

**BOONE TOWN COUNCIL
MINUTES - REGULAR MEETING
SEPTEMBER 21, 2006**

A regular meeting of the Boone Town Council was called to order on Thursday, September 21, 2006, in the Council Chambers, 1500 Blowing Rock Road. Mayor Loretta Clawson presided. Council members present were Mayor Pro-Tem Lynne Mason, Rennie Brantz, Janet Pepin, Bunk Spann and Dempsey Wilcox. Town Attorney Sam Furgiuele was also present. Staff present were Town Manager Greg Young; Town Clerk Freida Van Allen; Assistant to the Manager Jim Byrne; Fire Chief Reggie Hassler; Public Services Director Blake Brown; Public Utilities Director Rick Miller; Human Resources Director Peri Moretz; Development Services Director John Spear and Finance Director Amy Davis.

ANNOUNCEMENTS

Mayor Clawson thanked our firefighters who responded to the recent apartment fire that resulted in a tragedy for three young girls.

Mayor Clawson announced that in conjunction with the statewide “Fall Litter Sweep” campaign issued by Governor Mike Easley for September 16 – September 30, 2006, the Town of Boone will hold a “Fall Boone Clean-Up Day” on Saturday, September 23, 2006. Interested participants may come by the Town of Boone Public Works Department located on 321 East King Street between 9:00am – 2:00pm to pick up cleaning supplies. For more information, contact Marsha Story at 262-4560.

Mayor Clawson read over the following press release:

*The Certificate of Achievement for Excellence in Financial Reporting has been awarded to the **Town of Boone** by the Government Finance Officers Association of the United States and Canada (GFOA) for its comprehensive annual financial report (CAFR). The Certificate of Achievement is the highest form of recognition in the area of governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management.*

*An award of Financial Reporting Achievement has been awarded to the individual(s), department or agency designated by the government as primarily responsible for preparing the award-winning CAFR. This has been presented to: **Finance Department, Town of Boone.***

The CAFR has been judged by an impartial panel to meet the high standards of the program including demonstrating a constructive “spirit of full disclosure” to clearly communicate its financial story and motivate potential users and user groups to read the CAFR.

The GFOA is a nonprofit professional association serving approximately 16,000 government finance professionals with offices in Chicago, IL and Washington, D.C.

TENTATIVE AGENDA ADOPTION

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

Deletion of Item 5.E. TDA Appointments.

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

VOTE: Aye-All
Nay-None

CONSENT AGENDA ADOPTION

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

- Minutes:
- August 10, 2006, Special Meeting
August 10, 2006, Special Meeting
August 14, 2006, Quarterly Public Hearing
August 18, 2006, Regular Meeting
August 28, 2006, Special Meeting
- Tax Releases: July, 2006

Taxpayer	Year	Amount	Description
POLLITT, PHOEBE ANN	2006	\$12.36	ADJ.FOR DMV VALUE
WJ OFFICE CITY	2006	63.32	INCORRECT FIRE DISTRICT
MILLER, VICKI BUCHBERGE	2006	61.00	INCORRECT SITUS
JONES, JOHN T JONES, NANCY R	2006	51.36	INCORRECT FIRE DISTRICT
MOUNTAIN LUMBER CO. OF BOONE	2006	59.72	INCORRECT SITUS
JONES, GARRETT MYRON	2006	282.16	INCORRECT SITUS
RAMSDELL, SCIENTIFIC INC RAMSDELL, JEFFREY EARL	2006	95.15	INCORRECT SITUS
FAULKNER, JERRY LEE	2006	74.28	INCORRECT SITUS
COVERT, RONALD MAURICE COVERT, JANE ELLEN	2006	17.48	LIVES IN CUMBERLAND CO.
FULKERSON, DON ALAN	2006	8.00	ADJ. FOR HIGH MILEAGE
BOONE CRANE SERVICE	2005	32.50	TURN IN TAG
RHYNE, JOHN HOWARD RHYNE, JANICE BRYSON	2005	70.96	LIVES IN FORSYTH COUNTY
TOTAL		\$828.29	

Tax Refunds: July, 2006

Taxpayer	Year	Amount	Description
RUPP, MARY GROVE	2005	\$1.74	SOLD VEHICLE TURNED IN TAG
BROWN, DORIS GLENN	2005	2.72	SOLD VEHICLE
TIFFANY, ALLISON D	2005	5.85	TURN IN TAG
TOTAL		\$10.31	

Approval of Agreement - Police School Resource Officer Program

This Agreement, entered into this 17th day of July, 2005, between Watauga County Board of Education, a public body corporate organized and existing under the Constitution an laws of the State of North Carolina, hereinafter referred to as the "School Board," and Town of Boone, a municipal corporation organized and existing under the laws of the State of North Carolina, through it’s Police Department, hereinafter referred to as the "Police Agency,"

Witness that:

The School Board and Police Agency mutually agree as follows:

1. That the School Board shall:
- a. Provide funds, not to exceed \$57,069 for services rendered by Police Agency during the term of this agreement, to the Police Agency for providing, through a law enforcement officer employed by Police Agency, those services set forth in this agreement and the attachments hereto.

