called for a vote:

VOTE:           Aye – All  
                  Nay – None

Mr. Welsh’s term will expire on June 30, 2016.

### **Community Appearance Commission**

*Two open positions.*

There were no applications for these positions.

### **Downtown Boone Development Association**

*One open position.*

Mayor Clawson called for nominations for this position. Council Member Brantz nominated Eric Plaag. With no other nominations, Mayor Clawson called for a vote:

VOTE:           Aye – All  
                  Nay – None

Mr. Plaag’s term will expire on July 31, 2016.

**Greenway, Parks & Gardens Committee**

*One open position.*

There were no applications for this position.

**Outside Agency Funding Review Committee**

*Three open positions.*

There were no applications for these positions.

**Planning Commission**

*Two open positions:*

*-Two ETJ Positions.*

Mayor Clawson called for nominations on the vacant positions. It was noted that the application submitted by Ben Dannemiller reflects that he resides within the town limits. It was the consensus of the Council to continue to solicit applications for these ETJ positions.

**Tree Board**

*Two open positions.*

There were no applications submitted for consideration for these positions.

**Water Use Committee**

*One open position.*

There were no applications submitted for this position.

**ADOPTION OF RESOLUTION – OPPOSING THE RECENT ACTIONS OF THE WATAUGA COUNTY BOARD OF ELECTIONS**

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to adopt the following resolution:

**RESOLUTION BY THE TOWN COUNCIL OF THE TOWN  
OF BOONE, NORTH CAROLINA, TO EXPRESS ITS  
OPPOSITION TO RECENT ACTIONS BY THE  
WATAUGA COUNTY BOARD OF ELECTIONS**

WHEREAS, on August 12, 2013, the Watauga County Board of Elections conducted a special meeting at the request of two of its new members, Luke Eggers and Bill Aceto, giving little notice to the public of the meeting and no warning to the public or third member of the Board of their plans to make drastic and harmful alterations to the voting procedures in Watauga County; and

WHEREAS, at this special meeting the new majority of the Board of Elections, Luke Eggers and Bill Aceto, forced through a number of measures which will have a substantial,

negative impact on the citizens of Boone who wish to vote in the municipal elections scheduled in fall 2013; and

WHEREAS, among others, the new majority of the Board of Elections combined Boone 1 precinct, Boone 2 precinct, and Boone 3 precinct into one new “Super Precinct” in which nearly 10,000 voters will be required to vote, despite State Board of Election guidelines which recommend that precincts be designed to serve no more than 1,500 voters; and

WHEREAS, the new Boone “Super Precinct” will be located at the back of the County Agriculture complex, which is inaccessible for safe access by pedestrians, which does not provide adequate access for the disabled, and which does not have adequate parking or space to serve the number of potential voters to be served; and

WHEREAS, the new Boone “Super Precinct” will create long waits for the voters of Boone and will make it difficult if not impossible for people to be able to vote before work, during work breaks or even after normal work hours before the polls close; and

WHEREAS, the new Boone “Super Precinct” was created with the obvious and partisan purpose of making it as hard as possible for students attending Appalachian State University to vote despite the fact that 31% of the Town’s 15,017 municipal voters live in dormitories on the ASU campus, many of the students have no personal transportation, and the Supreme Court of the United States and the North Carolina Supreme Court have confirmed the right of students living on campus to vote in the communities in which they are attending college; and

WHEREAS, the new majority of the Board of Elections also forced through a change in the location of the New River 3 precinct from the National Guard Armory, which is close to and convenient for the citizens in that precinct, to Mutton Crossing, which is distant for the great majority of the voters in that precinct and which will create a hardship for people who wish to vote; and

WHEREAS, the new majority of the Board of Elections attempted to make alterations in previous the county’s One-Stop Implementation Plan (“early voting”) which will make it less convenient for citizens to vote early by establishing the number of days of early voting at just three and a half, only allowing early voting on the three week days included during hours when working people are generally unable to leave work to vote, and by creating a single location for the entire county for all the municipal elections in Watauga County which will held in the fall 2013, further taxing the facilities and creating delays in voting since voters from other communities will also be voting at the single location in Boone which they have proposed; and

WHEREAS, at a subsequent August meeting of the Watauga County Board of Elections, the Executive Director of the Board was asked whether these various changes would even save money for the taxpayers and responded that they would not; and

