

**MINUTES – REGULAR MEETING
BOONE TOWN COUNCIL
September 14, 2021**

CALL TO ORDER

A regular meeting of the Boone Town Council was called to order electronically at 6:00 p.m. on Tuesday, September 14, 2021. Mayor Rennie Brantz presided. Town Council members present included Mayor Pro-Tem Connie Ulmer, Sam Furgiuele, Virginia Roseman, Nancy LaPlaca and Dalton George. Staff present included Town Manager John Ward, Town Clerk Nicole Harmon, Public Works Director Rick Miller, Police Chief Andy Le Beau, Fire Chief Jimmy Isaacs, Finance Director Amy Davis, Planning Director Jane Shook, Cultural Resources Director Mark Freed, Deputy Public Works Director Todd Moody, Downtown Boone Development Coordinator Lane Moody, Administrative Support Specialist Laney Pilkington, Deputy Public Works Director Josh Eller, and Human Resources Director Josh Eller. Town Attorney Allison Meade was also in attendance.

ANNOUNCEMENTS

Mr. Ward presented members with a Covid-19 update for the area.

TENTATIVE AGENDA ADOPTION

Upon a motion by Ms. LaPlaca, seconded by Ms. Roseman, Council voted unanimously to approve the agenda as presented.

PUBLIC COMMENT

Joan Brook of Boone introduced herself to Council and informed members that she would not be in attendance at Thursday's meeting when her Board of Adjustment application would be considered.

Angela Kelly, owner of Proper restaurant in Boone, spoke in support of Council revisiting the current noise ordinance. She stated that loud outdoor music could often be heard at her establishment during business hours through 1 a.m. coming from other businesses in the downtown area Wednesday through Sunday so loud that if she had wished to have live music herself at her restaurant it would be drowned out. She stated that she had contacted the businesses repeatedly to ask that they lower the volume, and she had contacted the police, but nothing had changed. Mr. Furgiuele made a motion to amend Thursday's agenda to discuss this matter further. Mayor Pro-Tem Ulmer seconded the motion. Mr. Ward noted that Thursday's agenda was very full, and felt that members may want to wait until the public could be properly noticed. Mr. Furgiuele suggested that by putting it off until Thursday, there was an opportunity for people to be informed about the discussion and appear should they wish to do so. Mayor Pro-Tem Ulmer agreed with Mr. Ward and withdrew her second. Ms. Roseman seconded the motion.

VOTE:	Aye:	Furgiuele, Roseman, LaPlaca, George
	Nay:	Ulmer

Valerie Midgett, owner of Neighborhood Yoga in Boone, spoke in support of Council revisiting the current mask mandate. She stated that her businesses, and potentially others, were failing due to the mask requirement in Boone, and asked members to consider allowing a carve-out for gyms and other health-centered businesses such as her yoga studio to be exempt in certain situations. Ms. Midgett indicated that she has lost business due to the mask mandate and believed that an exemption would help. She also suggested a small business grant program to assist those who have been affected by Covid-19. Mr. Furgiuele made a motion to amend Thursday's agenda to discuss a possible amendment to the current Town of Boone State of Emergency Order. Mr. George seconded the motion.

VOTE:	Aye:	Furgiuele, George, Roseman, LaPlaca
	Nay:	Ulmer

REQUESTED APPEARANCES

CHRISTOPHER SEITZ - ASU HEALTH AND EXERCISE SCIENCE

Christopher Seitz with ASU Health and Exercise Science asked for Council's support to approach AppalCart to obtain no smoking/no vaping signs to be installed inside bus stops. Mayor Pro-Tem Ulmer indicated that the AppalCart board had previously agreed that they would install signs.

ADOPTION OF ITEMS ON THE CONSENT AGENDA

Upon a motion by Ms. LaPlaca, seconded by Mr. George, Council voted unanimously to approve the following items on the Consent Agenda:

1. Volunteer Appreciation Resolution - M. Caruso
2. Volunteer Appreciation Resolution - K. Sink
3. Proclamation - Constitution Week
4. Budget Amendments:

Police Department - Crime Prevention - \$250.00 Miscellaneous Revenue (\$2,970.20)
Maintenance Vehicles - \$2,720.20

Public Works - Maintenance Vehicles - \$1,764.08 Miscellaneous Revenue (\$1,764.08)
Re-encumbrance of funds

COUNCIL MATTERS**CONSIDERATION OF ASU HOMECOMING PARADE PERMIT APPLICATION**

Staff asked for direction from Council on whether or not it wished to move forward with the approval of the permit for the annual ASU Homecoming Parade permit. Ms. Roseman asked ASU representatives whether they had a back-up plan for the parade if Covid-19 numbers went up significantly. Beth Holcomb with ASU Athletics answered that she was unsure of a way to properly enforce mask wearing and social distancing among parade goers, but that staff had planned to hold some electronic events similar to last year. Ms. Roseman was logged out of the meeting from 7:25 until 7:30 p.m. Ms. Roseman stated that she would like to have seen the parade route planned for River Street due to increased space as opposed to holding the event on King Street. Mr. Furgiuele expressed his disappointment with ASU's planning of recent events in that they were bringing large numbers of people to be packed close together during Covid-19. He asked Ms. Holcomb if ASU was doing any follow-up with people who had attended the Luke Combs concert to determine if there had been a spread of disease as a result, but she did not know. Ms. Roseman asked whether the organizers would be willing, if Covid-19 numbers increased significantly, to choose the River Street route instead, and Ms. Holcomb said they would consider that. Ms. LaPlaca made a motion to approve the request as submitted. Mayor Pro-Tem Ulmer seconded the motion. Ms. LaPlaca amended her motion to stipulate that event approval should be reconsidered if Covid-19 numbers rose. Mayor Pro-Tem Ulmer accepted this amendment. The motion carried unanimously.

