

**MINUTES-REGULAR MEETING
BOONE TOWN COUNCIL
AUGUST 21, 2012**

A regular meeting of the Boone Town Council was called to order at 6:30 p.m., Tuesday, August 21, 2012, in the Council Chambers, 1500 Blowing Rock Road. Mayor Loretta Clawson presided. Council members present were Mayor Pro-Tem Jamie Leigh, Lynne Mason, Alan Scherlen, Andy Ball, and Rennie Brantz. Town Attorney Sam Furgiuele was also present. Staff members present were Town Manager Greg Young, Town Clerk Kim Brown, Finance Director Amy Davis, Public Utilities Director Rick Miller, Public Works Director Blake Brown, Police Chief Dana Crawford, Fire Captain Mike Teague, Human Resources Director Peri Moretz, Downtown Development Coordinator Pilar Fotta, Planning Director Bill Bailey, and Planners Jane Shook and Christy Turner.

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 recognized Police Chief Dana Crawford and Fire Captain Mike Teague. She read into record the following statement:

“On behalf of the Town of Boone, I would like to personally thank everyone that serves to protect our Country and Community. I would like to recognize Boone Fire Captain Mike Teague and Police Chief Dana Crawford and express my sincere appreciation to them and their staff. The loss of Major Ryan S. David and Deputy William R. Mast, Jr., was a sobering reminder that those who serve and protect us often do it with great risk. Now, let us pause for a moment of silence to remember those who have lost their lives in the performance of public service.”

Mayor Clawson announced that the Town of Boone received the Alfred Adams Economic Development Award from the Chamber of Commerce for the water intake project.

TENTATIVE AGENDA ADOPTION

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

1. Addition of Item 6.R. – Consideration of Recommendations from Affordable Housing Task Force on the Housing Study Proposals.

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

VOTE: Aye – All
 Nay – None

CONSENT AGENDA ADOPTION

Minutes: July 9, 2012 – Special Meeting.
 July 10, 2012 – Special Meeting.
 July 17/19, 2012 – Regular Meeting. Approval

and Sealing of Closed Session Minutes – 2011. Approval of

Policy Regarding Alternative Dispute Resolution:

POLICY REGARDING ALTERNATIVE DISPUTE RESOLUTION
TOWN OF BOONE, NORTH CAROLINA

In accordance with the authority bestowed upon the Town of Boone by N.C. Gen. Stat. § 143-

128, the Town Council adopts the following policy regarding alternative dispute resolution:

In any contract entered into by the Town of Boone for the erection, construction, alteration or repair of any building(s) when the total cost thereof is greater than \$300,000, or in such other contracts in which mediation is expressly provided or required, the Town will submit to non-binding mediation as the sole method of alternative dispute resolution by another party and itself, and will provide contractually for said method to be available for the use of any other two parties involved with the contract, pursuant to the following terms, conditions and restrictions:

1. This dispute resolution process will be available to any two or more of the parties involved in the construction project or contract, including the Town of Boone, the architect, the engineer, the construction manager, the contractors, and the first-tier and lower-tier subcontractors, collectively referred to in this policy in any combination as “the parties.”
2. Participation by any party, including the Town of Boone, in this process shall only be mandatory for a dispute in which the amount in controversy is \$15,000 or more, but upon express, written agreement of the parties, it may be utilized for other monetary and non-monetary disputes.
3. The request for non-binding mediation must be in writing, signed by the entity requesting mediation, or in the case of a corporate entity, by a person authorized to request mediation, and personally delivered to the manager or an officer of the entity against whom the claim or dispute is asserted.
4. The parties must agree upon a mediator, who in turn must be certified as such by the North Carolina Administrative Office of Courts.
5. The mediation will be conducted in accordance with the “Rules Implementing Statewide Mediated Settlement Conferences in Superior Court Civil Actions,” originally adopted October 2, 1991, as amended., and the procedures and rules adopted by the Superior Court of the Twenty-fourth Judicial District in implementation thereof.
6. Each party to the mediation shall pay its pro-rata share of the cost of the mediation immediately at the conclusion of the mediation, whether or not the mediation is successful, but in no case in which the Town of Boone is a participant will the Town pay less than one-third of the cost. Each party to a mediation must bear its own legal costs, if any.
7. Mediation concerning a dispute mandated by this policy is a precondition to any party initiating litigation concerning the dispute.

Adopted and effective this 21st day of August, 2012.

Mayor, Town of Boone

Attested to:

Town Clerk, Town of Boone

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE(S) 180)

Approval of Special Event Permit – 2012 Downtown Boo.

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

VOTE: Aye – All
 Nay – None

PUBLIC COMMENT

Attorney Charlie Clement requested to address Council regarding an e-mail distributed to council members from the Wickham Squire POA regarding Case 20120403 Clawson and Greene Conditional District Map Amendment. Upon a motion by Council Member Ball, seconded by Council Member Brantz, Council moved to amend the agenda to add a public hearing for Case 20120403 Clawson and Greene Conditional District Map Amendment.

VOTE: Aye – All
 Nay – None

SCHEDULING OF DECEMBER 2012 REGULAR MEETINGS

Council Member Brantz requested that the Council consider modifying the meeting schedule for December due to the holidays and associated familial events. Upon a motion by Council Member Brantz, seconded by Council Member Leigh, Council moved to schedule the December regular council meeting for Thursday, December 13, 2012, at 6:30 p.m. in the Council Chambers.

