

**MINUTES – REGULAR MEETING
BOONE TOWN COUNCIL
OCTOBER 15, 2013**

A regular meeting of the Boone Town Council was called to order at 6:30 p.m., Tuesday, October 15, 2013, in the Council Chambers, 1500 Blowing Rock Road. Mayor Loretta Clawson presided. Council members present were Mayor Pro-Tem Jamie Leigh, Lynne Mason, Rennie Brantz, Andy Ball, and Allan Scherlen. Town Attorney Sam Furguele was also present. Staff members present were Town Manager Greg Young, Town Clerk Kimberly Brown, Assistant to the Manager Jim Byrne, Finance Director Amy Davis, Police Chief Dana Crawford, Fire Chief Jimmy Isaacs, Public Utilities Director Rick Miller, Public Works Director Blake Brown, Planning Director Bill Bailey, Human Resources Director Peri Moretz, Cultural Resources Director Pilar Fotta, and Building Inspector Todd Miller.

ANNOUNCEMENTS

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

Mayor Clawson invited Police Chief Dana Crawford to recognize Sergeant Scott Mackler, who has received the North Carolina Advanced Law Enforcement Certification. He stated that this is the highest certification award given to law enforcement officers in North Carolina. Mayor Clawson and the Council thanked Sergeant Mackler for his hard work and dedication to the citizens of Boone.

Mayor Clawson announced the grand opening of the Downtown Boone Post Office on Sunday, October 27, 2013, from 3-6 p.m. She invited all to attend the event.

TENTATIVE AGENDA ADOPTION

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

1. Addition of Item 6.P. – Approval of Change Order #2 – Downtown Boone Post Office Renovation project.
2. Addition of Item 13.D. – Discussion of the Formation of a Stormwater Management Task Force (Thursday, October 17, 2013 meeting.)

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

VOTE: Aye – All
 Nay – None

CONSENT AGENDA ADOPTION

Minutes: September 17 & 19, 2013 – Regular Meetings.
 September 25, 2013 – Special Meeting.
 September 26, 2013 – Special Public Hearing.
 September 26, 2013 – Special Meeting.

Approval of Encroachment Agreement – Café Nosh Bakery Projecting Sign.
(Permanently on file at Boone Town Hall.)

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

VOTE: Aye – All
 Nay – None

PUBLIC COMMENT

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

SCHEDULING OF SPECIAL MEETING – JOINT MEETING WITH WATAUGA COUNTY COMMISSIONERS

Mayor Clawson informed the Council that the Watauga County Board of Commissioners has requested a joint meeting with the Council to discuss ETJ appointments. Upon a motion by Council Member Ball, seconded by Council Member Brantz, Council moved to forward the following date and time for consideration by the Board of Commissioners: Wednesday, November 20, 2013, before 12 p.m. or after 6 p.m.

VOTE: Aye – All
 Nay - None

DISCUSSION OF PLANNING COMMISSION APPOINTMENT

Town Attorney Sam Furgiele recommended tabling this matter until after the joint meeting with the Watauga County Board of Commissioners. He noted that the Board of Commissioners is holding a public hearing on ETJ appointments on October 15, 2013. Upon a motion by Council Member Brantz, seconded by Council Member Ball, Council moved to table consideration of this agenda item until the November 22, 2013 regular meeting.

VOTE: Aye – All
 Nay - None

APPROVAL OF MCLAURIN PARKING CONTRACT

Town Manager Greg Young presented the revised contract with McLaurin Parking Company for consideration by the Council. Upon a motion by Council Member Leigh, seconded by Council Member Scherlen, Council moved to approve the following contract:

STATE OF NORTH CAROLINA
COUNTY OF WATAUGA

PARKING MANAGEMENT AGREEMENT

THIS PARKING MANAGEMENT AGREEMENT, made and entered into this ____ day of October 2013, by and between the Town of Boone, hereinafter referred to as the “Town,” and McLaurin Parking Company, a North Carolina corporation, hereinafter referred to as “McLaurin,” collectively referred to as the “Parties”:

WITNESSETH:

In consideration of the mutual covenants and promises herein contained and other valuable consideration, the adequacy and receipt of which are hereby acknowledged, and pursuant to the Town’s authority under N.C. Gen. Stat. §§160A-301 and 160A-302, the Parties agree as follows:

