

**MINUTES – REGULAR MEETING
BOONE TOWN COUNCIL
September 15, 2016**

CALL TO ORDER

A regular meeting of the Boone Town Council was called to order at 5:30 p.m. Thursday, Sept. 15, 2016, in the Council Chambers located at 1500 Blowing Rock Road. Mayor Rennie Brantz presided. Council members present were Mayor Pro Tem Lynne Mason, Loretta Clawson, Charlotte Mizelle, Jennifer Teague and Jeannine Underdown Collins. Town Attorney Allison Meade was in attendance. Staff present were Town Manager John Ward, Assistant Town Manager Jim Byrne, Town Clerk Christine Pope, Public Works Director Rick Miller, Police Chief Dana Crawford, Cultural Resources Director Pilar Fotta, Fire Chief Jimmy Isaacs, Planning Supervisor Jane Shook and Planning Director Bill Bailey.

ANNOUNCEMENTS

Mayor Brantz noted anyone who wished to speak during public comment could sign the public comment sign-up sheet.

RECOGNITION OF RETIREMENT - RICK PENNELL

Public Works Department staff presented a plaque to show their appreciation to Rick Pennell recognizing his many years of dedicated service to the Town of Boone.

TENTATIVE AGENDA ADOPTION

Town Manager John Ward noted the following amendments to the agenda:

1. Addition of Item 6.D. - Requested Appearance: Diane Blanks - Petition to Rezone Green Street Neighborhood.
2. Addition of Item 7.H. - Approval of Contract: Downtown Revitalization Grant.
3. Additional Information for Item 8.F. - Case 20160136 Rivers Walk Planned Development Zoning Map Amendment: Addition of Planning Commission Draft Minutes and Recommendation.
4. Additional Information for Item 8.N. - Announcement of Board Vacancies: To Reflect Resignation of Jamie Goodman from Downtown Boone Development Association.

ADOPTION OF TENTATIVE AGENDA

Upon a motion by Council Member Clawson, seconded by Council Member Mizelle, Council moved to adopt the tentative agenda as amended.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Loretta Clawson, Council Member
SECONDER:	Charlotte Mizelle, Council Member
AYES:	Mason, Clawson, Mizelle, Teague, Collins

PUBLIC HEARING

PUBLIC HEARING: PROPOSED EXEMPTION TO NOISE ORDINANCE FOR ASU HEALTH SCIENCES BUILDING CONSTRUCTION

Mayor Brantz opened a public hearing at 5:41 p.m. regarding a proposed exemption to the noise ordinance in order to allow construction activity related to construction of the ASU Health Sciences building between the hours of 10 p.m. and 6 a.m.

Andrew Sears of Rodgers Builders stated they are asking for the exemption for the logistics of placing large amounts of concrete at the site. He stated that by allowing this exemption, they will be in more control of the quality of the product and would be able to complete this when traffic is not an issue. Upon Council Member

Mason's question regarding the length of time this will take place, Mr. Sears said it would be between November 2016 and September 2017 depending on the weather. He added that in a perfect scenario, the trucks would be running after 3 a.m.

With no further comments, Mayor Brantz closed the hearing at 5:45 p.m.

PUBLIC COMMENT

Cathy LaMarre of 156 Olancha Avenue spoke regarding the noise exemption requested, the need to protect neighborhoods, the possibility of a committee to update the 2030 plan, and the AppalCART bus that stops at the end of The Standard which is backing traffic up to the Convocation Center.

Quint David of 175 Ridgewood Drive provided Council with a summary of the survey results compiled by the Sustainability Committee which included a Greenway corridor, and encouragement of public/private investment in a community center with a winter farmers' market and food hub.

Ben Miller of 190 Beverly Heights Avenue stated he has lived in the Beverly Heights neighborhood for almost 50 years, and his home is located adjacent to the Farm Bureau Insurance property that used to be a home. He asked that Council protect this neighborhood to avoid a domino effect with businesses moving into neighborhoods along State Farm Road.

Diane Blanks of Boone asked Council to think about if they want another Standard-type building at the old Southern States property with regard to the Rivers Walk planned development request. Ms. Blanks also spoke regarding the Welsh zoning map amendment request stating that while she doesn't mind someone giving art lessons at the location, she fears that by changing the zoning, if the art lessons do not work, someone could open another high-traffic business there.

Eric Plaag of 703 Junaluska Road, on behalf of the Historic Preservation Commission as chairman to the board, stated the HPC would like to be a part of the proposed workshop between the Community Appearance Commission and Town Council that is listed on the agenda to discuss revised downtown design guidelines. Mr. Plaag also spoke regarding the Rivers Walk planned development, noting that this comment was not on behalf of the HPC, stating that Council has a third choice to not approve the planned development approval because the developer cannot build the originally approved conditional district plan. Mr. Plaag stated under the conditional district plan, the developer has until February 2017 to get a building permit and still needs to do substantial changes before then.

REQUESTED APPEARANCES

HARVARD AYERS - REQUEST FOR COUNCIL TO SIGN SUPPORT LETTER

Harvard Ayers appeared before Council to request they sign a letter of support to ensure a change of policies to disallow the burning of biomass wood chips by the British and protect the southeastern forests which are a main source of biomass. Upon a motion by Council Member Clawson, seconded by Council Member Underdown Collins, Council moved to support the request that Council sign this letter of support.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Loretta Clawson, Council Member
SECONDER:	Jeannine Underdown Collins, Council Member
AYES:	Mason, Clawson, Mizelle, Teague, Collins

APPALCART PRESENTATION - CURRENT RIDERSHIP AND GROWTH CONCERNS

AppalCART Director Craig Hughes provided Council with a presentation on the history of AppalCART, the increase in ridership over the past 10 years as well as growth concerns, noting that they will need to begin looking for additional funds in order to maintain their level of operations as the area continues to grow and develop.

ERIC WOOLRIDGE - NORTHERN PEAKS TRAIL PRESENTATION

Eric Woolridge of Destination by Design presented Council with a PowerPoint presentation on a Northern Peaks Trail concept which will connect Boone to Mount Jefferson. He provided Council with an overview of the economic impact of this trail on the area and the process they will be going through in order to implement this trail in the future. (PowerPoint presentation on file in September 2016 meeting packet.)