VOTE: Aye – All
 Nay – None

SCHEDULE SPECIAL MEETING – INTERGOVERNMENTAL RETREAT

Upon a motion by Council Member Ball, seconded by Council Member Brantz, Council moved to schedule a special meeting on Thursday, October 11, 2012, from 5-7 p.m. for an Intergovernmental Retreat.

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

The location for the meeting has not been decided but will be announced as soon as it is determined.

DISCUSSION & POSSIBLE ACTION ON DOWNTOWN PARKING ENFORCEMENT CONTRACT

Town Manager Greg Young requested direction from Council in regard to renewing the contract with McLaurin Parking Company for parking enforcement within the downtown area. He informed Council that after comparing the costs of performing this job “in-house,” it is his opinion that it would not be very beneficial to the town to absorb parking enforcement. Council Member Leigh stated that she would like to see what other options exist for parking enforcement companies. Upon a motion by Council Member Brantz, seconded by Council Member Ball, Council moved to authorize the Town Manager to negotiate the terms for renewal of the contract between the Town of Boone and McLaurin Parking Company for downtown parking enforcement through the end of the fiscal year, June 30, 2013, as well as to invite Request for Proposals from other parking enforcement companies for downtown parking enforcement.

VOTE: Aye – All
 Nay – None

CONSIDERATION OF ZONING AMENDMENTS – AUGUST 2012 QUARTERLY PUBLIC HEARING CASES

- **Case 20120435 Northridge Circle General Use Map Amendment** – The Town of Boone has filed a General Use District Map amendment for nineteen (19) properties located along North Ridge Circle. The request is to rezone the following properties from R-3, Multiple-Family Residential to R-1, Single Family Residential: Watauga County PINs 2911-41-2986-000, 2911-31-8943-000, 2911-41-0934-000, 2911-41-3844-000, 2911-41-0874-000, 2911-41-4723-000, 2911-31-9702-000, 2911-41-1714-000, 2911-41-1656-000, and 2911-31-9574-000. Planner Jane Shook stated that the Planning Commission recommended approval of the request.

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 the amendment is located in the O-2, G-1, and G-2 sectors which support low density, primarily residential uses and is consistent with Comprehensive Plan Policy 2.1.1 A: *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 2.3.3 A: *The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community*.

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 amendment protects a viable single-family neighborhood, reflects the current land use, and is desired by the property owners.

VOTE: Aye – All
 Nay – None

- **Case 20120378 First Baptist Church & Hospitality House General Map Amendment** – First Baptist Church Board of Trust, First Baptist Church, and the Hospitality House of the Boone Area have filed a General Use Map amendment for property located at 316 and 302 West King Street, further identified as Watauga County PINs 2900-98-8507-000, 2900-98-8562-000, and 2900-98-9402-000. The request is to rezone the properties from B-2 Neighborhood Business to B-1, Central Business. Upon a motion by Council Ball, seconded by Council Member Brantz, Council Member Mason was excused from deliberation of this request since she is employed by the Hospitality House.

VOTE: Aye – All
 Nay – None

Planner Jane Shook stated that the Planning Commission recommended approval of the request with a vote of 7 to 1. Council Member Ball noted that, according to the Planning Commission minutes for this case, the dissenting member cited concerns with parking issues for this property, as well as concerns for the future use of the property as a parking structure. Council Member Leigh pointed out her concerns about the adjacent residential neighborhoods with the previous request for this property and stated that she had hoped that the updated Table of Permitted Uses would be in place before another request was considered. She questioned if a special use permit for a transitional zone would address other concerns such as, if the request is a generally suitable development project. Town Attorney Sam Furguele replied that a special use permit has certain criteria that have to be met that include proving that the project will be in harmony with the surrounding area. Council Members Ball and Leigh voiced hesitation in moving forward with the request since the revision to the Table of Permitted Uses is not completed. Council Members Brantz and Scherlen stated that they could support this request.

Vote#1

Upon a motion by Council Member Ball, seconded by Council Member Leigh, Council moved that the proposed amendment to the Town's zoning map is not consistent with the Town's Comprehensive plan and other applicable adopted plans of the Town which relate to this application because of the potential negative impacts of development on the property with the current zoning ordinance.

VOTE: Aye – 3 (Leigh, Ball, Clawson)
 Nay – 2 (Scherlen, Brantz)
 Excused – 1 (Mason)

Vote#2

Upon a motion by Council Member Ball, seconded by Council Member Leigh, Council moved to deny the proposed amendment to the Town's zoning map and believe denial is reasonable and in the public interest because the request would not be in harmony with surrounding properties.

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

Upon a motion by Council Member Ball, seconded by Council Member Brantz, Council moved to reseal Council Member Mason.

VOTE: Aye – All
 Nay – None

• **Case 20120394 Lowes and Holiday Inn General Use Map Amendment** – Gary Wyatt, on behalf of Lowes Home Center, Inc., and Joe Bagett, on behalf of Innkeepers of Boone, Inc./Shore Resort Management LLC, have filed a General Use District Map amendment for property located at 1855 and 1943 Blowing Rock Road and further identified as Watauga County PIN 2910-61-0930-000. The request is to rezone the property from Conditional Use General Business (CUB-3) to B-3, General Business. Planner Jane Shook stated that the Planning Commission recommended approval of the request.