- b. Develop desired schedule of work for the School Resource Officer, understanding that the School Resource Officer will comply with the Town of Boone Personnel Policies as a Town of Boone employee.

2. **That the Police Agency shall:**

- a. Cause to be provided for and on behalf of the School Board one school resource officer to carry out the duties and responsibilities listed in this agreement. The School Board or their representatives will approve the officer to be assigned.
- b. Cause to be completed and submitted to the School Board, as requested by the School Board, all students and program records.
- c. The Town of Boone will invoice the School Board on a monthly basis.
- d. Allow full access to the personnel file of the School Resource Officer to the School Board, provided the Resource Officer consents and signs a written release in accordance with NCGS 160A-168 (c)(6).

3. **Reporting Authority:**

- a. For issues of school policy, the School Resource Officer will follow recommendations and coordinate activities with Watauga High Administration.
 - b. For all other law enforcement duties and general supervision as per Town of Boone and Boone Police Department Personnel Policy, the School Resource Officer will report to the Boone Police Department.
4. This agreement shall remain in effect from July 1, 2006 until June 30, 2007, unless terminated sooner pursuant to Section 9 of this agreement.

5. **Performance Responsibilities:**

The general duties of the School Resource Officer shall be to protect students, staff, visitors, and property of the school. He/she will investigate criminal activity, assist other law enforcement agencies as requested, assist social services and mental health agencies, patrol areas as directed or needed, and provide police protection to special and athletic events.

He/she will attend required training, assist in medical emergencies, assist counseling staff in crisis intervention and prevention, work in the conflict resolution program, conduct formal and informal counseling, and classroom instruction to students on areas of expertise. The School Resource Officer will take law enforcement action as necessary and notify Watauga High Administration and the Boone Police Department within guidelines of the Boone Police Agency. Appropriate campus officials shall be notified of any law enforcement action by the School Resource Officer in a timely fashion for proper school action related to the offender's behavior.

6. **Prevention:**

- a. Establish positive relationships between the officer and the student population.
- b. Assist other agencies such as social services, mental health and other organizations which provide services and care to school system employees, students, and families.
- c. Receive training in Conflict Resolution and Peer Mediation.
- d. Assist students and teachers through Conflict Resolution classroom activities, assemblies, and informal discussion.
- e. Work with training team to conduct staff development in Conflict Resolution strategies.

f. Assist in training students in Peer Mediation.

7. **Intervention:**

a. Identify causes of violence in the schools.

b. Educate students on legal aspects of violence and criminal behavior.

c. Investigate criminal activity against property, personnel, students, and visitors.

d. Provide and/or coordinate law enforcement at school activities.

e. Assist local law enforcement authorities in school related matters as requested.

f. Serve as liaison between law enforcement and school officials, students, and parents.

g. Keep a log of activities relating to class, student, parent contacts.

h. Any other duties as assigned by the Boone Police Department.

8. **Critical knowledge, training or certification:**

a. Basic Law Enforcement training:

b. Certified as a North Carolina Law Enforcement Officer sworn by the Boone Police Department.

c. General experience in law enforcement with specialized knowledge of and/or experience in dealing with substance abuse, juvenile law, and operating standards of accepted School Resource Officer procedures.

9. **Termination:**

Either party may terminate this agreement without cause on 30 days notice in writing to the other party; further, either party may terminate this agreement immediately for cause, upon giving written notice to the other party, provided such notice is accompanied by a written opinion from the general counsel of the party terminating the agreement stating that it is not legally permissible for that party to continue to substantially comply with this agreement.

IN WITNESS WHEREOF, the parties set their hands and seals in Boone, Watauga County, North Carolina.

Approval of Code Amendment - Chapter 130. General Offenses against Town Regulations.

Amendment to Town of Boone Municipal Code, by deleting the following language shown with a strike through:

Chapter 130. GENERAL OFFENSES AGAINST TOWN REGULATIONS

...

ALCOHOLIC BEVERAGES REGULATIONS

...

§ 130.19 POSSESSION DURING SPECIAL EVENTS PROHIBITED.