DIANE BLANKS - PETITION TO REZONE GREEN STREET NEIGHBORHOOD

Diane Blanks appeared before Council to submit a petition on behalf of the Green Street homeowners requesting that Council rezone the neighborhood from R2 Two-Family Residential to R1A Single-Family Residential with Accessory Dwelling District. Ms. Blanks also read a statement on behalf of Sally Reynolds of the Green Street neighborhood. She added that the neighborhood wants protection as it is one of the oldest in the town, noting that the aging infrastructure cannot handle apartments being built in this neighborhood. Upon a motion by Council Member Mason, seconded by Council Member Clawson, Council moved to direct staff to begin the process to rezone this neighborhood to R1A as well as implement a neighborhood conservation district, to create it as a town-initiated amendment in order to make it exempt from fees, and to make this request a high priority.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Lynne Mason, Mayor Pro Tem
SECONDER:	Loretta Clawson, Council Member
AYES:	Mason, Clawson, Mizelle, Teague, Collins

PUBLIC HEARING**PUBLIC HEARING: PROPOSED EXEMPTION TO NOISE ORDINANCE FOR ASU HEALTH SCIENCES BUILDING CONSTRUCTION**

Town Attorney Allison Meade advised that representatives of ASU would like to reopen the public hearing on this item. Mayor Brantz reopened the hearing at 6:38 p.m. Dayton Cole, general counsel for ASU, stated he would send an electronic copy of the truck route planned to Council for their information. He added that it is his understanding that the need to pour concrete will occur two to three times a week, many of the times being on Saturdays to be less disruptive. Town Manager John Ward added that Public Works Director Rick Miller confirmed no major issues were identified with regard to this request. Ms. Meade advised Council that they can put any reasonable conditions on this request. With no further comments, the hearing was closed at 6:43 p.m.

CONSENT AGENDA ADOPTION

Upon a motion by Council Member Clawson, seconded by Council Member Mizelle, Council moved to adopt the consent agenda as presented.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Loretta Clawson, Council Member
SECONDER:	Charlotte Mizelle, Council Member
AYES:	Mason, Clawson, Mizelle, Teague, Collins

TOWN COUNCIL - REGULAR MEETING - AUG 18, 2016 5:30 PM**TOWN COUNCIL - SPECIAL MEETING - AUG 22, 2016 5:00 PM****APPROVAL OF UTILITY EASEMENT AGREEMENTS - MS. ODOM AND MS. JONES****Memorandum of Understanding**

The Town of Boone ("Town") and Mary O. Odom ("Odom") agree to the following in connection with the Town's storm sewer facilities located on or adjacent to Odom's property located at 351 Owens Drive in Boone, North Carolina:

- 1) Ms. Odom will grant a utility easement to the Town for sanitary sewer and storm water sewer/drain facilities in the form attached hereto as Exhibit 1.
- 2) The Town will reimburse Ms. Odom or her designated agent Fifteen-Hundred Dollars (\$1,500.00) for trees she had cut down that she contends were adversely affected by a break in the storm sewer pipe.
- 3) The Town will provide positive drainage of water from the property after installing new piping for the storm sewer and sanitary sewer main.
- 4) The Town will provide a maintenance schedule for both the sanitary sewer and storm sewer piping.
- 5) The Town will cut all stumps to a height of 2.5 feet.
- 6) The Town will stabilize all disturbed areas as required in the engineered plans.
- 7) The Town will plant shrubbery and trees in the disturbed area subject to the approval of Ms. Odom or her designated agent, which approval will not be unreasonably withheld.
- 8) The Town will grade the road, adjust the ditching, and install erosion matting at the top of the property.
- 9) The Town will install chain link matting in areas where sluffing has occurred.
- 10) The Town will repair the existing wall and tie back in with the new rock stabilization materials at the bottom of the hill.
- 11) The Town will allow Ms. Odom to install shrubbery, fencing, or trees in the easement area as approved by the Town.
- 12) The Town has provided for a structural assessment of the home on the property by a licensed structural engineer.

Agreed this 31 day of August, 2016.

Mary O. Odom

Town of Boone
By: _____
Rick Miller
Director, Public Works Department

STATE OF NORTH CAROLINA
COUNTY OF WATAUGA

I certify that Mary O. Odom personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Date: _____

Official Signature of Notary Public

Notary's Printed/Typed Name

My Commission Expires: _____

DEED OF EASEMENT

Prepared by: *Allison M. Meade, Meade Law PLLC, PO Box 292, Boone, NC 28607*

STATE OF NORTH CAROLINA

COUNTY OF WATAUGA

THIS DEED OF EASEMENT is made this the ____ day of _____, 2016, by and between **Mary O. Odom** (unmarried), hereinafter referred to as “Grantor,” and the **Town of Boone**, a North Carolina municipal corporation, hereinafter referred to as “Grantee,” collectively referred to as the “Parties.” The designation Grantor and Grantee, as used herein, shall include said Parties, their heirs, successors and assigns, and shall include singular, plural, masculine or feminine, as required by context.

WITNESSETH:

- A. Grant of Permanent Utility Easement.** Grantor, for and in consideration of the sum of Ten Dollars (\$10.00), and other good and valuable consideration paid by the Grantee, the receipt and adequacy of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee, a permanent utility easement (referred to hereinafter as the “Easement”), within the area (the “Easement Area”) described in Exhibit “A” attached hereto and incorporated herein by reference. The Easement shall extend, over, under, within, and across the real property of the Grantor for the purposes of excavating, installing, inspecting, operating, maintaining, repairing, backfilling, and reconstructing water, sewer, and/or storm water lines, and such pipes, manholes, fittings, fixtures and other accessories as from time to time may be required, together with the full right of access to and egress from the Easement Area. In addition, Grantee may use the Easement Area to excavate, install, inspect, operate, maintain, repair, backfill, and reconstruct other utility lines, including but not limited to electric lines, and may authorize underground encroachments into the Easement Area by pipes and other utility facilities owned by third parties.
- B. Servient Property Identified.** The property of the Grantor that is subject to this Easement is described in the deed to Grantor recorded in Book of Records 580, Page 253 of the Watauga County Registry of Deeds office.

IN CONSIDERATION OF THIS GRANT OF EASEMENT, THE GRANTOR AND THE GRANTEE AGREE TO THE FOLLOWING TERMS:

- A. Uses of Easement Area by Grantor.** Grantor shall at all times, other than while utility lines are under actual construction, improvement, replacement, maintenance or repair, etc., have the right to use the Easement Area, provided such use shall in no manner interfere with or be inconsistent with the use thereof by Grantee as provided herein. Prohibited uses of the Easement Area by the Grantor include, but are not limited to, the following: the erection of a shed, building, structure or other permanent obstruction within the permanent utility easement; the planting of trees within the permanent utility easement; the placing of additional fill within the permanent utility easement except after prior written consent from Grantee; and the construction of utility lines owned or maintained by entities other than Grantee, including but not limited to lines for electrical, gas, telephone, or cable services, except after prior written approval by Grantee. Grantor shall be entitled to landscape the area within the permanent utility easement with flowers, grass and/or mulch, so long as Grantor does not damage the Grantee’s utility lines or accessories. Grantor shall be entitled to use the easement area as part of any building setback, green area, or livability ratio in order to comply with Grantee’s zoning ordinances. Grantor retains the right to fully utilize the permanent utility easement area in any development plan submitted to the Town of Boone so long as it does not conflict with this easement and the provisions herein.
- B. Grantee’s Duties of Restoration and Repair.** Grantee agrees to repair any damage it causes to the Grantor’s property as the result of any future uses of the Easement Area undertaken in accordance with this Easement instrument.
- C. Grantee’s Acknowledgment of Consent.** Grantee, by its execution of this Agreement, acknowledges its consent to the terms of the Easement as set forth above.

IN WITNESS WHEREOF, the Parties have executed this Easement Deed on the dates shown below.