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 it is located primarily in the G-3 sector, as well as a portion located in the O-2 sector and the higher density regional center, issues with the O-2 have been addressed in the site plan and can be addressed through UDO regulations, and because it is consistent with Comprehensive Plan Policy 2.1.1(D): *Economic development efforts shall encourage the revitalization and reuse of currently unused or underutilized structures, sites and infrastructure in appropriately located areas*, Policy 2.1.1(E): *The Town shall encourage a public service and regulatory environment conducive to business recruitment and expansion, while at the same time enhancing the area's physical and human resources*, and Policy 2.1.2 (B): *Commercial and Office Development shall be encouraged to locate in planned shopping centers, office parks and mixed use developments to stop the proliferation of strip development*.

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 it creates flexibility for further subdivisions of the property and creating an infill parcel in alignment with the B-3 zoning district, encourages commercial development on the B-3 corridor, and will help discourage new strip development on isolated single lots along the street.

VOTE: Aye – All
 Nay - None

- **Case 20120403 Clawson and Greene Multi-Family Development Conditional**

District Map Amendment – Wayne Clawson, Joy Clawson, Dana Clawson, and Milton Greene (on behalf of Anna Greene) have filed a Conditional District Map amendment for approximately 22.38 acres of property (which includes the Clawson Mobile Home Park) located at and near 170 Clawson Street, 140 and 141 Marich Lane and being further identified at Watauga County PINs 2911-61-0160-000, 2911-60-3647-000, 2911-60-2100-000, and 2911-60-8808-000. The request is to rezone all/portions of the properties from R-3, Multiple-Family Residential, and MH, Manufacture Home Park, to Conditional District R-3 Multiple-Family with a site-specific plan for a phased project for Use 1.330 Multi-Family apartments (10 buildings with 266 units containing 546 bedrooms.) The applicants are requesting a five-year vesting for the property. Furthermore, the applicants have submitted a request for flexibility to allow an alternate property line for retention of a 2.8 acre parcel for the Greene family. Planner Jane Shook stated that the Planning Commission recommended approval of this request by a 5 to 3 vote. Mayor Clawson opened a public hearing at 7:36 p.m. to hear further testimony regarding this request. Charlie Clement, attorney for the applicants, spoke on behalf of the request and asked the Council to use fairness and serious consideration of the evidence presented in making a determination on this request. He reiterated that this project is “tailor-made” for this property. Wayne Clawson, property owner, spoke on behalf of the project. He stated that he was very surprised by the reaction of the Wickham Square POA and that an offer was made to the Wickham Square POA for purchase of the property. He contended that student apartments are needed and in harmony with the uses of the surrounding properties. Fred Forde, Director of Development for Mega Builders, stated that the complex will have full-time staff on-site, as well as a clubhouse, pool, and gym. He informed Council that Mega Builders has developed and owned two projects in Boone for several years. With no other testimony, Mayor Clawson closed the public hearing at 8:15 p.m. Council Member Mason stated that all options for housing needs should be considered but that she is struggling with the issue of compatibility of this project with the surrounding neighborhoods. Council Member Leigh stated that this project is not in conformity with the 2030 Land Use Plan and that density of the project is an issue. Council Member Ball agreed that the project has high density and compatibility issues. Council Member Brantz stated that he does not feel that the project advances the quality of life here in Boone. Council Member Scherlen agreed that the project is not consistent with the comprehensive plan and that the project should have included some affordable housing options.

Vote#1

Upon a motion by Council Member Mason, seconded by Council Member Ball, Council moved that the proposed amendment to the Town’s zoning map is not consistent with the Town’s Comprehensive Plan and other applicable adopted plans of the Town which relate to this application because it is not consistent with the Boone 2030 plan, the property is located in the sectors which supports low- to medium-density development, and is not consistent with 2006 Comprehensive Plan Policies 2.1.1. (A), 2.3.3. (A)(C)(E)(F)(H.)

VOTE: Aye – All
 Nay – None

Vote#2

Upon a motion by Council Member Mason, seconded by Council Member Leigh, Council moved to deny the proposed amendment to the Town’s zoning map and believe denial is reasonable and in the public interest because it does not enhance the a high quality of life, it compromises the viability of adjacent residential neighborhoods, it is not compatible with current adjacent uses which include medium-density multi-family to the west and north and single-family to the west and south, and takes away an affordable housing option without offering an affordable housing alternative.

VOTE: Aye – All
 Nay – None

Mayor Clawson declared a break at 8:34 p.m. Council reconvened at 8:47 p.m.

- **Case 20120396 Temporary Classroom Text Amendment** – The text amendment is to modify language in the Unified Development Ordinance (UDO) regarding temporary classrooms. Planner Jane Shook pointed out that the Planning Commission recommended approval of this text amendment.

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 it is supports Comprehensive Plan policy 2.1.1Economic Development E: *The Town shall encourage a public service and regulatory environment conducive to business recruitment and expansion, while at the same time enhancing the area's physical and human resources.*

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 amendment is aligned with other regulations for temporary structures, corrects an existing oversight, and is modeled in a way that will easily fit in with the temporary uses.