1. **TERM:** The term of this Agreement shall be from July 1, 2013, through and including June 30, 2014.
2. **RESPONSIBILITIES OF MCLAURIN:**
 - A. **ENFORCEMENT.** McLaurin will monitor, operate, control and enforce parking, by writing parking tickets, collecting fines paid for violations, and making appropriate referrals to the Town of Boone Police Department (hereafter, these activities collectively referred to as “enforcement”) on behalf of the Town at the following locations during the following times and subject to the following conditions:
 - I. **LOCATION OF ENFORCEMENT.** McLaurin shall provide enforcement at the Town’s off-street parking areas consisting of the Town Hall lot, Queen Street lot, Depot Street lot, Howard Street lot, 30 spaces in the Watauga County Public Library parking lot and Horn in the West lot, (hereafter, the “Lots”) as well as the on-street parking along both sides of King Street between College Street and Straight Street along both sides of Queen Street between Water Street and Depot Street, along the east side of Depot Street between Queen Street and Rivers Street, and along the north side of Hamby Alley between College Street and the eastern edge of the First Baptist Church parking lot (hereafter, “On-Street”), collectively referred to as the “Parking Areas.” During the term of this Agreement, parking lots and on-street locations may be added or deleted, and compensation shall be adjusted accordingly should these additions or deletions materially change the number of staff or other items of compensation included in this Agreement.
 - II. **PERIODS OF ENFORCEMENT.** Enforcement in the Lots, excluding Horn in the West, and On-Street, shall be between the hours of 8 a.m. and 4 p.m. Monday through Saturday, with additional enforcement and activities on those Saturdays during which Appalachian State University has a home football game (hereafter, “Game Day”). Said parking areas shall not be operated during the following holidays: New Year’s Day, July 4th, Labor Day, Thanksgiving Day, Christmas Day and any additional parking holidays the Town Council or Town Manager may designate.
 - III. **FREQUENCY OF ENFORCEMENT.** McLaurin staff shall patrol and review the Lots and Streets with sufficient frequency as to be able to determine whether motor vehicles have been parked On-Street or within the Lots for periods exceeding the allowed times, or as to areas where parking meters are in use, whether motor vehicles have been parked without authorization. McLaurin recognizes that the periods of allowed parking vary from day to day and from location to location, and it will adjust its personnel as necessary to achieve enforcement with a high degree of confidence that illegal parking is thereby avoided. Upon request of the Town Manager, McLaurin will increase the frequency of its enforcement activities and if such increased results in the necessity of added staff, compensation will be adjusted accordingly. McLaurin also recognizes and accepts that the Boone Town Council may from time to time change the allowable periods of parking in particular locations, and it will adjust its monitoring of parking areas accordingly.
 - IV. **HORN IN THE WEST ENFORCEMENT.** McLaurin shall provide enforcement with appropriate frequency in the Horn in the West lot Monday through Saturday during the period in which Appalachian State University is in session during its fall and spring semesters, and during such other periods as may be designated by the Town Manager.

- V. **GAME DAY ENFORCEMENT.** In addition to its normal activities, on Game Days, McLaurin shall also:
- a. Place signage at appropriate locations to advise game day parkers arriving in downtown Boone of the available parking site for all-day parking activity;
 - b. Place staff assigned to serve as ambassadors on each of the east and west entries into downtown advising motorists of parking opportunities and of parking enforcement for overtime parking;
 - c. Set up parking fee collection operations in those Lots designated for Game Day parking and collect fees in an amount as directed by the Town Manager or Town Council from each vehicle upon entry into the lot for all-day Game Day Parking;
 - d. Station staff at the entrance of the Town Hall lot, if so directed by the Town Manager, to deter entry by Game Day parkers, thus reserving this parking lot for retail visitors to downtown Boone; and
 - e. Provide continued on-street parking enforcement for Game Days until at least one hour before the anticipated end of the football game, with overtime parking violators eligible to receive multiple citations.
- B. **HORN IN THE WEST MARKETING.** McLaurin will advertise, market and lease the available spaces at the Horn in the West parking lot for use during the fall-spring academic terms of Appalachian State University.
- C. **LONG-TERM LEASING.** McLaurin will manage permitted parking in the King Street lot, Queen Street lot, and along Queen Street on a semi-annual or annual basis, as selected by permittees, and shall perform the necessary activities, including processing permit applications, collecting permitting fees, and providing enforcement activities to ensure that only permitted users use the spaces for which permits have been issued.
- D. **PERSONNEL/STANDARDS OF COURTESY.** McLaurin shall provide sufficient staff adequate to monitor, operate, control and enforce parking, and adequate supervisory personnel during and in connection with all periods of enforcement. The Town and McLaurin will also collaborate from time to time to create press releases on matters affecting parking.
- I. **MINIMUM NUMBERS OF STAFF.** McLaurin shall employ no fewer than three local staff for normal daily operations and seven local staff for Home Game Day operations.
- II. **STANDARDS OF COURTESY.** McLaurin recognizes that the operations of the parking areas must be accomplished in a manner so as to engender good public relations for the Town, and all of McLaurin's employees shall be properly dressed, friendly, and courteous to all those using said parking facilities and other members of the public. McLaurin's employees shall be informed that while on duty, they are perceived as representatives of the Town and that maintaining a friendly and courteous countenance at all times is essential to the successful performance of this Agreement. This responsibility shall be considered a material term of this Agreement and its repeated violations shall afford a basis for termination of the Agreement by the Town.