WHEREAS, the minority member of the Watauga County Board of Elections, Kathleen Campbell, has proposed to the North Carolina Board of Elections an alternative One-Stop Implementation Plan for the 2013 Municipal Elections that would at least establish two early One-Stop voting locations; and

WHEREAS, the changes forced through and proposed by a majority of the new members of the Board of Elections are designed to make voting less convenient for the voters of Boone; and

WHEREAS, despite the advice to local boards of election by the State Board of Elections’ Chair that “board members and anybody that wants to speak on these topics is heard and not shut down,” Mayor Clawson attempted to address the Board to express her concerns that

the changes would negatively impact the ability of all Boone voters to vote, but she was prevented from speaking by a majority of the new members of the Board of Elections, who refused to allow public comment; and

WHEREAS, the changes forced through and proposed by a majority of the new members of the Board of Elections serve no legitimate public purpose and appear to be motivated by extreme partisanship and anti-democratic animus despite the fact that Boone municipal elections are non-partisan; and

WHEREAS, as leaders of the community who have been charged with taking action for the common good of the citizens of Boone, the Boone Town Council considers it unconscionable to remain silent in the face of these actions;

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Boone, North Carolina, hereby:

1. Expresses its dismay and opposition to the referenced resolutions forced through by a majority of the new members of the Watauga County Board of Elections and respectfully requests that they reconsider these changes to precincts in Boone;
2. Urges the Watauga County Board of Elections to maintain the previous locations and number of precincts in Boone;
3. Expresses its support for the alternate One-Stop Implementation Plan proposed by Board of Elections' Member Kathleen Campbell; and
4. Urges the North Carolina Board of Elections to adopt the Campbell early voting plan and urges both the Executive Director of the North Carolina Board of Elections and the board itself to reject the changes in the number and location of precincts adopted on August 12, 2013 by the Watauga County Board of Elections.

Adopted this 22nd day of August, 2013.

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Loretta Clawson, Mayor

Attested to:

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Kimberly S. Brown  
Clerk, Town of Boone, North Carolina

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

VOTE:       Aye – All  
              Nay – None

**SCHEDULING OF SPECIAL MEETING- UDO REVIEW**

Upon a motion by Council Member Mason, seconded by Council Member Leigh, Council moved to reschedule the special meeting of the Council and Planning Commission to review the

proposed changes to the UDO for Thursday, September 26, 2013, at 6 p.m. in the Council Chambers, 1500 Blowing Rock Road.

VOTE:           Aye – All  
                  Nay – None

**REQUESTED APPEARANCE – KRIS & BECKY FOWLER**

Kris and Becky Fowler appeared before the Council to request approval of a special event permit for the annual High Country Toy Run for Saturday, October 5, 2013, from 8 a.m. to 3 p.m. He also requested waiver of the application fee and insurance requirements. Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to approve the special event permit for the annual High Country Toy Run for Saturday, October 5, 2013, from 8 a.m. to 3 p.m. and to waive both the application fee and the insurance requirement.

VOTE:           Aye – All  
                  Nay – None

**REQUESTED APPEARANCE – MICHELLE LIGON**

Michelle Ligon appeared before the Council to request sponsorship in the amount of \$3,000 for the annual Boone Heritage Festival. She explained that the funds from the Town will be used for sponsorship of the performers. Also, Ms. Ligon requested approval for partnering with Mark Freed and the Cultural Resources Department for the event. Upon a motion by Council Member Brantz, seconded by Council Member Ball, Council moved to approve the request for sponsorship of the annual Boone Heritage Festival in the amount of \$3,000 for entertainment to be given to the Cultural Resources Department and to approve the partnering of the Cultural Resources for the event.

VOTE:           Aye – All  
                  Nay – None

**REQUESTED APPEARANCE – RANDY MCDONOUGH**

Randy McDonough presented a request for a policy for for-profit organizations operating on the Greenway Trail. Town Manager Greg Young suggested having town staff work with the Greenway Committee to develop this policy. Town Attorney Sam Furgiuele advised that the committee consider the use instead of what group is using the property. Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to direct the town staff and Greenway Committee to develop a comprehensive policy for the use of the Greenway Trail, a process for scheduling events on the Greenway Trail, and to present an update on the process at the October regular meeting of the Council.