VOTE: Aye – All
 Nay – None

(This zoning text amendment can be found in the Zoning Text Amendment Book #1)

- **Case 20120397 Permanent Off-Premise Signs Text Amendment** – The modification to the Unified Development Ordinance will allow permanent, off-premise signs in easements in the Town's planning jurisdiction. Planner Christy Turner informed Council that the Planning Commission recommended approval of the request.

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 ordinance is consistent with the Town's Comprehensive plan and other applicable adopted plans of the Town which relate to this application because it is consistent with Comprehensive Plan policies 2.1 *The Economy*, 2.1.1 E: *The Town shall encourage a public service and regulatory environment conducive to business recruitment and expansion, while at the same time enhancing the area's physical and human resources*, and 2.3 D: *Sign Policies and Standards shall be periodically updated to enhance community identity and create a high quality business image.*

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 ordinance and believe approval is reasonable and in the public interest because the amendment addresses a signage need for remote location for residents, business patrons, and emergency personnel and because it is tied to the existing regulations related to placement, number and size of signs.

VOTE: Aye – All
 Nay – None

**REQUEST FOR WITHDRAWAL OF TEXT AMENDMENT – CASE 20120342
UNIVERSITY/COLLEGE OFFICE USES**

Planner Jane Shook pointed out that the meeting information packet contains a letter from the applicant requesting withdrawal of this case. Upon a motion by Council Member Ball, seconded by Council Member Scherlen, Council moved to approve the request for withdrawal of Case 20120342.

VOTE: Aye – All
 Nay - None

UPDATE ON HISTORIC LANDMARK/COLLEGE OFFICE USES

Planner Christy Turner presented the following report on what is involved for the Town to perform a Historic Landmark/District Survey:

Inventory of Local Historical Resources

When a local Historic Preservation Commission is newly established, an inventory of the properties of historical, prehistorical, architectural or cultural significance within the jurisdiction should be made. Staff conducted a preliminary survey of the Town's Planning Jurisdiction in December 2006 before the Commission was formed on March 15, 2007. Planning Staff's initial survey of local historic resources was further studied and enhanced by the Historic Preservation Commission intern Jules Oroukin who won an award for her research and work with the Town of Boone Historic Preservation Commission.

The State Historic Preservation Office suggests that the area wide historic preservation survey does not require a detailed, in-depth report on every historic property. The state says, "Breadth is more important than depth." The inventory should be comprehensive, covering all types of resources throughout the area. The Councill Hardin House built in 1877 is important for historical, architectural and cultural significance, but homes we might not think about as historical, such as brink ranch style homes which began to be built in the 1950's have become Historic Districts in areas like Raleigh and Winston-Salem.

An inventory of local historic resources should include a brief history of the area that includes development and influencing events which helps indicate the most valuable resources and the forces operating for and against preservation efforts.

The features of the area that should be identified are:

- Significant geographic feature
- Other major features that provide orientation
- Dominant visual impressions
- Transportation routes
- Settlement patterns
- Population growth
- Economic activities
- Characteristic architectural and land use features of various sections within the area
- Unique or distinctive aspects of local prehistory, history, or historic properties

For individual properties, the inventory should include this information:

- Location
- Name and address of present owner
- Use
- Dates of the building (or site) and any additions
- Architectural description
- Physical condition
- Relationship to the surroundings
- Sketched site plan
- Historical or other significance, including associated historical events and important person, and potential for archaeological resources
- Photographs

The inventory should also describe the history and status of any public or private preservation activities already undertaken in the area.

All properties recorded in the inventory should be mapped. Maps make it easier to recognize and explain characteristic patterns, and they provide a context for consideration of individual properties and districts. They provide a framework for systematic decision making by the commission and facilitate coordination with other planning and zoning activities. Maps may be coded to show such characteristics as age, land use, and architectural or historical significance. Tax maps showing property lines are most appropriate for municipal inventories.

A professional survey should be performed by a professional consultant to make sure the local survey is done in coordination with North Carolina's statewide survey of historical resources to ensure that it yields accurate, comprehensive, and useful information to become part of the statewide survey. The information in the inventory also provides the starting point for the detailed reports and investigations which would support recommendations for historic landmarks and/or district designations.

Staff has talked with many professional consultants around the state to gain an understanding of what is included in a professional survey of local resources. Almost all consultants agree that the list on the previous page is an accurate representation of what would be included in a professional survey. The price for the work ranges from \$75 - \$100 per structure. The Town of Boone GIS Department reports that there are about 5600 parcels in the Town's Planning Jurisdiction. About 950 residential and business structures were built before 1960 in the Town of Boone Corporate Limits. Many consultants suggested several "ride-around" days to determine an approximate number of structures that should be included in the study-list out of the 950 structures built before 1960. Dilapidation, remodeling, additions, etc... may eliminate quite a few of those structures to be included in the actual survey of local historic structures.

Staff has been in contact with the State Certified Local Government Coordinator, Rob Crawford. Mr. Crawford stated that part of the expense of the Local Historic Property Inventory could be taken care of with CLG matching grants (60% from the State and 40% from the Town) from the North Carolina Division of Archives and History when the Town obtains CLG status. The Town of Boone Historic Preservation Commission has completed all requirements to obtain CLG status except adopting Historic Preservation Design Guidelines. Mr. Crawford stated that the board examining CLG applications can waive the Historic Preservation Design Guidelines as the final component because a grant can be applied for in order to finish those. The Planning and Inspections Department is working on the Historic Preservation Design Guidelines at the present time.