- III. SUPERVISORY PERSONNEL. A supervisory person shall be available between the hours of 7:30 a.m. and 5:30 p.m., Monday through Friday, with office hours maintained at Town Hall, as well as on Game Days. McLaurin's supervisory personnel shall also be informed that while on duty, they are perceived as representatives of the Town and that maintaining a friendly and courteous countenance at all times is essential to the successful performance of this Agreement, and its repeated violation shall afford a basis for termination of the Agreement by the Town.
- IV. MANAGEMENT STAFF. McLaurin shall have staff available at (919) 833-7522 to deal with unforeseen or emergency situations. McLaurin shall provide sufficient management staff to supervise the operation of the parking areas, as well as process monthly accounts from the McLaurin central office in Raleigh, formulate marketing plans for use of the parking areas during regular hours and for special events, and to audit all revenues collected.
- V. BONDING. All staff with access to possession of parking funds belonging to Town, whether derived from payments for permits, lot parking or fines; money deposited into meters; or any other source, or payments for parking; shall be bonded at a level commensurate with the largest amount of money which could potentially be accessible at any given time, in amounts directed by the Town Manager.
- E. ACCOUNTING. All receipts from the operations of the parking areas, without deduction, shall be the property of the Town and will be deposited at least once daily into a bank account as directed by the Town Manager or Finance Officer. On or before the 15th of each calendar month, McLaurin will provide the Town a statement of the previous month's gross revenue, along with revenues by date, and an accounting for its costs, including labor, approved office overhead, supervision, insurance, replacement tickets and other items associated with the operation of the parking facilities. McLaurin shall maintain accounting records according to customarily accepted accounting standards, and it shall allow designated representatives of the Town the right to inspect those records at any time during the term of this agreement and for one year thereafter. The Town Manager may from time to time request reasonable analysis by McLaurin of parking expenses and revenues, and McLaurin shall provide such analysis. McLaurin will maintain information which allows it to track revenues and penalties from Lots and On-Street parking, by location, so that the Town can meet its statutory responsibilities for the application of the respective funds.
- F. SUPPLIES. McLaurin will furnish all paper supplies, such as parking tickets, register tapes and reporting paper for its parking operations in the Lots and On-Street parking.
- G. SIGNS. McLaurin may, subject to approval of the Town, install neat, attractive signs indicating that the services are provided by McLaurin Parking Company. McLaurin will advise the Town as to signs and markings which may be needed for directing the public to the parking facilities, those signs to be prepared and installed by the Town. All signs must comply with the Town's regulations concerning signs, as well as the Uniform Traffic Control Device Manual, as applicable.
- H. REPORTS. McLaurin shall periodically report to the Boone Town Council and Town Manager, as requested, on its activities.
- I. CONSULTING SERVICES. In addition to its other responsibilities, McLaurin shall provide consulting services to the Town Manager and Town Council upon request. Such services shall include analysis and recommendations regarding all aspects of present and future Town parking operations, including but not limited to: evaluations of current operations; analyses of future needs; recommendations

for addressing perceived deficiencies; recommendations for meeting increased or changed demands; investigation and analysis of equipment alternatives; and, investigating and reporting on alternative methods for operations and enforcement.

- J. PARKING APPEALS. McLaurin shall provide on supervisory staff person to participate in the Town's parking violations appeal committee.
- K. LIABILITY INSURANCE. McLaurin shall obtain and maintain insurance covering the following items and will provide the Town with certificate of insurance confirming each:
 - I. Comprehensive General Liability and Property Liability insurance in the amount of \$500,000.00 bodily injury or death per incident and \$100,000.00 property damage per incident.
 - II. Garage Keeper's Excess Specified Perils insurance including fire, explosion, vehicular theft, vandalism, and malicious mischief in the amount of \$1,000,000.00. Said insurance represents excess insurance in the event that the individual in question lacks individual coverage of this type.
 - III. Umbrella Excess Liability insurance in the amount of \$1,000,000.00. Umbrella Excess Liability insurance is insurance over the underlying Comprehensive General Liability or Garage Keeper's Excess Specified Perils (a or b).
- L. EQUIPMENT. Unless otherwise provided by separate agreement, all parking control equipment including ticket issuing machines, gates, booths, and revenue control systems located in the Lots shall be property of the Town, but McLaurin shall be responsible for maintaining the parking control equipment (except for booths) and revenue control equipment in good working order. If outside service personnel are required, McLaurin will be responsible for labor charges and Town will be responsible for the cost of all replacement parts on Town's equipment.
- M. REGULATIONS. McLaurin shall comply with all Federal, State and local laws, statutes, ordinances and regulations applicable to this Agreement.
- N. INDEMNIFICATION. McLaurin shall indemnify, defend and hold harmless the Town, its officers, employees, and agents, against all claims, costs, losses and damages arising out of or relating to its performance of its duties under this Agreement, including but not limited to claims for personal injury or property damage based in tort, claims or causes of action under or pursuant to 42 U.S.C. 1983 or other civil rights law, claims or causes of action under or pursuant to the North Carolina Constitution or General Statutes, and all such other claims or causes of action, it being the intent of McLaurin to release the Town of Boone, its agents, officers and employees, from all possible liability arising from McLaurin's performance of this Agreement.

3. **TOWN'S RESPONSIBILITIES:**

- A. OFFICE SPACE. The Town shall provide McLaurin with office space in Town Hall or other suitable location, subject to rent. The rent for office space in Town Hall is one dollar (\$1.00) for the term of this Agreement, and shall be due and payable in full upon the execution of this Agreement. This provision is not intended by the parties to create a tenancy or other legal right and does not afford McLaurin any claim to the exclusive right of possession, but is itself merely a license granted by the Town to McLaurin to allow it to use the space provided by the Town, and it is freely terminable by either party. The Town reserves the right upon thirty (30) days' notice to require McLaurin to locate and relocate to alternative office space. Other than the aforesaid notice, McLaurin waives all

legal and other process, as well as any and all other claimed requirements for the Town to recover possession of the space in question. Upon the aforesaid notice, McLaurin shall peaceably relinquish the space to Town in good condition, normal wear and tear excepted.

