

**MINUTES – REGULAR MEETING
BOONE TOWN COUNCIL
October 15, 2015**

CALL TO ORDER

A regular meeting of the Boone Town Council was called to order at 5:33 p.m., Thursday, Oct. 15, 2015, in the Council Chambers located at 1500 Blowing Rock Road. Mayor Pro Tem Rennie Brantz presided. Council members present were Lynne Mason, Loretta Clawson and Quint David. Town Attorney Allison Meade was also present. Staff members present were Town Manager John Ward, Town Clerk Christine Pope, Assistant to the Manager Jim Byrne, Finance Director Amy Davis, Police Chief Dana Crawford, Human Resources Director Peri Moretz, Fire Battalion Chief Kent Brown, Public Works Director Rick Miller, Planning Director Bill Bailey and Cultural Resources Director Pilar Fotta.

ANNOUNCEMENTS

Mayor Pro Tem Rennie Brantz called the meeting to order and welcomed all in attendance. He noted that anyone wanting to sign up to speak during public comment session would need to sign the public comment sign-up sheet.

TENTATIVE AGENDA ADOPTION

MOTION

Town Manager John Ward noted two items added to the agenda prior to the meeting:

Item 6.P. - Request for Permission to Place Temporary Signs in Town for National Hospice Awareness Month.

Item 7.B. - Discussion regarding Traffic Impact to Beverly Heights Drive Neighborhood.

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

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Loretta Clawson, Council Member
SECONDER:	Lynne Mason, Council Member
AYES:	Mason, David, Clawson, Brantz
ABSENT:	Hay

PUBLIC COMMENT

Meredith Trattler with Cornerstone Campus Communities requested that she be allowed to pay the remainder of the availability fee due when the Certificate of Occupancy is issued. She added that she had not received instructions regarding how to make a wire transfer or given an invoice for the amount currently due, should Council adopt the recommended changes to Ordinance #11-01.

Cathy LaMarre, of 156 Olancha Avenue in Boone, spoke regarding crosswalks at the State Farm Road intersection with Hwy. 105 Ext. She then voiced her support for the Commercial Community Event classification request for Appalachian Ski Mountain's annual preseason event. Ms. LaMarre also expressed her concern with the traffic impact to the Beverly Heights Drive neighborhood by the new Zaxby's development. She suggested the Town create a neighborhood conservation district to include the Beverly Heights Drive neighborhood as well as University Village.

Christine Mook, of 192 Christopher Court in Boone, gave a brief overview of her request submitted through the Greenway, Parks and Gardens Committee to install a Little Free Library at Jaycee Park.

Richard Rosenfeld, of 501 Bishop's Ridge Parkway in Blowing Rock, advised Council that the State is willing to lease to the Town or Council public property owned by NCDOT for \$1.00 for 45 years for a public disc golf course, which he will be fully funding. He stated he'd first be going to the County with this request, but that if approved the property is located within the Town's annexed area and is zoned properly.

Paula Ward, of 350 Lonnie Henson Road in Vilas, spoke on behalf of her mother and others living in the Beverly Heights Drive neighborhood expressing the overall concern with regard to the traffic impact caused by Zaxby's. She stated the customers are driving very fast without knowing where they are going, therefore not being alert. She suggested making the road one-way.

REQUESTED APPEARANCES (FIVE MINUTES EACH)

POWERPOINT PRESENTATION ON APPALACHIAN THEATRE

Frank Mohler with Appalachian Theatre of the High Country, Inc. provided an update to the Town Council on the Appalachian Theatre restoration project and presented a PowerPoint on the proposed renovations (PowerPoint presentation on file in October 2015 Town Council Meeting Packet).

CONSENT AGENDA ADOPTION

- A. Minutes: Sept. 17, 2015 – Regular Meeting.
- B. Consideration of Revisions to Town's Personnel Policy (**Revised policy on file with Human Resources Director**).
- C. Adoption of Ordinance – Downtown BOO! Street Closure:

Ordinance #15-03

AN ORDINANCE DECLARING A ROAD CLOSURE FOR AN ANNUAL CELEBRATION

WHEREAS, The Boone Town Council acknowledges a long tradition of providing an annual Fall celebration for its citizens which is open to everyone and is provided as a benefit to the community; and

WHEREAS, the Boone Town Council acknowledges that its citizens realize a financial benefit from holding annual events; and

WHEREAS, the Boone Town Council wishes to ensure the health and safety of all participants and spectators; and

WHEREAS, the Boone Town Council acknowledges that the annual Downtown Boone BOO! celebration requires approximately thirty (30) minutes to install signage, and traffic control, and also requires approximately thirty (30) minutes for removing signs, traffic control, and litter;

NOW THEREFORE BE IT ORDAINED by the Town of Boone pursuant to the authority granted by G.S. 20-169 that they do hereby declare a temporary road closure during the day(s) and times set forth below on the following described portion of a State Highway System route:

Date(s): Friday, October 30, 2015

Times: 4:15 – 6:30 p.m.