Upon a motion by Council Member Brantz, seconded by Council Member Ball, Council moved to amend the agenda to take action on applying for Certified Local Government.

VOTE: Aye – All
 Nay – None

Upon a motion by Council Member Ball, seconded by Council Member Mason, Council moved to authorize town staff to begin the application process for the Town of Boone to become a Certified Local Government.

VOTE: Aye – All
 Nay – None

PRESENTATION OF P&I MONTHLY REPORT

Planning Director Bill Bailey presented the P & I Monthly report. **(Permanently on file in the August 2012 Town Council Packet.)**

REQUEST APPROVAL TO APPLY FOR GRANT – FIRE DEPARTMENT FOR REPLACEMENT OF COMMUNICATIONS EQUIPMENT

Fire Captain Mike Teague appeared before Council to request permission to apply for a grant in the amount of \$282,000 for the replacement of communications equipment. He explained that the grant is a 90/10 matching grant for which the Town of Boone will be responsible for a \$28,220 match. Upon a motion by Council Member Leigh, seconded by Council Member

Brantz, the Council moved to approve the request by the Boone Fire Department for a grant in the amount of \$282,000 to replace communications equipment.

VOTE: Aye – All
 Nay – None

APPROVAL OF AGREEMENT – MUNICIPAL REIMBURSEMENT AGREEMENT FOR BICYCLE PLANNING GRANT

Upon a motion by Council Member Brantz, seconded by Council Member Ball, Council moved to approve the Municipal Reimbursement Agreement for Bicycle Planning Grant. **(Copy of agreement permanently on file in the Clerk’s office.)**

VOTE: Aye – All
 Nay – None

PUBLIC WORKS REQUEST – CREATE RFP FOR CONSULTANTS FOR BICYCLE PLANNING GRANT

Public Works Director Blake Brown appeared before Council to request permission to create a Request for Proposals (RFP) for consultants from the NC DOT for the Bicycle Planning Grant. Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to approve the request to create a RFP for a consultant for the Bicycle Planning Grant.

VOTE: Aye – All
 Nay – None

PUBLIC WORKS REQUEST – REQUEST THAT ALTERNATIVE TRANSPORTATION SUBCOMMITTEE ALSO SERVE ON THE BICYCLE PLANNING GRANT STEERING COMMITTEE

Public Works Director Blake Brown requested that the members of the Alternative Transportation Subcommittee be allowed to serve on the Bicycle Planning Grant Steering Committee. Upon a motion by Council Member Brantz, seconded by Council Member Leigh, Council moved to allow members of the Alternative Transportation Subcommittee to serve on the Bicycle Planning Grant Steering Committee.

VOTE: Aye – All
 Nay – None

PUBLIC WORKS REQUEST – REQUEST TO ADVERTISE FOR ADDITIONAL MEMBERS TO SERVE ON THE BICYCLE PLANNING GRANT STEERING COMMITTEE

Public Works Director Blake Brown presented a request to allow staff to advertise for additional members to serve on the Bicycle Planning Grant Steering Committee. Upon a motion by Council Member Leigh, seconded by Council Member Ball, Council moved to direct the Clerk to advertise for members to serve on the Bicycle Planning Grant Steering Committee.

VOTE: Aye – All
 Nay – None

DBDA QUARTERLY REPORT OF ACTIVITIES

Downtown Development Coordinator Pilar Fotta presented a report outlining the activities for the Downtown Boone Development Association for the second quarter of 2012. **(Copy of report permanently on file in the August 2012 Town Council meeting packet.)**

APPALACHIAN THEATER QUARTERLY REPORT

Downtown Development Coordinator Pilar Fotta presented the quarterly report of activities for the second quarter of 2012 for the Appalachian Theater.

PRESENTATION OF MONTHLY NOISE REPORT

Police Chief Dana Crawford presented a noise report for the period of July 1, 2012 through July 31, 2012. **(Copy of report permanently on file in the August 2012 Town Council meeting packet.)**

MONTHLY WATER USES STATUS REPORT

Public Utilities Director Rick Miller presented the monthly water status report. **(Copy permanently on file in the August 2012 Town Council packet.)**