[SIGNATURES FOLLOW ON THE NEXT PAGE(S)]

GRANTOR:

Mary O. Odom (unmarried)

STATE OF NORTH CAROLINA
COUNTY OF WATAUGA

I certify that **Mary O. Odom** personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Date: _____

Official Signature of Notary Public

Notary's Printed/Typed Name

My Commission Expires: _____

GRANTEE:

The foregoing instrument is approved, this ____ day of _____, 2016.

Town of Boone

By: _____
Mayor

Attested By: _____ (SEAL)
Clerk, Town of Boone

STATE OF NORTH CAROLINA
COUNTY OF WATAUGA

I, a Notary Public of the County and State aforesaid, certify that _____ personally appeared before me this day and acknowledged that she is the Clerk for the Town of Boone, a North Carolina municipality, and that by authority duly given and as an act of the Town of Boone, the foregoing instrument was signed in its name by its Mayor, _____, and attested by her as the Town Clerk.

Witness my hand and official stamp or seal, this ____ day of _____, 2016.

Notary Public

Printed Name of Notary Public

My Commission Expires: _____

EXHIBIT A

**TO DEED OF EASEMENT
MARY O. ODOM, GRANTOR TO
TOWN OF BOONE, GRANTEE**

BEGINNING at an existing iron pipe in the southern margin of Owens Drive, common corner to Sue Baird Jones, and running thence South 40°39'21" East 5.55 feet; thence South 23°42'09" West 96.72 feet; thence South 18°35'05" West 56.05 feet to a point in Grantor's southwestern boundary line; thence North 36°03'56" West 11.57 feet to an existing iron pipe, common corner to Sue Baird Jones; thence along the northwestern boundary of Grantor's parcel, common line to Sue Baird Jones, North 23°42'09" East 149.12 feet to the point of BEGINNING, consisting of approximately 879.19 square feet, all according to that plat and survey entitled "Utility Easement Survey for Town of Boone" prepared by AB Christie Surveyors, P.L.S. C-2452, dated August 19, 2016, drawing no. 15095-1, recorded at Plat Book ____, Page ____ of the Watauga County Registry of Deeds.

DEED OF EASEMENT

Prepared by: *Allison M. Meade, Meade Law PLLC, PO Box 292, Boone, NC 28607*

STATE OF NORTH CAROLINA

COUNTY OF WATAUGA

THIS DEED OF EASEMENT is made this the ____ day of _____, 2016, by and between **Sue Baird Jones** (unmarried), hereinafter referred to as "Grantor," and the **Town of Boone**, a North Carolina municipal corporation, hereinafter referred to as "Grantee," collectively referred to as the "Parties." The designation Grantor and Grantee, as used herein, shall include said Parties, their heirs, successors and assigns, and shall include singular, plural, masculine or feminine, as required by context.

WITNESSETH:

- C. Grant of Permanent Utility Easement.** Grantor, for and in consideration of the sum of Ten Dollars (\$10.00), and other good and valuable consideration paid by the Grantee, the receipt and adequacy of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee, a permanent utility easement (referred to hereinafter as the "Easement"), within the area (the "Easement Area") described in Exhibit "A" attached hereto and incorporated herein by reference. The Easement shall extend, over, under, within, and across the real property of the Grantor for the purposes of excavating, installing, inspecting, operating, maintaining, repairing, backfilling, and reconstructing water, sewer, and/or storm water lines, and such pipes, manholes, fittings, fixtures and other accessories as from time to time may be required, together with the full right of access to and egress from the Easement Area. In addition, Grantee may use the Easement Area to excavate, install, inspect, operate, maintain, repair, backfill, and reconstruct other utility lines, including but not limited to electric lines, and may authorize underground encroachments into the Easement Area by pipes and other utility facilities owned by third parties.
- D. Servient Property Identified.** The property of the Grantor that is subject to this Easement is described in the deed to Grantor recorded in Book of Records 1828, Page 422 of the Watauga County Registry of Deeds office.

IN CONSIDERATION OF THIS GRANT OF EASEMENT, THE GRANTOR AND THE GRANTEE AGREE TO THE FOLLOWING TERMS:

- D. Uses of Easement Area by Grantor.** Grantor shall at all times, other than while utility lines are under actual construction, improvement, replacement, maintenance or repair, etc., have the right to use the Easement Area, provided such use shall in no manner interfere with or be inconsistent with the use thereof by Grantee as provided herein. Prohibited uses of the Easement Area by the Grantor include, but are not

limited to, the following: the erection of a shed, building, structure or other permanent obstruction within the permanent utility easement; the planting of trees within the permanent utility easement; the placing of additional fill within the permanent utility easement except after prior written consent from Grantee; and the construction of utility lines owned or maintained by entities other than Grantee, including but not limited to lines for electrical, gas, telephone, or cable services, except after prior written approval by Grantee. Grantor shall be entitled to landscape the area within the permanent utility easement with flowers, grass and/or mulch, so long as Grantor does not damage the Grantee's utility lines or accessories. Grantor shall be entitled to use the easement area as part of any building setback, green area, or livability ratio in order to comply with Grantee's zoning ordinances. Grantor retains the right to fully utilize the permanent utility easement area in any development plan submitted to the Town of Boone so long as it does not conflict with this easement and the provisions herein.

- E. Grantee's Duties of Restoration and Repair.** Grantee agrees to repair any damage it causes to the Grantor's property as the result of any future uses of the Easement Area undertaken in accordance with this Easement instrument.
- F. Grantee's Acknowledgment of Consent.** Grantee, by its execution of this Agreement, acknowledges its consent to the terms of the Easement as set forth above.

IN WITNESS WHEREOF, the Parties have executed this Easement Deed on the dates shown below.

[SIGNATURES FOLLOW ON THE NEXT PAGE(S)]

GRANTOR:

Sue Baird Jones (unmarried)

STATE OF NORTH CAROLINA
COUNTY OF WATAUGA

I certify that **Sue Baird Jones** personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Date: _____

Official Signature of Notary Public

Notary's Printed/Typed Name

My Commission Expires: _____

GRANTEE:

The foregoing instrument is approved, this ____ day of _____, 2016.

Town of Boone

By: _____
Mayor

Attested By: _____ (SEAL)
Clerk, Town of Boone

STATE OF NORTH CAROLINA
COUNTY OF WATAUGA

I, a Notary Public of the County and State aforesaid, certify that _____ personally appeared before me this day and acknowledged that she is the Clerk for the Town of Boone, a North Carolina municipality, and that by authority duly given and as an act of the Town of Boone, the foregoing instrument was signed in its name by its Mayor, _____, and attested by her as the Town Clerk.

Witness my hand and official stamp or seal, this ____ day of _____, 2016.