**CONSIDERATION TO SEND ITEM TO PUBLIC HEARING**

Chris Gottswald, of Samaritan's Purse, requested a text amendment for the temporary use of the old Lowe's Hardware site to store trailers during the Operation Christmas Child season. Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to amend the agenda to take action on the request from Samaritan's Purse.

VOTE:           Aye – All  
                  Nay – None

Council Member Mason moved to schedule a public hearing on Thursday, September 26, 2013, at 5:45 p.m. in the Council Chambers, 1500 Blowing Rock Road, to hear a request for a zoning amendment from Samaritan's Purse. Council Member Ball seconded the motion. Discussion ensued regarding the scheduling of the special public hearing and the UDO review meeting. Council Member Mason withdrew her motion. Upon a motion by Council Member Mason, seconded by Council Member Ball, Council moved to amend the agenda to reconsider the scheduling of the UDO review meeting.

VOTE:           Aye – All  
                    Nay – None

Upon a motion by Council Member Mason, seconded by Council Member Leigh, Council moved to schedule a special public hearing on Thursday, September 26, 2013, at 6 p.m. in the Council Chambers, 1500 Blowing Rock Road, in order to hear a request for a zoning amendment from Samaritan's Purse and to begin the UDO review meeting immediately following the conclusion of the public hearing.

VOTE:           Aye – All  
                    Nay – None

Mayor Clawson declared a break at 7:25 p.m. Council reconvened at 7:33 p.m.

Before deliberating on the quasi-judicial requests, Town Attorney Sam Furguele questioned the members of Council on whether or not they had contact with any of the applicants regarding the requests. All Council members stated that they had not had any significant contact with any of the applicants for any of the requests.

#### **WATER & SEWER REQUEST – JOHN WINKLER**

Town Attorney Sam Furguele opened a public hearing at 7:34p.m. to hear sworn testimony for a request for water and sewer service to property located at the corner of US Highway 321 and Clement Street. Roger Wright, business partner and one of the property owners asked that Council table this request until April 2014 so that the new overlay district can be created. Planning Director Bill Bailey indicated that work will begin on the new overlay districts after revisions to the UDO are completed and that he anticipates that to be in November 2013. Council Member Brantz asked if the delay in creating the new overlay districts has changed the project plan. Mr. Wright stated that the plan has not changed. With no other testimony, Mr. Furguele closed the public hearing at 7:40 p.m. Upon a motion by Council Member Ball, seconded by Council Member Brantz, Council moved to table the request for water and sewer by John Winkler until April 2014.

VOTE:           Aye – All  
                    Nay – None

#### **WATER & SEWER REQUEST – RIVERSTONE TOWNHOMES OWNERS ASSOCIATION**

Town Attorney Sam Furguele opened a public hearing at 7:41 p.m. to hear sworn testimony for a request for water and sewer service to property located on Azor Court. Stacy Bishop, board member and homeowner, stated she has owned her house for four years. She indicated that in June 2013, a landside occurred on an adjoining property and compromised the septic system for the townhomes. Ms. Bishop stated that the property owners have been having the sewage pumped and hauled away. She stated that this has affected two buildings and is a hardship on the property owners. Additionally, she stated that the property owners have

done all that the Appalachian District Health Department has required. Ms. Bishop indicated that the property owners are asking that the properties be hooked to the town's sewer system. Council Member Scherlen inquired as to the annexation of all five buildings. Patty Dennis, manager of the property owners' association, stated that legal counsel has been consulted but that she is not familiar with the Town's annexation process. Mr. Furgiuele stated the burden rests with the applicant regarding an answer to the legal question of annexation. Ms. Bishop stated that the ownership of common areas have been transferred to the Riverstone Homeowners Association. She also pointed out that the property is adjacent to the town limits but is not in the ETJ. Donald Bishop, property owner, referenced the comprehensive plan policies listed in the Council's packet. He asked the Council for help in resolving this situation. Michael Trew, project engineer, presented a conceptual plan **(permanently on file at Boone Town Hall)** showing the possible extension of the sewer line. He stated that approximately 700 feet of line would be necessary for water and 900 feet for sewer to be pumped from the property. Council Member Leigh asked if the amount of the request will change if all buildings are hooked up to the Town's system. Mr. Trew indicated that would change the request to 4,500 per day to include all units which contain three bedrooms each. Public Utilities Director Rick Miller stated that the water line extension is to be publicly owned but that if the sewer line remains private, the property owners will have to maintain it. Planning Director Bill Bailey testified that the property is adjacent to the corporate limits. Council Member Brantz asked if there were any plans to expand the subdivision. Ms. Bishop stated that the property ends in a cul-de-sac and that no expansion of the property can occur due to topography. With no other testimony, Mr. Furgiuele closed the public hearing 8:09 p.m. Upon a motion by Council Member Ball, seconded by Council Member Leigh, Council moved to approve the request by Riverstone Townhomes for 4,500 gallons per day from the 2013 allotment, contingent on application for annexation if possible and that the applicant provide a legal opinion from an attorney regarding annexation.