It shall be unlawful for any person to possess malt beverages and/or unfortified wine on public streets, alleys, or parking lots which are temporarily closed to regular traffic for special events.

Penalty, see ° 130.99

§ 130.20 EXEMPTIONS.

(A) Possession and consumption of malt beverages and/or unfortified wine shall be permitted within the Jones House Community Center where appropriate permits have been obtained as required by law for the possession and consumption of alcoholic beverages for the period of time permitted thereunder.

~~———— (B) The Horn in the West Property shall allow alcohol under the following conditions:~~

~~———— (1) Alcohol sales and limits. No alcohol sales will be allowed on sight and there will be a six pack limit at all events.~~

~~———— (2) Starting and finishing times of concerts. Concerts can not begin before 12:00 p.m. and must be over by 6:30 p.m. — no exceptions.~~

~~———— (3) Entrance policy. There will be no reentry at the concert events.~~

~~———— (4) Event management plan. Any alcohol related event involving 500 persons or more must submit an event management plan to the town ALE Officer. The plan will address issues of pedestrian movement, neighborhood protection, and event security during all three phases of the event (pre/during/post).~~

~~———— (5) Institution of event management procedures. The above requirements (divisions (1) through (4)) will be drafted into the rental agreement of the Horn in the West — Daniel Boone 6 Boone — General Offenses Amphitheater. This addition to the lease agreement will provide for the continued and complete compliance of all rules in future events.~~

~~———— (6) Probationary period. The recommendations herein presented to the Town Council shall be accepted as the town alcohol policy at the Horn in the West property for a one year period.~~

Approval of Amended Lease Agreement - Community Garden.

STATE OF NORTH CAROLINA

AMENDED LEASE AGREEMENT

COUNTY OF WATAUGA

THIS AMENDMENT TO THAT CERTAIN LEASE AGREEMENT made the the 1st day of December, 2005, by and between the **Town of Boone**, a North Carolina Municipal Corporation, hereinafter referred to as “**Lessor**” and the **Appalachian Community for Progressive Sustainability, Inc.**, a North Carolina non-profit corporation, hereinafter referred to as “**Lessee**,” collectively referred to as the “parties,” is amended as follows:

1. Paragraph 7, “Assignments or Subletting,” is deleted in its entirety and replaced with the following:

Assignments or Subletting: Except as provided herein, the **Lessee** shall not assign nor sublease the premises without the prior written consent of the **Lessor**. **Lessee** may, however, in keeping with the intended purposes of this lease and the use of the premises for a community garden, allow the use of garden spaces by individuals wishing to participate in the community garden, and **Lessee** may charge a reasonable fee for such garden space use, in keeping with **Lessee’s** status as a non-profit organization. Any such participants shall be required to sign a waiver in a form approved by the Town and in favor of the Town, absolving, releasing and holding harmless the Town from any claim, demand, cause of action or other assertion of any kind for compensation for personal injury or property damage connected in any way to their use of the community garden. Likewise, should **Lessee** wish to sublease or assign this lease, no sublease or assignment shall be approved unless the sub-lessee or assignee shall provide adequate liability insurance protection for its activities and actions, which insurance protection inures to the benefit of **Lessor**, and unless the sub-lessee

or assignee agrees to defend, indemnify and hold harmless **Lessor** from all claims, demands and liability of any kind whatsoever. All proposed subleases or assignments must be in writing and shall be submitted to **Lessor** at least thirty days in advance of the proposed effective date of the sublease or assignment. All proposed assignments and subleases shall include, and all assignees and sub-lessees shall execute, a written waiver absolving **Lessor** of any and all responsibility for damage which might occur to the assignees or sub-lessees or their personal property. **Lessor** shall have no responsibility to approve any proposed sublease or assignment and may reject any such proposal for any reason which **Lessor**, in its sole discretion, considers adequate.

- 2. By amending paragraph 10 to reduce Lessee’s required insurance coverage to an amount no less than one million dollars (\$1,000,000.00) per occurrence, with the same terms and conditions described in the lease.
- 3. Other than the aforesaid amendments, the lease provisions previously agreed upon shall remain in full force and effect.

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

VOTE:Aye-All
Nay-None

ADOPTION OF ZONING AMENDMENTS

Mayor Clawson announced that a joint public hearing on the proposed alternative text amendments is scheduled for Monday, September 25th at 7:00 p.m. in the Town Council Chambers. On a motion by Council member Wilcox, seconded by Council member Brantz, Council moved to confirm and schedule the joint public hearing with the Planning Commission for September 25th at 7:00 p.m. in the Council Chambers.