COUNCIL MEMBER LAPLACA POWERPOINT PRESENTATION

Ms. LaPlaca gave a power point presentation entitled "Why Rooftop Solar is Both Necessary and Cheaper". A complete copy of the presentation is available online at http://boonenc.iqm2.com/Citizens/Detail_Meeting.aspx?ID=2368

AMENDMENT TO TOWN CODE CHAPTER 50 REGARDING ACCEPTANCE OF WATER OR SEWER EXTENSIONS

Ms. Meade presented amendments to Town Code Chapter 50 regarding the acceptance of water or sewer extensions. Upon a motion by Mayor Pro-Tem Ulmer, seconded by Ms. LaPlaca, Council voted unanimously to approve the amendment as presented.

Ordinance # _____

**AN ORDINANCE TO AMEND THE TOWN OF BOONE
CODE OF ORDINANCES CHAPTER 50, SECTION 50.296 REGARDING
DEDICATION OF WATER AND SEWER LINE EXTENSIONS**

WHEREAS, the Boone Town Council desires to clarify Section 50.296 of the Town Code regarding water or sewer extensions dedicated to the Town; and

WHEREAS, the Boone Town Council is authorized to adopt this ordinance pursuant to its powers under Chapter 160A of the North Carolina General Statutes, including but not limited to its authority over town streets and sidewalks pursuant to Article 15 of Chapter 160A and its authority over its water and sewer public enterprises pursuant to Article 16 of Chapter 160A.

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

SECTION 1. Section 50.296 of the Boone Code of Ordinances is hereby revised as set forth in the attached **Exhibit A** to this Ordinance, which is incorporated by reference.

SECTION 2. All provisions of any Town ordinance in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 3. In the event any section, subsection, subdivision, paragraph, subparagraph, item, sentence, clause, phrase or word of this ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining provisions of this ordinance, which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this ordinance.

SECTION 4. This Ordinance shall be effective immediately upon its adoption by Town Council.

Adopted this ____ day of _____, 2021

Rennie Brantz, Mayor

ATTEST: _____
Town Clerk

EXHIBIT A

§ 50.296 DEDICATION OF WATER AND SEWER LINE EXTENSIONS.

(A) All water and sewer extensions constructed and connected with the facilities of the town shall be dedicated to and become the property of the town upon completion and acceptance by the town. Connection to the town's facilities shall constitute dedication of an extension. The property owner dedicating the extension shall demonstrate the legal authority to do so.

(B) Following dedication and acceptance by the town, the town shall have exclusive control of all water or sewer extensions and shall be responsible for their maintenance, repair and operation. However, the dedicator of the extension shall guarantee the entire project against any failure or deficiency, including but not limited to, defective material and workmanship, for a period of 12 months from the date of acceptance, and shall be responsible for the costs of repair and replacement, associated engineering costs, and all damages to persons or property which result from any such failure or deficiency. [The Town shall require security for such guarantee as allowed by law.](#)

[\(C\) A property owner dedicating water or sewer extension infrastructure in connection with the dedication of street infrastructure shall comply with Town Code sections 96.045 – 96.047.](#)

CLOSED SESSION

Upon a motion by Mayor Pro-Tem Ulmer, seconded by Ms. LaPlaca, Council voted unanimously to enter into closed session at 8:05 p.m. pursuant to:

1. N.C. Gen. Stat. § 143-318.11(a)(1), to review, approve and seal closed session minutes from Council's prior closed session(s).
2. N.C. Gen. Stat. § 143-318.11(a)(3), to consult with the Town Attorney in order to preserve the attorney-client privilege between the attorney and the Town Council and obtain legal advice, consider and/or give instructions to the attorney concerning one or more potential legal claims.
3. N.C. Gen. Stat. § 143-318.11(a)(3), to consult with the Town Attorney in order to preserve the attorney-client privilege between the attorney and the Town Council and obtain legal advice, consider and/or give instructions to the attorney concerning the lawsuits involving Watauga County and Travelers Company.
4. N.C. Gen. Stat. § 143-318.11(a)(6), to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee.

Upon a motion by Ms. LaPlaca, seconded by Mayor Pro-Tem Ulmer, Council voted unanimously to exit closed session at 10:03 p.m.

ADJOURNMENT

Upon a motion by Ms. Roseman, seconded by Ms. LaPlaca, Council voted unanimously to adjourn the meeting at 10:05 p.m.

Nicole Harmon, Town Clerk

Rennie Brantz, Mayor