VOTE:           Aye – All  
                  Nay – None

#### **WATER & SEWER REQUEST – JEFFREY WAKEMAN**

Town Attorney Sam Furgiuele opened a public hearing at 8:12p.m. to hear sworn testimony for a request for water and sewer service to property located on Blowing Rock Road. Jeffrey Wakeman, applicant and representing Stonegate Developers, stated that he is working with Jill Atfield to purchase and redevelop the property. Additionally, he stated that he is exploring the relocation of the creek on the property, part of which flows through a culvert. Mr. Wakeman requested tabling his request until the September regular meeting so that he can present a conceptual plan. With no further testimony, Mr. Furgiuele closed the public hearing at 8:22p.m. Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to table the request for water and sewer made by Jeffrey Wakeman until the September regular meeting.

VOTE:           Aye – All  
                  Nay – None

#### **WATER & SEWER REQUEST – CORNERSTONE CAMPUS COMMUNITIES**

Town Attorney Sam Furgiuele opened a public hearing at 8:23 p.m. to hear sworn testimony for a request for water and sewer service to property located on Shadowline Drive. Meredith Trattler, owner of Cornerstone Campus Communities, asked to table the request until the September regular meeting. She indicated that some changes to the plan are necessary due to the topography of the site. With no other testimony, Mr. Furgiuele closed the public hearing at 8:25 p.m. Upon a motion by Council Member Mason, seconded by Council Member Brantz,

Council moved to table the request for water and sewer service from Cornerstone Campus Communities until the September regular meeting.

VOTE:           Aye – All  
                  Nay – None

#### **WATER & SEWER REQUEST – BLUE RIDGE COMPANY**

Town Attorney Sam Furgiuele opened a public hearing at 8:25p.m. to hear sworn testimony for a request for water and sewer service to property located Greenway Road. Mike Trew, of Municipal Engineering, stated that contamination has been found on site and that the applicant is working to evaluate the situation and to determine how to rectify it. With no other testimony, Mr. Furgiuele closed the public hearing at 8:27p.m. Upon a motion by Council Member Brantz, seconded by Council Member Ball, Council moved to table the request from Blue Ridge Companies for water and sewer service until the October regular meeting.

VOTE:           Aye – All  
                  Nay – None

#### **CLOSED SESSION**

Upon a motion by Council Member Brantz, seconded by Council Member Ball, Council moved to enter Closed Session at 8:29 p.m. pursuant to NCGS 143-318.11(a)(3)(6) to hear the following items:

- A. Legal Advice and Instructions to the Town Attorney Regarding Possible Claim – To consult with the Town Attorney in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged to consider and give instructions concerning the handling of a claim or judicial action against Watauga County.
- B. Legal Advice and Instructions to the Town Attorney Regarding Terms of Contract – To consult with the Town Attorney in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged, to instruct Town staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating the price and other material terms of a contract involving the employment of W.K. Dickson engineering company.
- C. To consider the performance of the Town Manager.
- D. To consider the conditions of appointment of the Town Attorney.

VOTE:           Aye – All  
                  Nay – None

Upon a motion by Council Member Brantz, seconded by Council Member Ball, Council moved to exit Closed Session at 11:21 p.m.

VOTE:           Aye – All  
                  Nay – None

#### **ADJOURNMENT**

Upon a motion by Council Member Brantz, seconded by Council Member Scherlen, Council moved to adjourn at 11:22 p.m.

VOTE:       Aye – All  
              Nay – None

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Kimberly S. Brown, Clerk

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Loretta Clawson, Mayor