VOTE:Aye-All
Nay-None

Mayor Clawson said the Planning Commission has not made its recommendations on the zoning amendments yet; therefore, a special meeting is needed in order for Council to deliberate on the zoning amendments. On a motion by Council member Mason, seconded by Council member Spann, Council scheduled a special meeting for Monday, October 2nd at 6:30 p.m. in the Council Chambers in order to act on adoption of zoning amendments.

VOTE:Aye-All
Nay-None

REQUEST FOR TOWN COUNCIL COMMITMENT ON RECONVEYANCE OF PROPERTY EASEMENTS

Town Manager Greg Young said property owners along Howard Street have concerns about the property easements if the project is not completed. Property owners want a commitment from the Town Council that the easements would be reconveyed to them if the project were not completed. On a motion by Council member Brantz, seconded by Council member Wilcox, Council moved to reconvey easements back to property owners along Howard Street if the project is not completed.

VOTE:Aye-All
Nay-None

ADOPTION OF ORDINANCE - SCOTTIE WINKLER ROSENBERG

Town Attorney Sam Furgiuele requested tabling of this matter until next month because of new developments in the case. On a motion by Council member Wilcox, seconded by Council member Brantz, Council moved to table this matter until the October 19, 2006 meeting.

VOTE: Aye-All
Nay-None

MONTHLY WATER USE STATUS REPORT

Public Utilities Director Rick Miller presented the following monthly water use status report:

As requested by Town Council, staff and I have compiled the following information concerning water use for the month of August. The Water Treatment Plant recorded a maximum daily demand of 2.018 million gallons on Friday, August 25, 2006. The average daily demand was 1.845 million gallons for the entire month. If all allocated projects were online and utilizing the amounts of water calculated, the total for the month would be 2.298 million gallons for the maximum daily demand and 2.125 million gallons for the average daily demand.

			Approved Water Connections			
			2006			
Staff Approved	Date	Projected Usage	Council Approved	Date	Projected Usage	Remaining Gallons
						25000
		4165	John Cook	May-05	8038	16962
			CataCorner Investments	Jul-05	7296	9666
			CAT Tractor	Oct-05	1107	8559
			2005 Balance Carry Over	Jan-06	228	8787
**Relinquished		Previously	Approved Allocations	Feb-06	16965	25752
Bob Young	Feb-06	450				25302
Sarvos Properties	Feb-06	2100				23202
William Klein	Feb-06	540				22662
Andy Garrett	Feb-06	90				22572
Charles Ulerey	Feb-06	2985				19587
Eric Woolridge	Feb-06	540				19047
Ray Howell	Feb-06	104				18943
			Lynhill Daycare	Mar-06	693	18250
Gene Jensen	Mar-06	180				18070
BREMCO	Mar-06	15				18055
Mels Diner	Mar-06	360				17695
Raymond Verling	Mar-06	430				17265
Jeff Nichols	Mar-06	180				17085
			VIA LLC/Ed Street Co.	Apr-05	5000	22085
ECR Software	Apr-06	81				22004
S&T Enterprises	Apr-06	360				21644
			CC Bear Development	Apr-06	6344	15300

Watauga County	Apr-06	15				15285
TOB ABC Store	May-06	62				15223
A-Z Enterprises	May-06	45				15178
Boone Mall	May-06	1518				13660
			CataCorner Investments	Jul-05	7296	20956
Elaine Gray	Jul-06	90				20866
Pete Beckman	Jul-06	180				20686
			Two Rivers School	Aug-06	540	20146
			Cathy Kosterman	Jun-05	1110	21796
Joyce Dunbar	Aug-06	1800				19996
Joyce Dunbar	Aug-06	360				19636
Watauga County	Aug-06	38				19598

REQUESTED APPEARANCE - CHRIS TURNER

Mr. Chris Turner, representing the Blue Ridge group of the Sierra Club, appeared before Council to request participation by the Town of Boone in a national “Cool Cities Program”. Ms. Krista Wagoner of the NC Sierra Club said the “Cool Cities Program” is an opportunity for local communities to reduce global warming emissions by seven percent. Ms. Wagoner said this program is endorsed by the US Conference of Mayors and that 295 cities have signed on so far. Ms. Wagoner pointed out that energy efficiency, green vehicles, renewable energy and alternative transportation are four key clean energy solutions for local communities to embrace. Ms. Wagoner said cities around the country are instituting smart energy solutions to reduce emissions, cut energy useage and lower energy bills. Council member Mason complimented the Sierra Club’s efforts and said the Town is looking at zero-waste initiatives as well as alternative transportation initiatives. Council member Spann agreed and said the Town is also working with Mountain Keepers on the greening of Boone. Council member Pepin pointed out that Watauga County will soon have a bio-diesel tank installed. After very little discussion, on a motion by Council member Spann, seconded by Council member Mason, Council moved to join the Cool Cities program.