- B. CLEANING AND MAINTENANCE. The Town shall be responsible for cleaning and maintaining all parking areas, including snow removal.
- C. EQUIPMENT. Unless otherwise provided by separate agreement, all parking control equipment including ticket issuing machines, gates, booths, and revenue control systems located in the off-street lots shall be provided by the Town and shall remain the property of the Town. Town will be responsible for the cost of all replacement parts on Town’s equipment. The Town will be responsible for any repairs to the booths that may be necessary, subject to prior approval by the Town Manager.
- D. PAYMENT FOR SERVICES. Within seven days of its receipt of the statement from the prior month from McLaurin or the 15th of the month, whichever is later, the Town shall reimburse and compensate McLaurin for the costs incurred and services rendered during the previous month as follows:

I. TOWN HALL PARKING LOT

- a. LABOR:

Estimated hours for 12 months 2455.5@ \$9.985/hr.
\$24,519.36
- b. EQUIPMENT MAINTAINENCE:

(\$67.18/month)(12 months/year)
\$806.16
- c. UTILITIES:

(\$22.08/month)(12 months/year)
\$264.96
- d. SUPPLIES:

Paper reports, register tape, postage,
paper supplies, etc.
(\$288.75/month)(12 months/year)
\$3,465.00
- e. INSURANCE:

(\$107.42/month)(12 months/year)
\$1,289.04

II. ON-STREET MONITORING AND TICKET WRITING

- a. LABOR:

Estimated hours for 12 months 4180.8 @ \$11.266/hr.
\$47,103.00
- b. SUPPLIES:

	(\$383.25/month)(12 months/year)	\$4,599.00
c.	INSURANCE:	
	(\$54.53/month)(12 months/year)	\$654.36
d.	OFFICE STAFF:	
	(\$745.00/month)(12 months/year)	\$8,940.00
e.	SYSTEM MANAGEMENT:	
	Scheduled compensation	\$45,218.88
III.	SATURDAY PARKING ENFORCEMENT	
a.	OPERATIONAL COSTS:	
	(\$1,921.47/month)(12 months/year)	\$23,057.64
IV.	GAME DAY OPERATIONS	
a.	OPERATIONAL COSTS:	
	(\$1,039.44/game)(Six games/year)	\$6,236.64
V.	HORN IN THE WEST OPERATIONS	
a.	OPERATIONAL COSTS:	
	(\$5.00 per trip)(two trips/day)	
	(Monday through Saturday)	
	(179 days per year)	\$1,790.00

TOTAL CONTRACT = \$ 167,944.04

4. **TERMINATION FOR CAUSE:** Either party may terminate this Agreement for cause, but prior to termination, the terminating party shall give the other party notice of no less than seven days to cure any asserted violation of the Agreement.
5. **TERMINATION FOR CONVENIENCE:** In addition to a termination for cause, either party may terminate this Agreement by giving 120 days written notice to the other party of its intention to end the Agreement. At the effective date of the termination, McLaurin shall surrender the parking areas and equipment in as good a state as they were at the time they were turned over to McLaurin for management, normal wear and tear excepted.
6. **ASSIGNMENT:** The rights and duties under this agreement may not be transferred or assigned in whole or in part without the written consent of both parties, and in the event of bankruptcy, reorganization, or any attempt to make an assignment for the benefit of its

creditors by McLaurin, this agreement will immediately terminate at the option of the Town.

7. **NOT A PARTNERSHIP:** This Agreement is not intended to create a partnership or joint venture, and employees of McLaurin are not employees of the Town, are not entitled to benefits under Town benefit plans, and are not subject to the Town Personnel Policy.
8. **JURISDICTION AND VENUE:** Should a dispute arise regarding this Agreement, the laws of North Carolina will control and Watauga County, North Carolina is the proper venue for any such determination.
9. **MODIFICATION:** This Agreement may only be modified by written instrument signed by both parties.

IN WITNESS WHEREOF, the parties have executed this Agreement effective the day and year first above written.

VOTE: Aye – All
 Nay – None

APPROVAL OF US ARMY CORPS OF ENGINEERS AGREEMENT

Assistant to the Manager Jim Byrne presented the request for approval of a contract for streambank restoration of a portion of the New River along the Greenway Trail. He stated that the agreement was originally approved in 2001 but that funding for the project was withdrawn at that time due to the conflict in the Middle East. He further explained that the project will cost in excess of \$2.65 million and will require approximately \$900,000 in local match of case, in-kind services, and easements. Upon a motion by Council Member Ball, seconded by Council Member Mason, Council moved to approve the contract between the Town of Boone and the US Army Corps of Engineers for a streambank restoration project for the New River and to provide a copy of the agreement for public inspection at Boone Town Hall. **(A copy of the agreement is permanently on file at Boone Town Hall.)**

VOTE: Aye – All
 Nay – None

REQUEST EXEMPTION FROM MINI-BROOKS ACT – NEW RIVER/GREENWAY TRAIL STREAM RESTORATION

Assistant to the Manager Jim Byrne requested exemption from the Mini-Brooks Act regarding the surveying along the New River/Greenway Trail for the purpose of streambank restoration. He explained that the Town is required to furnish the money for surveying for the project by the US Army Corps of Engineers. Public Works Director Blake Brown further explained that the Mini-Brooks Act is the procurement process that focuses on the qualifications of potential architects, engineers, surveyors and construction managers rather than their fees or the price of the contract. Upon a motion by Council Member Leigh, seconded by Council Member Brantz, Council moved to approve the request by Assistant to the Manager Jim Byrne for exemption from the Mini-Brooks Act for surveying along the New River/Greenway Trail for the purpose of streambank restoration.

VOTE: Aye – All
 Nay – None

CONSIDERATION OF ZONING AMENDMENT – CASE 20130581 TEMPORARY PORTABLE STORAGE CONTAINERS

- **Case 20130581 – Modification to the Town of Boone UDO to allow Temporary Portable Storage Containers.**

Planning Director Bill Bailey informed the Council that the Planning Commission unanimously recommended approval of the amendment with conditions. Council Member Leigh stated that she feels Council is being quick to make these changes and that the Council should only consider empty parking lots and not businesses until the UDO Table of Permitted Uses is completed. She insisted the Council should consider the impact of this type of use on its major corridors. Council Member moved to consider the following amended text:

Article X, Section 165

...