APPROVAL OF BUDGET AMENDMENTS

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

Description:	Account #:	To:	From:
CAPITAL OUTLAY-LARGE TRUCKS-FIRE DEPT.	010-500-350-573300	\$500,000	
LOAN PROCEEDS	010-000-000-492000		(\$500,000)
SOFTWARE PROGRAMMING	010-402-000-545009	\$4,000	
TELEPHONE/WIRELESS INSTALLATION	010-409-000-525101	\$10,760	
SPECIAL PROMOTIONS	010-409-000-527001	\$3,475	
GREENWAY/WILSON DRIVE	010-411-000-545100	\$537,575	
TRANSFER TO TOWN FACULTIES' CAP RESERVE	010-411-000-549017	\$411,000	
WIDE AREA NETWORK-IMPROVEMENTS	010-411-000-549102	\$12,290	
WEBSITE REVISION	010-411-000-549111	\$1,054	
KING STREET WIDENING PROJECT	010-411-000-549121	\$762,290	
HOWARD STREET	010-411-000-549124	\$150,000	
TREE PLANTING PROJECT	010-411-000-549128	\$27,005	
COLLEGE STREET PROJECT	010-411-000-549130	\$114,000	
SIDEWALK EXPANSION	010-411-000-549131	\$60,000	
PROFESSIONAL SERVICES-PROJECTS	010-414-000-509100	\$12,850	
2 POLE REPLACEMENT	010-415-000-525101	\$950	
USPS RENOVATION	010-417-000-574001	\$1,583,905	
BREATHING APPARATUS CANISTERS	010-500-350-514110	\$8,715	
FIRE CHANNEL #2 REPLACEMENT	010-500-350-574000	\$16,120	
RADIOS	010-500-350-574000	\$16,118	
SOFTWARE UPGRADE	010-500-360-571000	\$17,130	
SOFTWARE UPGRADE	010-500-360-571000	\$17,130	
COBRAHEAD LIGHTS WITH PHOTOCCELL	010-600-401-525210	\$4,140	
STREET LIGHTS-KING STREET	010-600-401-574003	\$138,820	
STREET LIGHTS	010-600-401-574004	\$35,000	
DELMAR STREET	010-600-401-574803	\$53,865	
CHESTNUT DRIVE	010-600-401-574804	\$162,950	
SIDEWALK CONSTRUCTION	010-600-405-514303	\$30,534	
CURB & GUTTER	010-600-405-514303	\$5,464	
DOWNTOWN SIGN PACKAGE	010-600-405-525102	\$2,195	
NC DOT PROJECT E-4955	010-000-000-448025		(\$269,985)
APPROPRIATED FUND BALANCE-GENERAL FUND	010-000-000-499900		(\$3,929,350)

LOW FLOW TOILET REBATE	030-700-801-513105	\$1,700	
CONTRACTED SERVICES	030-700-801-577000	\$170,335	
WEBSITE REVISION	030-700-806-509100	\$10,000	
SOFTWARE PROGRAMMING	030-700-806-545009	\$11,555	
APPROPRIATED FUND BALANCE-WATER & SEWER FUND	030-000-000-499900		(\$193,590)
CAPITAL OUTLAY-SEWER LINES	030-700-803-575000	\$270,000	
APPROPRIATED FUND BALANCE	030-000-000-499900		(\$270,000)

VOTE: Aye – All
 Nay - None

CONSIDERATION OF RECOMMENDATIONS FROM AFFORDABLE HOUSING TASK FORCE ON THE HOUSING STUDY PROPOSALS

Town Attorney Sam Furguele presented two proposals for a Housing Study Analysis which were recommended by the Affordable Housing Task Force: proposal from RKG Associates in the amount of \$31,815 and proposal from Real Property Research Group in the amount of \$18,000. He explained that the Affordable Housing Task Force did prefer the proposal from RKG Associates if the proposal could be modified to remove three tasks: key stakeholder interviews, student housing assessment, and implementation strategy. By removing these tasks, the price would be reduced to \$21,665. Mr. Furguele noted that the task force felt that these tasks were not needed. Upon a motion by Council Member Brantz, seconded by Council Member Leigh, Council moved to approve the proposal from RKG Associates in the amount of \$21,665, on the condition that the aforementioned modifications be made, but if the modifications are not made, then the Town has the option to accept the proposal from Real Property Research Group in the amount of \$18,000.

VOTE: Aye – All
 Nay – None

REQUESTED APPEARANCES – GREG LOVINS

ASU Interim Vice Chancellor for Business Affairs Greg Lovins appeared before Council to request a special public hearing to hear a rezoning request by ASU. He explained that the request will be to rezone the following properties from B-3, General Business, and R-3, Multiple-Family to U-1, Office/Institutional: parcels 2910-44-1012-000, 2910-44-1178-000, 2910-34-8066-000, and 2910-33-9755-000. Upon a motion by Council Member Ball, seconded by Council Member Brantz, Council moved to schedule a special public hearing on Monday, September 10, 2012 at 5:30 p.m. in the Council Chambers for a rezoning request from Appalachian State University.

VOTE: Aye – All
 Nay – None

REQUESTED APPEARANCES – GREG LOVINS/GUNTHER DOERR

Greg Lovins appeared before Council to request that ASU Traffic Control be able to restrict vehicle traffic traveling from Rivers Street onto Stadium Drive for no more than 45 minutes so that both lanes can be open to provide for one traffic pattern for traffic leaving the stadium parking lot after ASU home football games. Police Chief Dana Crawford stated that he agrees with the request for modification of the game-day traffic plan. Upon a motion by Council Member Scherlen, seconded by Council Member Mason, Council moved to approve the request from ASU to restrict vehicle traffic traveling from Rivers Street onto Stadium Drive for no more than 45 minutes so that both lanes can be open to provide for one traffic pattern for traffic leaving the stadium parking lot after ASU home football games and to allow the Town Manager’s discretion to modify the traffic plan if necessary.

VOTE: Aye – All
 Nay – None

RECESS MEETING

Upon a motion by Council Member Brantz, seconded by Council Member Ball, Council moved to recess the meeting at 10:02 p.m. until Thursday, August 23, 2012, at 6:30 p.m. in the Council Chambers, 1500 Blowing Rock Road.