VOTE:Aye-All
Nay-None

REQUESTED APPEARANCE - KRIS FOWLER

Mr. Kris Fowler appeared before Council to request approval of a special events permit for the 2nd annual Watauga County Toy Run. Mr. Fowler said his group raised \$1,400 last year and that all funds were used to purchase toys for children of Watauga County Jail inmates. Mr. Fowler said the Police Department helped with traffic flow last year and that the ride went well. Mr. Fowler requested that the \$1,500 permit fee be waived since all proceeds go to charities. Mr. Fowler indicated that the motorcycle ride will be held on Saturday, October 21st at 10:00 a.m. and will end by 3:00 p.m. The ride will start and finish at the Boone Mall. On a motion by Council member Spann, seconded by Council member Brantz, Council moved to grant the special events permit and to waive the \$1,500 permit fee.

VOTE:Aye-All
Nay-None

REQUESTED APPEARANCE - RANDALL AND VIRGINIA HONEYCUTT

Town Attorney Sam Furguele opened a public hearing at 6:53 p.m. to hear sworn testimony

from Randall Honeycutt and Public Utilities Director Rick Miller concerning a request for water allocation to property located off Hunting Hills Lane. Mr. Honeycutt testified that his well was analyzed by the Appalachian District Health Department and was found to have very high levels of lead in the water. Mr. Honeycutt said he was afraid to dig another well because he may hit the same vein of water and is testified that there is a fire hydrant already on his property. Council member Spann asked if part of his property is within the Town limits. Mr. Honeycutt said that he owns 35 acres and that a small portion is located in the Town limits. The remaining portion is within the Town's ETJ. Public Utilities Director Rick Miller testified that there is a fire hydrant on the property and that a water tap could be made from that line. Council member Spann asked if the property is in the primary or secondary pressure zone. Mr. Miller testified that the house is located in the primary pressure zone and that the estimated use will be 360 gallons of water per day. There being no further testimony, the public hearing closed at 7:02 p.m. On a motion by Council member Brantz, seconded by Council member Spann, Council moved to grant the water request for one tap only, with double rates applying since the house is located in the ETJ. Annexation is not required since this is a hardship case.

VOTE:Aye-All
Nay-None

Mayor Clawson declared a break at 7:06 p.m. Council reconvened at 7:16 p.m.

UPDATE ON HOWARD STREET PROJECT

Downtown Boone Development Association Director Tuesdae Rice appeared before Council to update members on the Howard Street project. Ms. Rice said her office has been securing easements for the project and is very enthusiastic about the reception they have been receiving. Ms. Rice said she has obtained six easements thus far with no negative comments at this time. She indicated that property owners do have some questions, though, especially about parking spaces. Council members Mason and Spann thanked Tuesdae and her office for their efforts, also thanking property owners for their commitment to the project partnership.

REQUESTED APPEARANCE - TUESDAE RICE

Ms. Tuesdae Rice, Downtown Boone Development Association Director, appeared before Council to request approval of a special events permit for the 2006 Kraut Creek Festival. Ms. Rice requested that Howard Street (from Depot to Waters) be closed on Saturday, September 23rd from 7:00 a.m. until 7:00 p.m. On a motion by Council member Brantz, seconded by council member Mason, Council moved to grant approval of the Special Events Permit.

VOTE:Aye-All
Nay-None

PUBLIC COMMENT

There were no public comments.

CLOSED SESSION

On a motion by Council member Wilcox, seconded by Council member Mason, Council moved to enter Closed Session at 7:39 p.m., pursuant to NCGS 143-318.11a)3)5) in order to discuss Wilcox and Wright, LLC, possible litigation, an update on property acquisition and attorney/client privilege to discuss the property ASU interconnection agreement.

VOTE:Aye-All
Nay-None

On a motion by Council member Pepin, seconded by Council member Wilcox, Council moved to exit Closed Session at 8:57 p.m.

VOTE:Aye-All
Nay-None

POSSIBLE ACTION FOLLOWING CLOSED SESSION

On a motion by Council member Mason, seconded by Council member Wilcox, Council moved to table adoption of the ASU interconnection agreement until the October 19th meeting.

VOTE:Aye-All
Nay-None

ADJOURNMENT

On a motion by Council member Mason, seconded by Council member Wilcox, Council moved to adjourn at 8:58 p.m.

VOTE:Aye-All
Nay-None

Town Clerk

Mayor