Uses Description	R-1	R-1A	R-R	R-2	R-3	R-4	R-A	MH	O / I	B-1	B-2	B-3	U-1	M-1
23.0 TEMPORARY USE														
23.100 Temporary Care Provider	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	
23.200 Temporary Construction or Repair Dwelling	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	
23.300 Temporary Construction Trailer	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
23.400 Temporary Mobile Medical Unit									Z			Z	Z	
23.500 Temporary Classroom									Z			Z	Z	
23.600 Temporary Portable Storage Container									<u>Z</u>					<u>Z</u>

Article XI, Section 180. Temporary Uses

[a] General Regulations for Temporary Uses

- [1] All listed temporary uses are required to obtain a permit in compliance with the regulations of this Section.
- [2] Unless expressly permitted no sign may be erected in conjunction with a temporary use.
- [3] Only those improvements and modifications minimally necessary for the temporary use to function are permitted.
- [4] In the event the property owner fails to remove a temporary structure within the described time frames after the permit authorizing its use has been terminated, the Town may remove the said temporary structure at the expense of the owner, and may seek to recover through collection efforts or a civil action against the owner, the costs of removal, court costs and attorney fees.
- [5] A sight triangle ten (10) feet by seventy (70) feet must be observed at all intersections of driveways or streets with adjacent streets.
- [6] Temporary uses shall not be subject to the requirements of Section XXII Commercial Appearance Standards unless provided in this Section.
- [7] No required existing landscape buffer may be disturbed for any temporary use.
- [8] All temporary uses shall meet all applicable NC Building Codes.
- [9] Unless otherwise provided herein, the land use intensity ratios of Section 200 shall apply.

...

[h] Temporary Portable Storage Container: A temporary portable storage container (such as: semi-trailers or other similar portable containers) is any container designed for the storage of goods and materials and is usually transported by a commercial vehicle and is for temporary use only. Placement of a temporary portable storage container(s) is subject to the following conditions:

[1] General Standards for Temporary Portable Storage Containers:

- a. The temporary portable storage container(s) is only allowed on a vacant lot (those with no principal uses) in the O/I Office Institutional and the M-1 Light Industrial zoning districts.
 - i. Temporary portable storage container(s)s located on a vacant lot must be related to an individual business entity.
- b. The temporary portable storage container(s) shall be placed on the lot in such manner that it meets all required setbacks.
- c. The location and placement of the temporary portable storage container(s) must be selected so as to minimize any negative effects on adjacent properties.
 - i. Temporary portable storage containers may not be placed against any pedestrian way.
- d. A temporary portable storage container(s) shall not be subject to Section 200 Schedule of Land Use Intensity Regulations.
- e. A temporary portable storage container(s) may not be placed within any public right-of-way. f. Placement of all temporary portable storage container(s) must be approved by the Fire Marshall.
- g. A temporary portable storage container(s) shall neither display any attached signage nor be used as signage for any business.
- h. For a period not exceeding thirty (30) days, a lot may have no more than twenty (20) temporary portable storage containers per acre.
 - i. A short-term permit for a temporary portable storage container(s) shall be valid for no more than thirty (30) days in any twelve (12) month period.
 - ii. The thirty (30) day timeframe for the temporary permit begins the day the first temporary portable storage container is placed on the lot after the permit is issued.

Council Member Ball seconded the motion.

VOTE: Aye – All
 Nay – None

Vote #1

Upon a motion by Council Member Leigh, seconded by Council Member Mason, Council moved that the proposed amendment to the Town’s zoning map is consistent with the Town’s Comprehensive Plan and other applicable adopted plans of the Town which relate to this application because the Town shall encourage a public service and regulatory environment conducive to business recruitment and expansion; continue to look for ways to make development regulations and permit procedures more predictable; and the changes address an oversight in the current UDO, where temporary storage containers are not listed as an available specific use in Article X, Section 165 Table of Permissible Uses.

VOTE: Aye – All
 Nay – None

Vote #2

Upon a motion by Council Member Leigh, seconded by Council Member Mason, Council moved to approve the proposed amendment to the Town’s zoning map and believe approval is

reasonable and in the public interest because the Planning and Inspections Department has never received a complaint regarding temporary storage in the past; temporary storage is a stated need of the Town of Boone and ETJ; and the language as proposed allows for flexibility in both the amount or density of storage and the time period it may be employed, while protecting against the long-term blighting of public spaces with unsightly and inappropriate amounts of storage along busy corridors.

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

VOTE: Aye – All
 Nay – None

SCHEDULE SPECIAL MEETING – UDO DRAFT REVIEW

Upon a motion by Council Member Ball, seconded by Council Member Mason, Council moved to schedule a special meeting on Wednesday, October 30, 2013, at 6 p.m. in the Council Chambers, 1500 Blowing Rock Road, in order to continue review of the UDO draft.