Notary Public

Printed Name of Notary Public

My Commission Expires: _____

**EXHIBIT A
TO DEED OF EASEMENT
SUE BAIRD JONES, GRANTOR TO
TOWN OF BOONE, GRANTEE**

BEGINNING at an existing iron pipe in the southern margin of Owens Drive, common corner to Mary O. Odom, and running thence along Grantor's southeastern boundary, common line to Mary O. Odom, South 23°42'09" West 149.12 to an existing iron pipe, common corner to Mary O. Odom; thence along Grantor's southwestern boundary line North 46°55'14" West 6.11 feet; thence North 18°35'05" East 47.49 feet; thence North 23°42'09" East 104.57 feet to a point in the southern margin of Owens Drive; thence along the southern margin of Owens Drive South 40°45'26" East 11.08 feet to the point of BEGINNING, consisting of approximately 1,400.51 square feet (0.0032 acres), all according to that plat and survey entitled "Utility Easement Survey for Town of Boone" prepared by AB Christie Surveyors, P.L.S. C-2452, dated August 19, 2016, drawing no. 15095-1, recorded at Plat Book ___, Page ___ of the Watauga County Registry of Deeds.

APPROVAL OF SIDEWALK EASEMENT AGREEMENT - GIDEON PROPERTIES, LLC

SIDEWALK EASEMENT AGREEMENT

STATE OF NORTH CAROLINA

COUNTY OF WATAUGA

THIS SIDEWALK EASEMENT AGREEMENT (this "Agreement") is made this the 20 day of July, 2016 by and between Gideon Properties, LLC, a NC Limited Liability Company (hereinafter referred to as "Grantor") and the Town of Boone, a North Carolina municipal corporation (hereinafter referred to as "Grantee"). Grantor and Grantee are collectively referred to as the "Parties." The designation Grantor and Grantee, as used herein, shall include said Parties, their heirs, successors and assigns, and shall include singular, plural, masculine or feminine, as required by context.

WITNESSETH:

WHEREAS, Grantor is the owner of a tract or parcel of land located on Green St. in the Town of Boone, Watauga County, North Carolina, as more particularly shown on that plat recorded at 1847/580, in the Watauga County Registry of Deeds office ("the Property"), a portion of that certain tract or parcel having been heretofore

been conveyed to Grantor by that certain deed recorded in Deed Book , Page , Watauga County Registry of Deeds office;

WHEREAS, Grantor has agreed to grant a perpetual non-exclusive right of way and easement to use, repair, replace and maintain the pedestrian sidewalk located or to be located on the Property as approximately shown on Exhibit A attached hereto and incorporated herein by this reference, to Grantee, as well as for the use of the easement for pedestrian traffic by the public;

NOW THEREFORE, Grantor, for and in consideration of the sum of One Dollar (\$1.00), and other good and valuable consideration paid by the Grantee, the receipt and adequacy of which is hereby acknowledged, has and by these presents does grants, bargain, sell and convey unto the Grantee, a perpetual, non-exclusive right-of-way and easement over and across the Property, for the purpose of the construction, inspection, maintenance, repair, establishment, existence and reconstruction of a sidewalk, curbing, street improvements, and sidewalk improvements, including such trees, benches, plants, receptacles and other street and sidewalk accessories as from time to time may be required or desirable, together with the full right of access to and egress from said right of way and easement for Grantee, as well as for the use of the right of way and easement for pedestrian traffic by the public (the "Easement").

The Easement is hereby dedicated in perpetuity to Grantee and to the common use of the public, and shall constitute a covenant running with the land in perpetuity for the benefit of Grantee, its successors and assigns. By execution of this Agreement and acceptance of the Easement, Grantee accepts such dedication on behalf of its citizens and the public.

The location of the right-of-way and easement on the Property (the "Easement Area") is more particularly described on Exhibit A, which is attached hereto and incorporated herein by reference.

IT IS UNDERSTOOD AND AGREED BETWEEN THE GRANTOR AND THE GRANTEE:

1. That the Grantee shall maintain the Easement Area in a good state of repair and will hold Grantor harmless from any liability or loss resulting from the use of said easement by the public.
2. That the Grantor shall at all times have the right to use the Easement Area, provided such use shall in no manner interfere with or be inconsistent with the use thereof by Grantee as provided herein. Prohibited uses of the Easement Area by the Grantor shall include, but are not limited to, the erection of any obstruction within the Easement Area by the Grantor without Grantee's express authorization.
3. The Grantor shall be entitled to use the Easement Area as part of any building setback and/or livability ratio in order to comply with applicable Town of Boone Unified Development Ordinance regulations, in the event this property is further developed in the future.
4. Grantee shall be responsible for all liability associated with the public use of the Easement Area unless as the result of the intentional act(s) of Grantor, and will indemnify and hold harmless Grantor from and against any claims, demands, suits, causes of action, or other assertion of responsibility, however denominated, for personal injury, damage to property, losses and expenses, otherwise arising out of or in any way related to public use of this easement.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, the day and year first above written.

[SIGNATURES ON FOLLOWING PAGES]

GRANTOR
[LEGAL NAME OF GRANTOR]

_____(SEAL)

Name: Jason Gaston

Title: Member/Manager

STATE OF NORTH CAROLINA
COUNTY OF WATAUGA

I, certify that _____ personally came before me this day and acknowledged that s/he is the _____ of _____, a North Carolina or _____ corporation/limited liability company/general partnership/limited partnership (strike through the inapplicable), and that by authority duly given and as the act of such entity, s/he signed the foregoing instrument in its name on its behalf as its act and deed.

Date: _____

Official Signature of Notary Public

Notary's Printed/Typed Name

My Commission Expires: _____

GRANTEE

The foregoing instrument is approved, this ____ day of _____, 2015.

TOWN OF BOONE

By: _____
Rennie Brantz, Mayor

Attested By: _____(SEAL)
Clerk, Town of Boone

STATE OF NORTH CAROLINA
COUNTY OF WATAUGA

I, a Notary Public of the County and State aforesaid, certify that Christine Pope personally appeared before me this day and acknowledged that she is the Clerk for the Town of Boone, a North Carolina municipality, and that by authority duly given and as an act of the Town of Boone, the foregoing instrument was signed in its name by its Mayor, Rennie Brantz, and attested by her as the Town Clerk.

Witness my hand and official stamp or seal, this _____ day of _____, 2015.

Official Signature of Notary Public

Notary's Printed/Typed Name

My Commission Expires: _____

FARM BUREAU INSURANCE - REQUEST TO SEND CASE TO NOV. 28 PUBLIC HEARING

AWARDING OF BID - AIR CLEANING SPECIALIST

Bid awarded to Air Cleaning System Specialists totaling \$99,720.