VOTE: Aye – All
 Nay – None

CALL TO RECONVENE

A recessed meeting from August 21, 2012 was called to order at 6:30 p.m., Thursday, August 23, 2012, in the Council Chambers, 1500 Blowing Rock Road. Mayor Loretta Clawson presided. Council members present were Mayor Pro-Tem Jamie Leigh, Lynne Mason, Andy Ball, Rennie Brantz, and Allan Scherlen. Town Attorney Sam Furgiuele was also present. Staff members present were Town Manager Greg Young, Town Clerk Kimberly Brown, Police Chief Dana Crawford, Fire Marshal Ronnie Marsh, Public Works Director Blake Brown, Public Utilities Director Rick Miller, Planning Director Bill Bailey, Human Resources Director Peri Moretz, and Downtown Development Coordinator Pilar Fotta.

ANNOUNCEMENTS

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

TENTATIVE AGENDA ADOPTION

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

1. Deletion of Item 13.A. – Announcement of Board Vacancy.
2. Addition of Item 13.D. – Request to add member to Jones House Subcommittee.

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

VOTE: Aye – All
 Nay – None

PUBLIC COMMENT

Kris and Becky Fowler appeared to ask the Council to approve the 8th Annual High Country Toy Run and to waive the application fee and insurance requirement. Upon a motion by Council Member Ball, seconded by Council Member Brantz, Council moved to amend the agenda to take action on the request from Kris and Becky Fowler.

VOTE: Aye – All
 Nay - None

BOARD APPOINTMENTS

Affordable Housing Task Force

There were no applications submitted for the vacant positions.

Board of Adjustment

There were no applications submitted for the vacant positions.

Community Appearance Commission

There were no applications submitted for this position.

Greenway, Parks & Gardens Committee

Council Member Leigh nominated Randy McDonough for reappointment to the Greenway, Parks and Gardens Committee. With no other nominations, Mayor Clawson called for a vote.

VOTE: Aye – All
 Nay - None

His term will expire July 31, 2015.

Historic Preservation Commission

Council Member Brantz nominated Eric Plaag for appointment to the Historic Preservation Commission. With no other nominations, Mayor Clawson called for a vote.

VOTE: Aye – All
 Nay – None His

term will expire June 30, 2014.

Outside Agency Funding Committee

There were no applications submitted for this position.

Planning Commission

There were no applications submitted for the vacant positions.

Tree Board

There were no applications received for this position.

Water Study Committee

Council Member Scherlen nominated Joanna Weintraub to serve on the Water Use Committee. With no other nominations, Mayor Clawson called for a vote.

VOTE: Aye – All
 Nay - None

CONFIRMATION OF CHAIR/VICE-CHAIR & BOARD TERMS - CULTURAL RESOURCES BOARD

Upon a motion by Council Member Brantz, seconded by Council Member Ball, Council moved to approve Frank Mohler as Chair and Kim Wangler as Vice-Chair of the Cultural Resources Board and to approve the following board terms:

- Two-year terms: Ray Christian, Wayne Williams, Julia Rechenbach-Moomaw
- Three-year terms: Neva Specht, Billy Ralph Winkler, Cheryl Prisco
- Four-year terms: Kim Wangler, Frank Mohler, Trent Margrif.

VOTE: Aye – All
 Nay – None

REQUEST TO ADD MEMBER TO JONES HOUSE SUBCOMMITTEE

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to appoint Frank Mohler to serve on the Jones House Subcommittee.

VOTE: Aye – All
 Nay – None

REQUESTED APPEARANCES – RANDY MCDONOUGH

Randy McDonough appeared before Council to present the recommendation from the Greenway, Parks and Gardens Committee to appoint the following persons to serve on the “Do Your Doo Diligence” Ad-Hoc Subcommittee: Judith Phoenix, Jamie Goodman, and Bunk Spann. Upon a motion by Council Member Mason, seconded by Council Member Scherlen, Council approved the request to form a “Do Your Doo Diligence” Ad-Hoc Subcommittee consisting of Judith Phoenix, Jamie Goodman, and Bunk Spann.

VOTE: Aye – All
 Nay - None

REQUESTED APPEARANCES – MATTHEW ROBINSON

Dr. Matthew Robinson, Professor of Government and Justice Studies at Appalachian State University and Amanda Moore, a Global Studies major, appeared before Council to present a brief report on the use of the death penalty in North Carolina. **(Copy of report is permanently on file in the August 2012 meeting information file.)** Dr. Robinson presented five key points:

1. Capital punishment is extremely rare in North Carolina.
2. Executions in North Carolina are not a greater deterrent to murder than other major punishments including life imprisonment.
3. Capital punishment in North Carolina is more expensive than other major punishments including life imprisonment.
4. Capital punishment in North Carolina is characterized by serious disparities based on extra-legal factors such as race and gender.
5. Innocent people are wrongly convicted of capital murder and sentenced to death in North Carolina.

He stated that he wants to inform policy-makers of the information that has been compiled regarding the death penalty. Ms. Moore presented information on the use of the death penalty throughout the world and noted that the United States is one of a small group of countries that still practice executions.