VOTE: Aye – All
 Nay – None

PRESENTATION OF P&I MONTHLY REPORT

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

PRESENTATION OF MAINTENANCE LIST FOR DANIEL BOONE PARK PROPERTY

Cultural Resources Director Pilar Fotta presented maintenance information for the Daniel Boone Park property which included the following:

- 2013 Maintenance List – Town of Boone Public Works Department
- 2012 SAHA Facility Maintenance Request Report
- Survey, Evaluations & Recommendations Report – Greene Architecture (December 2007)
- Facility Inspection Report – Todd Miller, Planning & Inspections Department (September 2013)

(Copies of reports permanently on file in October 2013 Town Council meeting information packet.) Building Inspector Todd Miller discussed the issues depicted in the Facility Inspection Report noting that electrical hazards and deteriorating structures were of major concern. He informed the Council that the electric service for backstage and the service buildings have been corrected since his report was completed. Mr. Miller pointed out that the items listed in red in his report are the top concerns that should be addressed before production of the next Horn in the West program. Architect David R. Jones commented that health, safety, and welfare issues should be the main priority. Council discussed the issue of addressing the most pressing current needs for the property versus the long-term plans for the property. Discussion ensued regarding the long-term investments needed for use of the property. Council questioned Planning Director Bill Bailey about the use of the property for the “Haunted Horn” events. Mr. Bailey stated that the event staff should be able to keep customers from the sections of the property which are dangerous. Frank Mohler, chair of the Cultural Resources Advisory Board, informed the Council that Michael Hardy and David Weiss of the Institute of Outdoor Drama will be arriving on October 25th and that he plans to spend the full day of Saturday, October 26th at the Daniel Boone Park property. Council directed staff to address the following immediate needs (as listed in the 2013 Facilities Maintenance Report:

1. Remove all improper electrical wiring and lighting currently located in trees.
2. Remove/Replace wall on stage left.
3. Signs and Barriers (chain, rope, etc.) to clearly mark and prevent the public from entering the backstage areas.

Council further directed SAHA to address item #6 of the report: replace exit signs/emergency lighting in dressing rooms.

CULTURAL RESOURCES DEPARTMENT REQUEST – EXPANSION OF PROGRAMS

Cultural Resources Director Pilar Fotta presented a request to expand programming for the Cultural Resources Department. She stated that an increase in the expense line for special projects/events will not come from the general fund, but would come from additional revenue raised by the department. Upon a request by Council Member Brantz, seconded by Council Member Mason, Council moved to approve an annual increase in the Cultural Resources Department special projects/events budget based on the amount of additional revenue as becomes available.

VOTE: Aye – All
 Nay – None

TRANSPORTATION COMMITTEE RECOMMENDATION

Public Works Director Blake Brown presented a recommendation from the Transportation Committee to pursue a traffic study in the downtown business district to include Howard Street, Appalachian Street, Depot Street, Water Street, and King Street to examine traffic patterns for the purpose of improving pedestrian/vehicle traffic flow and safety. He estimated the cost to be approximately \$29,000. Council Member Mason noted that the DBDA has expressed interest in partnering with the Town to conduct the traffic study. Upon a motion by Council Member Ball, seconded by Council Member Mason, Council moved to approve the request for a traffic study for the downtown Boone business district for the purpose of improving pedestrian and vehicle traffic flow and safety and to partner with the DBDA for the cost of performing the traffic study.

VOTE: Aye – All
 Nay – None

QUARTERLY NOISE REPORT

Police Chief Dana Crawford presented the noise report for the second quarter of 2013. **(Copy of report permanently on file in the October 2013 Town Council packet.)**

MONTHLY WATER USE STATUS REPORT

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

SCHEDULING OF SPECIAL MEETING – WATER USE COMMITTEE

Upon a motion by Council Member Brantz, seconded by Council Member Ball, Council moved to schedule a special meeting of the Water Committee for Tuesday, December 3, 2013, at 5:30 p.m. in the Council Chambers, 1500 Blowing Rock Road.

VOTE: Aye – All
 Nay – None

APPROVAL OF BUDGET AMENDMENTS

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

DESCRIPTION	ACCOUNT#	TO:	FROM:
SAHA	010-411-000-549122	\$25,000	
CONTRACTED SERVICES-MCLAURIN	010-600-401-577001		(\$1,800)
HORN IN THE WEST PARKING REVENUE	010-000-000-461306		(\$26,800)

VOTE: Aye – All
 Nay – None

APPROVAL OF CHANGE ORDER #2 – BOONE POST OFFICE RENOVATION PROJECT

Randy Jones of David R. Jones Architecture appeared before Council to request approval for Change Order #2 for the Downtown Boone Post Office. He listed the change order requests as follows:

- \$6,112.44 – Electrical outlets and circuits for server and equipment relocated to the Mechanical Room, additional light fixture, rewiring and replacement of existing old deteriorated wiring, switches and outlets.
- \$1,778.00 – Addition of a thumb turn at the original rear loading dock door, provide an additional illuminated exit sign in the P&I corridor, and provide an additional light at the bottom of the interior stairs.
- \$751.96 – Relocation of hear duct detectors in the Post Office Work Area and installation of the sensor for the vertical lift light to come on automatically when someone enters the platform lift shaft.

Total: \$8,642.40

Mr. Jones explained that the remaining balance in the Original Contingency Allowance will be \$36,743.15, if this request is approved. Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to approve Change Order #2 (**permanently on file at Boone Town Hall**) in the amount of \$8,642.40 for the Downtown Boone Post Office.

VOTE: Aye – All
 Nay – None

RECESS MEETING

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to recess the meeting at 8:53 p.m. until Thursday, October 17, 2013, at 6:30 p.m. in the Council Chambers, 1500 Blowing Rock Road.

VOTE: Aye – All
 Nay – None

CALL TO RECONVENE

A recessed meeting of the Boone Town Council was called to order at 6:30 p.m., Thursday, October 17, 2013, in the Council Chambers, 1500 Blowing Rock Road. Mayor Loretta Clawson

presided. Council members present were Mayor Pro-Tem Jamie Leigh, Lynne Mason, Rennie Brantz, Allan Scherlen, and Andy Ball. Town Attorney Sam Furguele was also present. Staff members present were Town Manager Greg Young, Town Clerk Kimberly Brown, Assistant to the Manager Jim Byrne, Finance Director Amy Davis, Police Chief Dana Crawford, Fire Chief Jimmy Isaacs, Public Utilities Director Rick Miller, Public Works Director Blake Brown, Planning Director Bill Bailey, Human Resources Director Peri Moretz, and Cultural Resources Director Pilar Fotta.