Route Description: King Street (U.S. Route 421) between College Street and Water Street.

This ordinance to become effective when signs are erected giving notice of the limits and times of the parade, and implementation of adequate traffic control to guide through vehicles around the parade route.

Adopted this 15th day of October, 2015.

(ORDINANCE TO BE TYPED IN BOOK 4, PAGE 77)

- D. Request for Nominee for County's Recreation Commission.
- E. Greenway, Parks and Gardens Committee Recommendation – Council Approval of the Placement of a “Little Free Library” at Jaycee Park for Six-Month Trial Period.
- F. Approval of Resolution – Private Sale of Service Canine:

**RESOLUTION AUTHORIZING THE DISPOSITION OF
CERTAIN PERSONAL PROPERTY BY PRIVATE SALE**

WHEREAS, the Town Council of the Town of Boone desires to dispose of certain surplus property of the Town;

NOW, THEREFORE, BE IT RESOLVED by the Town Council that:

1. The following described property is hereby declared to be surplus to the needs of the Town: one retired German Shepherd service canine known as AMaus.@
2. The Boone Town Council authorizes the disposition of a retired service canine to the trained handler upon handler's agreement to accept custody of and assume all liability and responsibility for the care of the remainder of the retired service canine's life.
3. Transfer of Ownership of the retired service canine will go to her trained handler, former Master Patrol Officer Justin Warren. Justin Warren is trained and equipped to care for Maus. The handler's agreement to accept custody of the retired service animal will complete the Transfer of Ownership.
4. The minimum price to be accepted for the property is \$1.00.
5. The Town Clerk shall publish notice summarizing this Resolution in accordance with G.S.160A-267.
6. The sale may be consummated not earlier than 10 days from the date of the publication.

ADOPTED this 15th day of October, 2015.

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE 247)

- G. Request to Send Cases to Nov. 2, 2015, Quarterly Public Hearing.
- H. Community Appearance Commission Request – Send UDO Modification to November Quarterly Public Hearing.
- I. Approval of Unveiling Ceremony for NCDOT Ginseng Marker – Nov. 6, 2015.
- J. Approval of Encroachment Agreement – Omega Tees Projecting Sign **(Copy of agreement permanently on file in Town Hall)**.
- K. Approval of Encroachment Agreement – VPC Builders Projecting Sign **(Copy of agreement permanently on file in Town Hall)**.
- L. Approval of Encroachment Agreement – Greenway Baptist Church **(Copy of agreement permanently on file in Town Hall)**.
- M. Approval of Bid from White's International Trucks – Purchase of Dump Truck with Snowplow and Spreader for \$143,788.45.
- N. Approval of Budget Amendment – Police Department Vehicle Emergency Equipment and Specialized Training:

Description:	Account Number:	To:	From:
Public Safety Vehicle Equipment – Police Department	010-500-300-516400	\$5,000	
Travel & Training – Police Department	010-500-300-521101	\$3,000	
Transfer to General Fund (Narcotics Fund)	012-500-303-598012	\$8,000	
Transfer from Narcotics Fund (General Fund)	010-000-000-498012		(\$8,000)
Appropriated Fund Balance (Narcotics)	012-500-303-499900		(\$8,000)

O. Approval of Budget Amendment – Repairs following a Vehicle Accident:

Description:	Account Number:	To:	From:
Maintenance – Parking Meters	010-600-401-525206	\$2,025	
Community Appearance	010-600-405-525100	\$2,050	
Traffic Signs & Post – Supplies	010-600-401-514205	\$68	
Misc. Revenue	010-000-000-489900		(\$4,143)

P. Request for Permission to Place Temporary Signs in Town for National Hospice Awareness Month.

Upon a motion by Council Member David, seconded by Council Member Mason, Council moved to approve the Consent Agenda as presented.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Quint David, Council Member
SECONDER:	Lynne Mason, Council Member
AYES:	Mason, David, Clawson, Brantz
ABSENT:	Hay