CONSIDERATION OF AMENDMENTS TO TOWN CODE CHAPTER 50.125: REQUESTS FOR ADJUSTMENTS

50.125 REQUESTS FOR ADJUSTMENTS.

Adjustments may be made to customer water and/or sewer bills in the event of extenuating circumstances due to leaks or pipe breaks (collectively, "leaks") as follows:

- (A) When a customer receives a utility bill that reflects extraordinary charges for a billing period, he or she shall present his or her claim for an adjustment in person or in writing to the town no more than ~~60~~30 days after receiving the bill.
- (B) A claim for an adjustment shall not prevent discontinuance of services for delinquency in payment as heretofore provided. Customers are responsible to pay the entire amount due within the normal payment period or enter into payment arrangements for the billed amount in order to remain in good standing on all current billings. The customer's payment of a ~~may pay a~~ bill reflecting extraordinary charges ~~and said payment~~ shall not prejudice his or her claim for an adjustment.²²
- (C) Where the customer demonstrates to the reasonable satisfaction of the town that a leak on the customer's side of the meter was the cause of the extraordinary charges, an adjustment may be made to the customer's water bill in accordance with the provisions of this section. The customer must also present proof, such as a plumber's invoice and receipt, that the leak was repaired.
- (B) An adjustment may be made to the utility bill if no leak adjustment has been made within the previous twelve~~-~~month period for the same ~~premises~~account, and:
 - (1) There is a concealed leak in the customer's piping, and the customer submits a statement from a licensed plumber, or a signed statement from the property owner or his/her legal representative, that the leak has been repaired and that the repair meets or exceeds the plumbing codes of the town; or
 - (2) There are other circumstances, such as theft of water, where the evidence indicates ~~a~~ leak or other loss of water that is not the fault of the owner such that an adjustment is appropriate under the circumstances and consistent with the purpose and spirit of this section.
- (C) If an adjustment is granted, it shall be made for the following amounts:
 - (1) On the water portion of the utility bill, an adjustment of up to ~~fifty percent (50%)~~seventy-five percent (75%) of the portion of the bill that exceeds the customer's average consumption;
 - (2) On the sewer portion of the utility bill, where the excess water from the break or leak did not enter the sanitary sewer system, an adjustment of up to the total amount of the bill that exceeds the customer's average sewer bill;
 - (3) On the sewer portion of the utility bill, where the excess water from the break or leak entered the sanitary sewer system, an adjustment of up to seventy-five percent (75%) ~~fifty percent (50%)~~ of the portion of the bill that exceeds the customer's average consumption.
 - (4) "Average consumption" shall be calculated as the prior twelve~~-~~month average monthly consumption at the premises, not including months that do not have readings, that have readings for less than a full month, or that have zero usage readings.
 - (4) No adjustment shall be made unless the gallons billed are at least 10,000 gallons more than the average billing (on a monthly basis).
 - (5) The adjustment may not cover more than two (2) consecutive months.
- (D) To be eligible for an adjustment under this policy, the leak must be a **concealed leak**. **Leaks that are or should be known to the customer shall not be considered concealed leaks**, and include but are not limited to the following: **leaking or running toilets; treatment systems; air-conditioning cooling towers; leaking faucets, whether inside or outside; water heaters; exposed piping; washing machine hoses; hose bibs; water fountains; dishwashers; swimming pools; and exposed pressure reducing valves and backflow preventers.**

(E) Vacant homes and buildings do not qualify for leak adjustments.

(F) No adjustment will be allowed where the break or leak occurred during a period when the premises was left vacant or unattended by the customer for a period in excess of two weeks and the customer failed to turn the water off at the meter. This provision shall not apply, though, to the sewer portion of the utility bill where the excess water did not enter the sanitary sewer system.

(G) Upon being notified by Water Department personnel or otherwise discovering that a leak exists the customer shall take immediate steps to correct the situation. Undue delay by the customer shall cause forfeiture of any benefits from this adjustment policy.

(H) The Public Works Director, or his or her designee, shall consider and have authority to grant a requested adjustment of up to \$3,000.00. A request for any adjustment exceeding \$3,000.00 shall be considered and decided by the Town Manager. The decision of the Public Works Director or Town Manager, as applicable, shall be final.

(I) The Town may enter into appropriate payment plans with customers unable to pay extraordinarily high bills. Customers may inquire of the Public Utilities department for alternative payment options.

APPROVAL OF CONTRACT - DOWNTOWN REVITALIZATION GRANT

Copy of contract on file in Town Hall.

COUNCIL MATTERS

MOTION TO AMEND AGENDA

Upon a motion by Council Member Underdown Collins, seconded by Council Member Mason, Council moved to amend the agenda to hear the two requests for water and sewer service before the remaining items under Council Matters. Council was also in consensus to direct staff to draft amendments to the Town Code in order to allow water requests to be heard before other Council Matters rather than require an amendment to the agenda each time.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Jeannine Underdown Collins, Council Member
SECONDER:	Lynne Mason, Mayor Pro Tem
AYES:	Mason, Clawson, Mizelle, Teague, Collins

REQUEST FOR WATER AND SEWER SERVICE - MR. HAYWOOD SCOTT DEBRULE (QUASI-JUDICIAL)

Before deliberating on the quasi-judicial requests, Town Attorney Allison Meade questioned the members of the Council on whether or not they had contact with the applicant regarding the request. All Council members stated they had not had any significant contact with the applicant for the request.

Town Attorney Allison Meade opened a public hearing at 6:53 p.m. to hear sworn testimony on a request for water and sewer service to property located on/near 199 Cane Road. Scott DeBrule, being duly sworn, stated he lives at 199 Cane Road and had the water tested, which showed no chemicals in the water, but found to have a high level of lead in the water. He stated that in 2008, the County had his neighborhood tested for water, but not for metal. Mr. DeBrule noted that the lead content in his well is at 9.5 parts per billion, which is under the federal limitation of 15, but he found an article regarding Flint, Mich. which said lead standards are dangerous. He added that the World Health Organization standard limit recommended is 10 parts per billion, which is just above his levels. Mr. DeBrule stated he is not requesting sewer and does not want to be annexed, but would like Town water and is willing to pay for the connection. He noted that his house is only 150 feet from the houses that were originally given water by the Town, and he currently shares a well with two other homes. Mr. DeBrule added that the test done came directly from the well without going through any household pipes. Upon Council Member Mason's question regarding the source of the lead, Mr. DeBrule advised he is unsure if it is from the landfill or naturally occurring.

Public Works Director Rick Miller, being duly sworn, stated staff could make a tap at the fire hydrant located at the end of Cane Road. In response to Council Member Mason's question regarding where contamination came from in the wells of the homes originally given Town water service, Mr. Miller advised he does not know what the contamination was from, and the properties were not required to annex at that time. He added that the Town's lead level standard is not high, and the Town would find a level of 10 unacceptable. Mr. Miller stated this can be caused from old copper pipes and galvanized lines, but it also occurs naturally. Town Manager John Ward confirmed that since this property is located outside Town limits, the water rates would be double. Council members Mizelle and Mason voiced their request that Town staff try to determine what the cause of contamination was for the original homes that received water service. Assistant Town Manager Jim Byrne, being duly sworn, stated the previous request was initiated by the district attorney for Watauga County at the time, and does not believe any testing was completed by the Town. He stated there was an assumption of contaminants in the water, and the Town was advised the contaminant found could spread, which is why the Town chose to provide the service, but no there were no additional requirements outside those noted by Mr. Miller.

With no further testimony, Ms. Meade closed the hearing at 7:08 p.m.

Council Member Mason stated it would be helpful to know what was tested originally in the wells of the properties given water by the Town or if this lead is a new issue as that could potentially impact other requests in the future. Town Manager John Ward stated he would reach out to the county to get additional information. Upon a motion by Council Member Mason, seconded by Council Member Mizelle, Council moved to table this request until the October meeting to obtain additional information on contamination issues with regard to the landfill.