ANNOUNCEMENTS

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

TENTATIVE AGENDA ADOPTION

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

1. Addition of Item 13.E. – Adoption of Resolution – Designation of Applicant’s Agent.
2. Deletion of Item 15.A. – Water and Sewer Request – Blue Ridge Companies.

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

VOTE: Aye – All
 Nay – None

PUBLIC COMMENT

There was no one present to speak during public comment.

ANNOUNCEMENT OF BOARD VACANCIES

Mayor Clawson announced that there is a vacant position on the Affordable Housing Task Force as a result of the resignation of Rosie Tighe.

BOARD APPOINTMENTS

Community Appearance Commission

Two open positions.

There were no applications for this position.

Outside Agency Funding Review Committee

Three open positions.

There were no applications for these positions.

Boone Tourism Development Authority Board

Three open positions.

Council Member Mason nominated Jerry Lamonds for the position of owners or operators of taxable tourist accommodations in Boone and Sheri Moretz for the position that promotes tourism in Boone. Council Member Ball seconded the nominations. With no other nominations, Mayor Clawson called for a vote:

VOTE: Aye – All
 Nay – None

Mr. Lamonds’ and Ms. Moretz’s terms will expire on October 31, 2016.

Tree Board

Two open positions.

There were no applications submitted for consideration for these positions.

Water Use Committee

One open position.

There were no applications submitted for this position.

WATAUGA COUNTY RECREATION COMMISSION NOMINATIONS

Mayor Clawson stated that Watauga County is requesting Council’s nominations for three positions on the Watauga County Recreation Commission. She noted that an application from West Eppley is included in the supplemental packet. Council Member Ball nominated West Eppley to serve on the Watauga County Recreation Commission. With no other nominations, Mayor Clawson called for a vote.

VOTE: Aye – All
 Nay – None

DISCUSSION OF FORMATION OF STORMWATER TASK FORCE

Council Member Brantz stated that he has received a lot of concerns about flooding events from the local community and that he would like to see the creation of a stormwater management task force. He offered that the task force be for limited duration, with a membership of 5-7 community members, and with a mandate to recommend solutions to stormwater issues to the Council. Council Members Mason and Leigh suggested having town staff to prepare a report for consideration before a task force is created. Upon a motion by Council Member Brantz, seconded by Council Member Ball, Council moved to direct staff to prepare a report on the status of stormwater conditions and management within the town, to investigate how other towns of similar size and population handle this issue, and to present the report at the January 2014 regular meeting.

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

ADOPTION OF RESOLUTION – DESIGNATION OF APPLICANT’S AGENT

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

RESOLUTION DESIGNATING AGENTS

WHEREAS, the Boone Town Council must choose a primary and secondary agent, authorizing them to represent and act on behalf of the Town in all dealings pertaining to disaster financial assistance; and,

WHEREAS, the Boone Town Council chooses Assistant to the Town Manager Jim Byrne to act as primary agent and Town Manager Greg Young to act as secondary agent for these purposes.

THEREFORE, BE IT RESOLVED by the Boone Town Council of the town of Boone, North Carolina, that the above-named Primary and Secondary Agents are hereby authorized to execute and file applications for federal and/or state assistance on behalf of the Town of Boone for the purpose of obtaining certain state and/or federal financial assistance under the Robert T. Stafford Disaster Relief & Emergency Assistance Act, (Public Law 93-288 as amended) or as otherwise available.

BE IT FURTHER RESOLVED that the above-named agents are authorized to represent and act for the Town of Boone in all dealings with the State of North Carolina and the Federal Emergency Management Agency for all matters pertaining to such disaster assistance required by the grant agreements and the attached assurances.

BE IT FINALLY RESOLVED that the above-named agents are authorized to act severally.

This the 17th day of October, 2013.

Loretta Clawson, Mayor

ATTEST:

Kimberly S. Brown, Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE(S) 210)

VOTE: Aye – All
 Nay – None

REQUESTED APPEARANCE – GEORGE SANTUCCI

George Santucci, of the National Committee of the New River, appeared before the Council to present an update on the New River Restoration project. He stated that project will address approximately 4,000 feet of the South Fork of the New River between the covered bridge and the second bridge on the Greenway Trail. Additionally, he stated that this project represents a partnership between the Town of Boone, ASU, National Committee for the New River, and the US Army Corps of Engineers and is totally funded through state and federal grants. Mr. Santucci announced that the project will begin in April 2014 and should be completed by August or September 2014.

REQUESTED APPEARANCE – RANDY MCDONOUGH

Randy McDonough, chair of the Greenway, Parks & Gardens Committee, appeared before Council to request approval of the StoryWalk Literacy Program to be incorporated along the Greenway Trail at Clawson-Burnley Park. He explained that the program would include approximately 30 signs along the trail and that the story would be changed out on a quarterly basis. Public Works Director Blake Brown stated that he does not anticipate any maintenance issues. Upon a motion by Council Member Ball, seconded by Council Member Brantz, Council moved to approve the request for the StoryWalk Literacy Program on the Greenway Trail.