REQUESTED APPEARANCES – KRIS AND BECKY FOWLER

Kris and Becky Fowler appeared before Council to request approval of the 8th Annual High Country Toy Run scheduled for Saturday, October 13, 2012. The event will begin at 9 a.m. in the parking lot of the Boone Mall with the ride beginning at 11 a.m. They requested that Council approve the event, waive the application fee, and waive the insurance requirement. Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to approve the Special Event Permit for the 8th Annual High Country Toy Run, to waive the application fee, and to waive the requirement for liability insurance.

VOTE: Aye – All
 Nay - None

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 – ANDREW WADE

Town Attorney Sam Furgiuele opened a public hearing at 7 p.m. to hear a request for water and sewer service for property located on Cherokee Street. Andrew Wade, being duly sworn, handed out information regarding his request (**Wade Exhibit A, permanently on file.**) He explained his request for 6,642 gallons per day in order to build another Bubbles Car Wash off Highway 421 South. Mr. Wade explained that he anticipates a projected water usage of 2,660 gallons per day. He explained that his car wash business uses reclamation of water and that only a small amount of water is returned to the Town's sewer system. Mr. Wade also requested that the payment of the availability fee be deferred and monitored for two years. He then requested that the availability fee be based on actual usage. Rick Miller, being duly sworn, stated that Council allowed this request when the application built the first carwash on Highway 105. He stated that the applicant then paid the availability fee that was based on the average two-year use. With no other testimony offered, Mr. Furgiuele closed the public hearing at 7:08 p.m. Upon a motion by Council Member Brantz, seconded by Council Member Ball, Council moved to approve the water allocation of 6,642 gallons per day and to defer payment of the availability fee based on monitoring the usage for two years.

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 7:09 p.m. pursuant to NCGS 143-318-11a(3)(5) to hear the following items:

- Legal Advice - To consult with the Town Attorney in order to preserve the attorney/client privilege between the attorney and the Town Council and to instruct Town staff and the Town Attorney concerning the positions to be taken by or on behalf of the Town in negotiating the price and other material terms of a proposed contract for the acquisition of easements in real property related to the proposed raw water intake.
- Legal Advice - To consult with Town Attorney in order to preserve the attorney/client privilege between the attorney and the Town Council and to instruct Town staff and the Town Attorney concerning the positions to be taken by or on behalf of the Town in negotiating the price and other material terms of proposed contracts for the acquisition of real property and easements in real property related to the proposed Chestnut Street connector.
- Legal Advice - To consult with the Town Attorney in order to preserve the attorney/client privilege between the attorney and the Town Council and to instruct the Town Attorney concerning the positions to be taken by or on behalf of the Town in handling a possible claim or judicial action relating to interference with an easement owned by the Town which runs from U.S. Highway 321 to Horn in the West Park.
- Legal Advice - To consult with the Town Attorney in order to preserve the attorney/client privilege between the attorney and the Town Council and to consider and give instructions concerning legal options regarding Highway 421 lights.
- Legal Advice - To meet with the Town Attorney to consider and give instructions concerning the settlement of a claim against Sam Abdin for penalties for UDO violations.
- Legal Advice - To meet with the Town Attorney to consider and give instructions concerning the settlement of a claim against Wilco-Hess for penalties for UDO violations.

- To consult with an attorney employed by the Town in order to preserve the attorney/client privilege between the attorney and the public body and to consider and give instructions to the attorney concerning the handling of claims by and against the Watauga County Arts Council.
- To instruct the public body's staff concerning the position to be taken by or on behalf of the public body in negotiating the amount of compensation and other material terms of an employment contract with the Policy Group and CompassNC, LLC.

VOTE: Aye – All
 Nay - None

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

POSSIBLE ACTION FOLLOWING CLOSED SESSION

Upon a motion by Council Member Ball, seconded by Council Member Brantz, Council moved to schedule a special meeting on Monday, September 10, 2012, at 5:00 p.m. in the Council Chambers, in order to go into Closed Session pursuant to NCGS 143-318-11a(3) regarding the following matter:

- Legal Advice - To consult with Town Attorney in order to preserve the attorney/client privilege between the attorney and the Town Council and to instruct Town staff and the Town Attorney concerning the positions to be taken by or on behalf of the Town in negotiating the price and other material terms of proposed contracts for the acquisition of real property and easements in real property related to the proposed Chestnut Street connector.

VOTE: Aye – All
 Nay - None

ADJOURNMENT

Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to adjourn the meeting at 11:13 p.m.

VOTE: Aye – All
 Nay – None

Kimberly S. Brown, Town Clerk

Loretta Clawson, Mayor

WADE EXHIBIT A

BUBBLES CAR WASH WATER USAGE

Proposed New Car Wash

- Discharge Schedule Indicates 6,642 gpd
- Projected Usage 2,660 gpd
- Projected Usage is 40% of Schedule
- Projected Water per Car 27 gal

Bubbles Car Wash

- Discharge Schedule Indicated 8,856 gpd
- Actual Usage to Date 4,158 gpd
- Usage is 47% of Schedule
- Water per Car 37 gal
 - o This includes water used for cleaning bays, freeze protection, etc.
- First Business Certified through Watauga County Green Business Plan Initiative

Home Car Wash

- EPA Average 80-140 gal
- ICA Average 120 gal

Standard Commercial Car Wash (non-reclaim)

- 70-150 gal