RESULT:	TABLED [UNANIMOUS]	Next: 10/20/2016 5:30 PM
MOVER:	Lynne Mason, Mayor Pro Tem	
SECONDER:	Charlotte Mizelle, Council Member	
AYES:	Mason, Clawson, Mizelle, Teague, Collins	

REQUEST FOR WATER AND SEWER SERVICE - HOWARD STREET VENTURES, LLC (QUASI-JUDICIAL)

Town Attorney Allison Meade opened a public hearing at 7:12 p.m. to hear sworn testimony on a request for water and sewer service to property located at previously addressed 783 West King Street. Jim Deal, being duly sworn, spoke regarding the request on behalf of his client Howard Street Ventures, LLC. Mr. Deal stated the project across the street has 40 bedrooms and across a 12-month period, the average per bedroom usage was 36.28 gallons. He noted that the Public Works Director advised him that staff is required to use the manual which factors 150 gallons per day, but this is outdated due to new water conservation items now available. Council Member Clawson asked why this request came after the project was approved rather than prior. Mr. Deal indicated that in this instance, it was better to go through the process of holding a neighborhood meeting and getting approval of the project from Council rather than start with the water request without having an opportunity to receive public input.

Public Works Director Rick Miller, being duly sworn, stated he found no issues with this request. In response to Council Member Mason's question, Mr. Miller confirmed the water and sewer infrastructure was adequately sized to handle this addition. Mr. Miller noted there are 180,000 gallons per day that remain available for allocation out of the current year. With no further testimony, Ms. Meade closed the hearing at 7:16 p.m.

Upon a motion by Council Member Mason, seconded by Council Member Underdown Collins, Council moved to approve the request by Howard Street Ventures, LLC for water and sewer service to property located at previously addressed 783 West King Street with the predicted usage of 29,134 gallons per day.

Mayor Brantz declared a break at 7:17 p.m. Council reconvened at 7:28 p.m.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Lynne Mason, Mayor Pro Tem
SECONDER:	Jeannine Underdown Collins, Council Member
AYES:	Mason, Clawson, Mizelle, Teague, Collins

CONSIDERATION OF EXEMPTION TO NOISE ORDINANCE FOR CONSTRUCTION ACTIVITY RELATED TO ASU HEALTH SCIENCES BUILDING

Upon a motion by Council Member Mason, seconded by Council Member Clawson, Council moved to approve an exemption to the noise ordinance for the purpose of construction activity related to the ASU Health Sciences building with the modification that it be only from 3 a.m. to 6 a.m. with the option for the Town to revisit if it becomes problematic.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Lynne Mason, Mayor Pro Tem
SECONDER:	Loretta Clawson, Council Member
AYES:	Mason, Clawson, Mizelle, Teague, Collins

CONSIDERATION OF CASES HEARD AT AUGUST PUBLIC HEARING

Planning Director Bill Bailey advised Council that the request for an amendment regarding parking structures will be going to the September public hearing along with discussion of Article 24: Parking of the Unified Development Ordinance.

CASE 20160419 WELSH CD ZONING MAP AMENDMENT

David Welsh has filed a Planning Permit Application for a Conditional District Zoning Map Amendment to rezone 342 Old Bristol Road from R2 Two-Family Residential to Conditional District B2 Neighborhood Business with a site-specific development plan for Use 11.13 Other Personal Service Establishments. The applicant has indicated on the application that the use is for an "art studio."

CASE 20160419 VOTE #1:

Planning Director Bill Bailey presented the amendment noting that the Planning Commission recommended approval with seven conditions. He clarified that R2 is a zoning district and has standards that apply, it just allows double residential units on the property, but still regulates the occupancy limitations of no more than two unrelated people in each unit. Council members Clawson, Mason and Teague voiced their concern with this request and their support of neighborhoods.

Upon a motion by Council Member Mason, seconded by Council Member Clawson, 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 the B2 Neighborhood Business district is intended to provide for development of low-density commercial and services accessible to pedestrians and cyclists from surrounding neighborhoods, and a commercial use is encroaching on an established neighborhood.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Lynne Mason, Mayor Pro Tem
SECONDER:	Loretta Clawson, Council Member
AYES:	Mason, Clawson, Mizelle, Teague, Collins

CASE 20160419 VOTE #2:

Upon a motion by Council Member Mason, seconded by Council Member Clawson, 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 property is located in a primarily residential area and would set a precedent for commercial uses encroaching on viable neighborhoods, and the Comprehensive Plan emphasizes the protection and rehabilitation of viable neighborhoods shall be encouraged to ensure their continued existence as a major housing source as a reflection of the area's image as an attractive, highly livable community.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Lynne Mason, Mayor Pro Tem
SECONDER:	Loretta Clawson, Council Member
AYES:	Mason, Clawson, Mizelle, Teague, Collins

CASE 20160423 APPALACHIAN STATE UNIVERSITY GU ZONING MAP AMENDMENT

Dr. Timothy Burwell, on behalf of Appalachian State University, has filed a General Use Zoning Map Amendment Application for 663 Howard Street (Watauga Co. PIN 2910-080-049-000) to rezone the property from R3 Multiple-Family Residential to U1 University.

CASE 20160423 VOTE #1:

Planning Director Bill Bailey presented the request noting that the Planning Commission's recommendation came with no conditions imposed. Mr. Bailey provided Council with a brief overview of the types of properties adjacent to this location. Council Member Mason commented that the 2030 Plan defines that the downtown area covers from Hamby Alley to King Street, and she does not want ASU to come out onto King Street as that would not be good for downtown.

Upon a motion by Council Member Mason, seconded by Council Member Underdown Collins, 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 a contiguous extension of the university consistent with the ownership for the 2030 Plan.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Lynne Mason, Mayor Pro Tem
SECONDER:	Jeannine Underdown Collins, Council Member
AYES:	Mason, Clawson, Mizelle, Teague, Collins

CASE 20160423 VOTE #2:

Upon a motion by Council Member Mason, seconded by Council Member Underdown Collins, 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 continues to foster good working relations between the Town of Boone and Appalachian State University.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Lynne Mason, Mayor Pro Tem
SECONDER:	Jeannine Underdown Collins, Council Member
AYES:	Mason, Clawson, Mizelle, Teague, Collins

CASE 20160501 PROJECTING THEATER MARQUEE - LIGHTING UDO TEXT AMENDMENT

A request from the Appalachian Theatre to amend UDO Article 26 Signs, Section 26.13 Marquee Sign Regulations, Subsection 26.13.02 to allow a projecting theater marquee in the B1 Central Business zoning district to use flashing, blinking, scrolling or intermittent lights.

CASE 20160501 VOTE #1:

Planning Director Bill Bailey presented the proposed text amendment to the UDO regarding theater marquees. He noted the history of this request and stated the group restoring the Appalachian Theatre of the High Country has agreed to look at methodologies in order to prevent the light from impacting those across the street in the condominiums. Council Member Teague voiced her concern with the impact of the scrolling, flashing lights for people with epilepsy. Town Manager John Ward stated he understood the lighting to be adjustable and could be programmed with speed, intensity and other means.