VOTE: Aye – All
 Nay – None

REQUESTED APPEARANCE – BARBARA GRAY AND DONALD MCCOY

Barbara Gray and Donald McCoy requested approval of a new taxi service, High Country Taxi. Ms. Gray explained that the business is primarily an airport shuttle service but that other events are also serviced. She noted that the Boone Police Department conducted a thorough background check on the couple and that no problems were found. Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to approve the creation of High Country Taxi.

VOTE: Aye – All
 Nay – None

REQUESTED APPEARANCE – STEVE BUMGARNER

Steve Bumgarner, executive director of the Model T Ford Club International, appeared before the Council to request approval for a special event permit for the Model T Ford Club International Tour and Car Show on Sunday, July 13, 2014, from 12-3 p.m. He also asked for waiver of the permit fee of \$1,500. Daniel Minton, on behalf of the Boone Chamber of Commerce, voiced full support for the event and the economic benefit for the town. Public Works Director Blake Brown stated that the estimated cost of the department for closing the streets for the event will be \$2,500. Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to approve the Model T Ford Club International Tour and Car Show on Sunday, July 13, 2014, from 12-3 p.m., to waive the \$1,500 permit fee, to allow the use of the town hall parking lot for overflow parking for the event, if needed, and that overtime costs will come out of the Public Works and Police Department budgets.

VOTE: Aye – All
 Nay – None

REQUESTED APPEARANCE – RIO TAZEWEEL

Bettina Rhoden appeared before Council to request approval of the Howard Street Exchange on Sunday, October 27, 2013, from 12-5 p.m. She asked that the permit fee of \$1,350 be waived. She stated that the sponsoring group, Boone Community Network, has not been able to raise the full cost for this event. Ms. Rhoden stated that this is the last event planned for 2013. Upon a motion by Council Member Scherlen, seconded by Council Member Ball, Council moved to approve the Howard Street Exchange on Sunday, October 27, 2013, from 12-5 p.m., to waive the \$1,350 permit fee, and with the understanding that funds will be transferred out of the general fund to the Public Works and Police Departments to cover the costs for overtime for the event.

VOTE: Aye – All
 Nay – None

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

WATER & SEWER REQUEST – JEFFREY WAKEMAN

Town Attorney Sam Furguele opened a public hearing at 7:28 p.m. to hear sworn testimony for a request for water and sewer service to property located on Blowing Rock Road. Jeffrey Wakeman requested deferral of the request until the February 2014 regular meeting. Mr. Furguele closed the public hearing at 7:30 p.m. Upon a motion by Council Member Brantz,

seconded by Council Member Mason, Council moved to table this request until the February 2014 regular Town Council meeting.

VOTE: Aye – All
 Nay – None

WATER & SEWER REQUEST – CORNERSTONE CAMPUS COMMUNITIES

Town Attorney Sam Furgiuele opened a public hearing at 7:31 p.m. to hear sworn testimony for a request for water and sewer service to property located on Shadowline Drive. Charles Clement, attorney representing the applicant, stated that the plan submitted conforms to all respects of the town's requirements. He stated that the applicant is requesting 69,464 gallons per day. Mr. Clement stated that the project will include 190 units with a total of 457 bedrooms but that the housing market will determine the number of bedrooms per unit. He presented a site plan of the project and entered it as **Exhibit 1 (permanently on file at Boone Town Hall.)** Michael Trew, project engineer, stated that the entire frontage on the roadside will consist of commercial uses. He also stated that a project of this size will warrant a traffic impact study. Public Utilities Director Rick Miller stated that the 69,464 gallons per day is based on the information supplied to the staff by the applicant. In response to conformity to town development requirements, Planning Director Bill Bailey stated the plan appears to conform to town standards but that he has not received an application for review. Meredith Trattler, applicant, stated that the project will be marketed to people who work in Boone and want to live close to their workplace. She stated that the project will include boutique retail, will be gated, and will have 24-hour management on site. She offered an artistic rendering of the project (**Exhibit 2, permanently on file**) and an elevation plan (**Exhibit 3, permanently on file**) into evidence. With no other testimony offered, Mr. Furgiuele closed the public hearing at 8:16 p.m. Council Member Brantz made a motion to grant the request for 69,464 gallons per day for property located on Shadowline Drive. The motion was seconded by Council Member Scherlen. Council Member Leigh voiced her concern that Ordinance #11-01 is due to expire and that she feels more information is needed to determine if this is a good use of the Town's limited water resources. Council Member Mason stated that the property is in need of redevelopment and that the community needs more workforce housing marketed to people who live and work in Boone. Council Member Ball voiced concern about the proposed amount of water for the project but agreed that workforce housing is a need in the community.

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

WATER & SEWER REQUEST – ACTION SERVICE COMPANY

Town Attorney Sam Furgiuele opened a public hearing at 8:20 p.m. to hear sworn testimony for a water and sewer request to property located on Old US Highway 421. Carl Stewart, being duly sworn, stated that he is a member-manager of Action Service Company LLC. He explained that the building was constructed in the late 1960's and that the septic system is aging. He stated that as the well system is working properly, his request is for connection to the sewer service. Mr. Stewart stated that the property does not have adequate repair area for the septic system. With no other testimony, Mr. Furgiuele closed the public hearing at 8:30 p.m. Upon a motion by Council Member Brantz, seconded by Council Member Ball, Council moved to approve the request by Action Service Company LLC to connect to the Town's sewer system.

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

ADJOURNMENT

Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to adjourn at 8:32 p.m.

VOTE: Aye – All
 Nay – None

Kimberly S. Brown, Town Clerk

Loretta Clawson, Mayor