COUNCIL MATTERS

COMMUNITY APPEARANCE COMMISSION REQUEST - SCHEDULING OF WORKSHOP

Upon a motion by Council Member Mason, seconded by Mayor Pro Tem Brantz, Council moved to schedule a special meeting of the Boone Town Council for Tuesday, Nov. 10, 2015, at 5:30 p.m. in the Council Chambers located at 1500 Blowing Rock Road for the purpose of holding a Community Appearance Commission workshop to discuss proposed changes to Article 25: Central Business Design Standards of the Unified Development Ordinance.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Lynne Mason, Council Member
SECONDER:	Rennie Brantz, Mayor Pro-Tem
AYES:	Mason, David, Clawson, Brantz
ABSENT:	Hay

DISCUSSION REGARDING TRAFFIC IMPACT TO BEVERLY HEIGHTS DRIVE NEIGHBORHOOD

Town Manager John Ward advised Council that he has had the police, public works and planning departments looking into the concern citizens have regarding the traffic impact created in the Beverly Heights Drive neighborhood due to the new Zaxby's development. Mr. Ward recommended that this issue be worked through the Transportation Committee, inviting residents to attend, and develop a solid plan, while in the interim continuing to monitor the area with strong enforcement. Brief discussion ensued regarding potential ways to prevent Zaxby's customers from cutting through these neighborhoods. Council Member Mason suggested speed humps, a lower speed limit and various signage as possible solutions for the Transportation Committee to consider.

Upon a motion by Council Member Mason, seconded by Council Member Clawson, Council moved to invite the Beverly Heights Drive neighborhood to the next Transportation Committee meeting scheduled for Tuesday, Nov. 10, 2015, at 12 p.m. in the Council Chambers to begin discussion of long-term solutions to dealing with the traffic impact in that area.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Lynne Mason, Council Member
SECONDER:	Loretta Clawson, Council Member
AYES:	Mason, David, Clawson, Brantz
ABSENT:	Hay

REQUEST FOR DIRECTION REGARDING A REQUIREMENT FOR WARNING SIGNS IN FLOOD PRONE AREAS

Planning Director Bill Bailey presented a potential warning sign for flood prone areas as requested by Mayor Pro Tem Brantz in light of the recent water rescues from parking lots that are prone to flooding during heavy rain events. He noted that this could add points for the Town that could eventually lead to lower insurance rates. Council came to the consensus to direct staff to move forward with the sign presented and develop the necessary UDO language before beginning discussions with private property owners.

RESULT:	CONSENSUS
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CONSIDERATION OF APPALACHIAN SKI MOUNTAIN TENT SALE CATEGORIZATION AS COMMERCIAL COMMUNITY EVENT

Brad Moretz presented a request on behalf of Appalachian Ski Mountain for Council to classify their Annual Tent Sale as a Commercial Community Event, per UDO Article 26.16.02 B and C. He added that they are hoping to put up a couple banners throughout town promoting this preseason event. Mayor Pro Tem Brantz stated this was a good event for the tourists, economy and Hebron Colony Ministries. Members of Council expressed their support for this event.

Upon a motion by Council Member Mason, seconded by Council Member Clawson, Council moved to approve the request from Appalachian Ski Mountain to be classified as a Commercial Community Event with temporary signage in town.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Lynne Mason, Council Member
SECONDER:	Loretta Clawson, Council Member
AYES:	Mason, David, Clawson, Brantz
ABSENT:	Hay

CONSIDERATION OF REVISIONS TO ORDINANCE #11-01

Town Manager John Ward provided brief clarification to Meredith Trattler's earlier comments during the public comment session. He stated an invoice had not been issued because the ordinance revisions had not yet been adopted by Council. He also advised that the 30% of the availability fee that would be required, if the ordinance revisions are adopted, is based off the original amount, not the remainder due.

Public Works Director Rick Miller presented the proposed revisions to Ordinance #11-01 as recommended by the Water Use Committee. He noted that 30% of the availability fee would be due for a third-year extension, and the remainder of the availability fee would be due at the end of the third year.

Upon a motion by Council Member Mason, seconded by Mayor Pro Tem Brantz, Council moved to adopt the revisions to Ordinance #11-01 as recommended by the Water Use Committee, effective immediately.

Council Member David noted that a lot of properties are being combined, and felt that they will see developments ceasing or other agreements that have to happen to see projects reach completion, adding that he supports this revision.

ORDINANCE

(FORMERLY ORDINANCES 11-01 AND 05-01)
(With amendments through October 15, 2015)

...