Upon a motion by Council Member Underdown Collins, seconded by Council Member Clawson, 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 supports and enhances the cultural and significant and historic significance of downtown Boone, and affirms its appealing orientation, and it acknowledges the area's assets as such for economic development, job creation and supports the arts.

RESULT:	APPROVED [4 TO 1]
MOVER:	Jeannine Underdown Collins, Council Member
SECONDER:	Loretta Clawson, Council Member
AYES:	Mason, Clawson, Mizelle, Collins
NAYS:	Teague

CASE 20160501 VOTE #2:

Upon a motion by Council Member Underdown Collins, seconded by Council Member Clawson, Council moved to approve the proposed amendment to the Town's zoning ordinance and believe approval is reasonable and in the public interest because it supports one of the economic parties of the Town to increase our arts and facilities and maintain the historic feel of downtown.

Council Member Teague stated she supports the theatre, but has an issue with the blinking, scrolling lights across a residential area.

26.13 Marquee Sign Regulations

26.13.01 The following regulations shall apply solely to marquee signs other than a historical reconstruction of a projecting theater marquee.

A. Except where a projecting theater marquee is utilized pursuant to this Section, theaters, museums, auditoriums and other entertainment facilities are permitted one (1) changeable copy marquee in addition to their two (2) permitted signs.

B. Marquee signs shall conform to the applicable sign requirements for the district in which they are located, however the area of the marquee sign shall be permitted an increase in size up to an additional 100% provided that one of the other signs to which the business is entitled is reduced in size. The percentage of increase in area shall be equal to the reduction in area of the other permitted sign.

C. If the marquee is a freestanding sign, the height of the marquee may not be increased over that permitted in the zone in which it is located.

26.13.02 The following regulations shall apply solely to a historical reconstruction of a projecting theater marquee-signs:

A. A projecting theater marquee shall be allowed only in the B1 Central Business District.

- B. No portion of a projecting theater marquee shall be less than ~~ten-eight~~ feet (~~10 8'~~) above grade nor higher than sixteen feet (16').
- C. A projecting theater marquee and supporting structures shall not extend over the edge of any sidewalk or into any street right-of-way absent an encroachment agreement authorizing such incursion by the Town.
- D. The projecting theater marquee shall only be attached to the building in which the theater is located and must be above an entrance to the theater. No projecting theater marquee sign shall be wider than the building to which it is attached.
- E. Signage may be installed directly upon the vertical face or faces of a projecting theater marquee with the following conditions:
 - 1. Channel letters may extend above such vertical face or faces provided that the letter height is restricted to twelve inches (12") in height.
 - 2. No sign may extend below such vertical face or faces with the exception of lighting elements. All lighting elements shall meet the requirements of Subsection 26.13.02(B) above.
 - 3. The changeable copy portions of a projecting theater marquee shall not exceed fifty percent (50%) of the total area of all faces and comply with Section 27.01.
 - 4. All other signage attached to a projecting theater marquee may not exceed 20 percent (20%) of the total area of all faces.
- ~~F.~~ A projecting theater marquee may ~~be illuminated but shall not include flashing, blinking, scrolling or intermittent lights~~ include the use of flashing, scrolling, or intermittent lights subject to the following conditions:
 - ~~a.~~ The flashing, scrolling, blinking, or intermittent lights may only be in operation during the time the theater is open to the public and prohibited between the hours of 11 p.m. to 7 a.m.
 - ~~a.b.~~ Light fixtures on the projecting theater marquee do not have to meet the requirement for full cut-off fixtures as required in Subsection 25.05.02.
- ~~F.G.~~ Encroachment: Where a projecting theater marquee extends over a public sidewalk or other public property, an executed encroachment agreement approved by the Boone Council shall be required prior to issuance of any sign permit for a projecting theater marquee.
- ~~G.H.~~ A projecting theater marquee may be constructed either as part of a new structure or as an addition to an existing structure as follows:
 - 1. Site specific plans and specifications must be submitted from a registered North Carolina licensed structural engineer demonstrating that the projecting theater marquee complies in all ways with appropriate code provisions of the Town and the State of North Carolina, including but not limited to, materials, drainage, roof strength, bracing and anchorage.
 - 2. A final certification from the registered North Carolina licensed structural engineer shall be required stating that the projecting theater marquee complies with all appropriate code provisions of the Town and the State of North Carolina and that the projecting theater marquee has been constructed according to their submitted design.

RESULT:	APPROVED [4 TO 1]
MOVER:	Jeannine Underdown Collins, Council Member
SECONDER:	Loretta Clawson, Council Member
AYES:	Mason, Clawson, Mizelle, Collins
NAYS:	Teague

CASE 20160136 RIVERS WALK PD ZONING MAP AMENDMENT

Glenn Weaver has filed a Planning Permit Application for a Planning Development Zoning Map Amendment to rezone 178 South Water Street, and 190 and 208 Poplar Grove Road from B1 Central Business to a Planned Development zoning district with a site-specific development plan which includes a mixed-use building (residential and commercial uses) including a parking deck. The residential portion contains 151 dwelling units (380 bedrooms) with the following uses proposed for the commercial portion of the building: 11.06 Restaurant

≤ 2,500 ft² open to the public during 10 pm–6 am, 11.07 Other Restaurants ≤ 2,500 ft², 11.08 Restaurant >2,500 ft² open to the public during 10 pm–6 am, 11.09 Other Restaurants > 2,500 ft², 11.12 Personal Service Establishment open to the public during 10 pm–6 am, 11.13 Other Personal Service Establishments, 11.14 Retail Store up to 5,000 ft², 11.15 Retail Store more than 5,000 but less than 25,000 ft², 11.18 Business or Profession Office open to the public during 10 pm – 6 am, 11.19 Other Business or Professional Office, 11.23 Medical Office, Category 4, 12.10 Recreation Facility, Category 1, and 14.02 Brewpub.

CASE 20160136 VOTE #1:

Planning Director Bill Bailey presented the request and provided history of this request. He stated the Planning Commission recommended approval of this request with 12 conditions. Council members Clawson, Teague and Mason voiced their belief that the planned development process was not intended for what is occurring with the Rivers Walk request. Council Member Mizelle felt there were a number of things she did not like that were part of the approved conditional district plan that were improved in the planned development currently before them. Brief discussion ensued regarding the possibility of a roundabout at the intersection of Water and Rivers streets. Mr. Bailey advised that a roundabout at this location would need to be initiated by NCDOT since it is their road.

Upon a motion by Council Member Teague, seconded by Council Member Mason, 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 the scale is too large and it does not fit within the planned development requirements.

RESULT:	APPROVED [4 TO 1]
MOVER:	Jennifer Teague, Council Member
SECONDER:	Lynne Mason, Mayor Pro Tem
AYES:	Mason, Clawson, Teague, Collins
NAYS:	Mizelle

CASE 20160136 VOTE #2:

Upon a motion by Council Member Teague, seconded by Council Member Underdown Collins, 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 project does not fit within the downtown feel for Boone.

RESULT:	APPROVED [4 TO 1]
MOVER:	Jennifer Teague, Council Member
SECONDER:	Jeannine Underdown Collins, Council Member
AYES:	Mason, Clawson, Teague, Collins
NAYS:	Mizelle

SUSTAINABILITY, ECONOMICS & ENVIRONMENT COMMITTEE RECOMMENDATION - FUND THE HIGH COUNTRY FOOD HUB FREEZER

Carol Coulter of Blue Ridge Women in Agriculture appeared before Council to express their request, which the Sustainability, Economics and Environment Committee also recommended, that the Town fund \$16,500 for the construction of an additional freezer for use by the High Country Food Hub. Ms. Coulter provided Council with an overview of the various funding means they have acquired for the food hub. Town Manager John Ward advised, if approved, these funds would come from Council's designated fund balance with a future budget amendment. Upon a motion by Council Member Teague, seconded by Council Member Clawson, Council moved to approve funding of \$16,500 from the fund balance because the Town believes in the vision and mission of the food hub, and it supports people in the town of Boone as well as Watauga County in general.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Jennifer Teague, Council Member
SECONDER:	Loretta Clawson, Council Member
AYES:	Mason, Clawson, Mizelle, Teague, Collins

SCHEDULING OF SPECIAL MEETING - WORKSHOP WITH TOWN COUNCIL AND COMMUNITY APPEARANCE COMMISSION

Upon a motion by Council Member Mason, seconded by Council Member Underdown Collins, Council moved to schedule a special meeting workshop for Tuesday, Oct. 11, 2016, at 5:30 p.m. in the Council Chambers located at 1500 Blowing Rock Road with the Community Appearance Commission and Historic Preservation Commission for presentation and discussion on the revised downtown guidelines.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Lynne Mason, Mayor Pro Tem
SECONDER:	Jeannine Underdown Collins, Council Member
AYES:	Mason, Clawson, Mizelle, Teague, Collins

DISCUSSION REGARDING TOWN CODE CHAPTER 73: TOWING

Town Attorney Allison Meade noted there have been incidents with regard to towing recently and wanted to seek guidance from Council to look into refreshing certain elements of the towing ordinance. It was the consensus of Council that Ms. Meade begin drafting revisions to address the following:

1. Look at the insignia and signage requirements to ensure ordinance is as clear as possible and people are given clear direction/assurance as to who they're dealing with, and create a process by which the Town must approve signage to ensure it meets the Town's requirements;
2. Require operators to accept credit and debit cards as payment; and,
3. Require that before a tow or booting can be done, the property owner or owner's agent must sign off on the tow or booting.

RESULT:	CONSENSUS
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DISCUSSION OF REVIEW OF 2030 PLAN AND POSSIBLE UDO AMENDMENT TO SPECIFY BUILDING STANDARDS

Council Member Mason stated she felt it was a good time to look at the 2030 Plan and see if it is achieving the vision the Town wants and if there are areas that might need to be addressed. She suggested having a joint meeting with the Planning Commission, and possibly also the Historic Preservation Commission and Community Appearance Commission. Lengthy discussion ensued regarding various items the Council would like to address. It was the consensus of Council that the retreat would include discussion of the 2030 Plan as well as the Comprehensive Plan. Town Attorney Allison Meade suggested staff also bring in examples of how things are done elsewhere as a starting point.

Upon a motion by Council Member Mason, seconded by Council Member Clawson, Council moved to schedule a special meeting to hold a mid-year planning retreat in order to deal with growth topics facing Boone including the 2030 Plan, Comprehensive Plan and other topics as submitted by Council members for Tuesday, Nov. 15, 2016, beginning at 8:30 a.m. in the Council Chambers located at 1500 Blowing Rock Road. Council was also in consensus that staff and the town attorney continue to move forward with the text amendments previously prioritized by Council in time for the November public hearing for consideration.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Lynne Mason, Mayor Pro Tem
SECONDER:	Loretta Clawson, Council Member
AYES:	Mason, Clawson, Mizelle, Teague, Collins

DISCUSSION OF PLANNED DEVELOPMENT PROCESS

Council Member Clawson began the discussion by noting that a moratorium on steep slopes worked well and would like to address the idea with regard to the planned development process. Planning Director Bill Bailey advised that a moratorium is very limited, and he suggested saying no to any requests rather than set a moratorium. He advised Council that they could choose to not send any item to public hearing. Town Attorney Allison Meade stated the Town can't legally justify a moratorium on the planned development process alone because there is an alternative, which is that Council can choose not to vote for a request.

Council Member Clawson moved to instruct the attorney to look at the possibility of a moratorium for the planned development process to bring back to Council for consideration. With no second, the motion failed.

TOWN MANAGER UPDATE

Town Manager John Ward updated Council on various items including upgrades to sidewalks, upcoming events, culvert repairs, Boone's clean-up day and the updated housing study which was e-mailed to Council.

ANNOUNCEMENT OF BOARD VACANCIES

Mayor Brantz noted the following resignations and upcoming vacancies in addition to those already being advertised:

1. Sustainability, Economics and Environment Committee: Nicholas Stover and Nicholas Williams set to expire Nov. 19, 2016.
2. Community Appearance Commission: Jim Hamilton has resigned. Term will expire June 30, 2017.
3. Downtown Boone Development Association: Jamie Goodman has resigned. Term will expire July 31, 2017.

CLOSED SESSION

MOTION TO ENTER

Upon a motion by Council Member Teague, seconded by Council Member Underdown Collins, Council moved to enter closed session at 9:42 p.m. to hear the following items:

1. Pursuant to N.C.G.S. 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 consider and give instructions to the attorney concerning the claim involving the Town of Boone and Michael Perry.
2. Pursuant to N.C.G.S. 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 consider and give instructions to the attorney concerning the claims involving the Town of Boone and Mike Budka, et al.
3. Pursuant to N.C.G.S. 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 discuss the proper parameters of Council members attending other (non-Council) meetings under the open meetings law.

4. Pursuant to N.C.G.S. 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 consider and give instructions to the attorney concerning various potential claims involving the Town of Boone.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Jennifer Teague, Council Member
SECONDER:	Jeannine Underdown Collins, Council Member
AYES:	Mason, Clawson, Mizelle, Teague, Collins

MOTION TO EXIT

Upon a motion by Council Member Underdown Collins, seconded by Council Member Teague, Council moved to exit closed session at 10:36 p.m.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Jeannine Underdown Collins, Council Member
SECONDER:	Jennifer Teague, Council Member
AYES:	Mason, Clawson, Mizelle, Teague, Collins

ADJOURNMENT

MOTION TO ADJOURN

Upon a motion by Council Member Underdown Collins, seconded by Council Member Teague, Council moved to adjourn the meeting at 10:40 p.m.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Jeannine Underdown Collins, Council Member
SECONDER:	Jennifer Teague, Council Member
AYES:	Mason, Clawson, Mizelle, Teague, Collins

Christine Pope, Town Clerk

Rennie Brantz, Mayor