9. Vesting of Water Rights.

- a. **Rights Vest to Property, Not Applicant.** Any vesting of water rights which is obtained through a successful application during the term of this ordinance vests to the property itself for the specific project rather than to the applicant personally. Therefore, any change in ownership or change in legal rights subsequent to approval shall not affect the vesting of the water rights, the time periods described herein, or the payment or retention of required fees.
- b. **Rights not Transferrable.** Water rights may not be transferred from the property designated in the application to a different piece of property, even for the same or a similar site specific development plan.
- c. **Vesting Does Not Occur until Required Fees Are Paid.** No vesting of water or sewer rights occurs until the fees required by this ordinance are paid.
- d. **Initial Payment of Fees.** Within thirty days of the time an application is approved and at the applicant's option, the applicant must pay either ten percent (10%) or twenty percent (20%) of the availability fee for the approved site specific development plan, as further explained hereunder. Such fee is non-refundable, but will be credited against the availability fee charged at the time of the actual connection to the Town's system if the site specific plan is constructed as proposed.

- I. Fees are Non-Transferrable to Another Property.** A fee paid pursuant to this paragraph may not be transferred from one property to another property.
- II. Fees May not be Transferred to Another Project on the Same Property.** A fee paid pursuant to this paragraph may not be transferred from one site specific development plan to another, even if both are on the same property, if the subsequent plan represents a substantial change, as defined in paragraph 11, below, from the plan which has been approved.
- e. **Initial Vesting Period.** If an applicant pays ten percent (10%) of the availability fee for the approved site specific development plan, the applicant shall be entitled to a one year initial vesting period; if an applicant pays twenty percent (20%), the applicant shall be entitled to a two year initial vesting period, dated from the date of approval of the application by the Town Council or Director ~~of the application~~.
- f. ~~**Temporary Extensions of Initial Vesting Period.**~~ An applicant who ~~initially~~ pays ten percent (10%) of the full availability fee and obtains a one year initial vesting period may extend the initial vesting period for a second year upon payment ("extension payment") of an additional ten percent (10%) of the full availability fee. An applicant who has obtained a two year initial vesting period under this subsection (f) or the preceding subsection (e) may extend the initial vesting period for a third year upon payment of an additional thirty percent (30%) of the full availability fee ("the extension payment"). To be effective to extend an initial vesting period, any extension payment made pursuant to this section so long as the extension payment is must be made in its entirety and received by the Town prior to the lapse of the initial vesting period. When such payment is fully and timely made, the initial vesting period will be recalculated from the original one year period to a two year period, but will continue to be considered for purposes of this ordinance as the "initial vesting period."
- g. **Lapse of Vesting after Initial Vesting Period.** Unless extended by the payment of full availability fees, any applicant granted the right to connect to the Town's water distribution system must obtain all needed development permits within the initial vesting period (as such may be extended pursuant to the preceding subsection (f)) or said approval will expire and the allocated water usage shall return into the water census for redistribution. For purposes of this section the term "development permits" shall mean the following:
- I.** In the case of applicants for water service for a minor subdivision, the minor subdivision plat approval and recording of the approved plat with the Watauga County Register of Deeds, and any associated zoning and grading compliance certificates;
- II.** In the case of applicants for water service for a major subdivision, a special use permit, and associated zoning and grading compliance certificates;
- III.** In the case of a commercial development project, all permits required for the physical development of the land, plus those permits necessary for the building. These may include some or all of the following: a special use permit, a zoning permit and a building permit.
- h. **Extension of Period of Vesting upon Payment of Full Availability Fees.** Upon payment made prior to the expiration of the initial vesting period (as such may be extended pursuant to the preceding subsection (f)) of the full remainder of the availability fee predicted for the site specific development plan for which approval has been granted, the approval of a water application will be extended for an additional period matching the vesting period of approved development permits for the site specific development plan, but not less than one additional year from the expiration of the initial vesting period. Any additional vesting of development

permits which is obtained during the additional vesting period shall automatically extend the water rights to match that vesting period.

I. Availability Fee Payment Non-Refundable. The funds paid pursuant to this section are non-refundable, but will be credited against the availability fee charged at the time of the actual connection to the Town's system if the site specific plan is constructed as proposed.

II. Availability Fee Payment Non-Transferrable. The funds paid pursuant to this section are non-transferrable, as described. Such funds may not be transferred as a credit from one property to another property, and they may not be transferred from one site specific development plan to another, even if both are on the same property, if the subsequent plan represents a substantial change, as defined in paragraph 11, below, from the approved plan.

III. Adjustment in Availability Fee at Time of Connection. If the required availability fee at the time of the connection to the Town's system is more than the amount which has been previously paid, the remainder of the then current availability fee must be paid before a connection will be allowed. If the required current availability fee at the time of the connection to the Town's system is less than the amount which has been previously paid, no refund shall be due.

- i. **Expiration of Vesting.** Notwithstanding any other provision of this Ordinance, and w~~W~~Without regard to the payment of fees and term of vesting, should any applicant whose development project requires a special use permit or zoning permit allow the special use permit or zoning permit to expire, the applicant's water rights will also immediately expire. Likewise, should any applicant whose development project acquires a building permit allow the building permit to expire, the applicant's water rights will also immediately expire.

...

12. This Ordinance shall become effective upon adoption.

Adopted this _____ day of _____, 2015.

Rennie Brantz, Mayor Pro Tem

Attested to:

Christine Pope
Town Clerk

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Lynne Mason, Council Member
SECONDER:	Rennie Brantz, Mayor Pro-Tem
AYES:	Mason, David, Clawson, Brantz
ABSENT:	Hay

APPROVAL OF HOWARD STREET SCOPE OF SERVICES AND ENGINEERING DESIGN FEES

Town Manager John Ward presented a Scope of Services and Summary of Design Fees for the Howard Street project for Council's consideration. He noted that they are continuing to talk with property owners as well as New River Light & Power and ASU. Mr. Ward added that he was confident they could come up with a reasonable solution to possibly addressing the utility lines as well as making this a larger connecting plan with ASU. Following Council Member Mason's question regarding putting in natural gas lines to that area, Mr. Ward indicated he would reach out to Frontier to discuss it further.

Upon a motion by Council Member Mason, seconded by Council Member David, Council moved to support the recommendation to move forward with the design phase of the Howard Street project as presented (**Scope of Services and Summary of Design Fees permanently on file in Town Hall**).

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Lynne Mason, Council Member
SECONDER:	Quint David, Council Member
AYES:	Mason, David, Clawson, Brantz
ABSENT:	Hay

ADOPTION OF RESOLUTIONS - WATER INTAKE PROJECT

MOTION #1

Town Attorney Allison Meade presented a resolution required by the USDA as part of the ongoing process for the loan for the water intake project. Town Manager John Ward noted that these documents have been previously reviewed and signed by the previous mayor and were attached, adding that this is required for the final plan review which is currently in process.

Upon a motion by Council Member David, seconded by Council Member Mason, Council moved to adopt the resolution titled, "Resolution by the Town Council of the Town of Boone, North Carolina, Authorizing Execution of Documents Required to Obtain Financial Assistance from the USDA with respect to Improving and Enlarging its Water Supply System."

Council Member Clawson made the following statement:

"In light of the court decision that confiscated Asheville's public water system, I do believe that there are serious questions related to our ability to manage development in exchange for water. We have already given to the County and have unsettled lawsuits against easements. I would like to know how the citizens feel about a regional water authority. How does the county feel about having a water authority? We need to have a long-range plan and I do not see that plan. I think there are serious questions that need to be answered before we move forward. This is the reason I made a motion to table the water intake until Feb. 1 at the special meeting we had on Tuesday. My motion failed by a vote of 2 to 3. I will not be voting for the resolutions because I feel it would not be responsible for me to do this, because of so many unanswered questions. There are things in the resolution that must have been voted on by Council before I came back on. Thank you."

Discussion ensued regarding previously allocated water amounts as well as the expected population growth in Boone and the surrounding area. Council Member David noted he felt the town could do more with the County and Blowing Rock to work out a regional growth development plan. Council Member Mason stated she felt there was a documented need to move forward with the water project. Council Member Clawson stated ASU is not using half of their water resources and believes ASU is the one growing in population.

With no further comments, Mayor Pro Tem Brantz called for a vote:

**RESOLUTION BY THE TOWN COUNCIL OF THE TOWN OF BOONE, NORTH CAROLINA,
AUTHORIZING EXECUTION OF DOCUMENTS REQUIRED TO OBTAIN FINANCIAL
ASSISTANCE FROM THE USDA WITH RESPECT TO IMPROVING AND ENLARGING ITS
WATER SUPPLY SYSTEM**

WHEREAS, the Town of Boone ("Town") operates a water supply and distribution system serving the citizens and residents of the Town of Boone and its environs, a public enterprise authorized by N.C. Gen. Stat. § 160A-311(2) ("the water supply system"); and,

WHEREAS, the Town has determined that it is necessary to improve and enlarge its water supply system in order to protect the public health by providing the public with an adequate and sound water system and meet the future needs of the Town's residents and water customers; and

WHEREAS, the Town Council has previously authorized certain contracts, project plans, property acquisition, condemnations, and other activities and efforts to enable planning, financing and construction of certain improvements and enlargements to its public water supply system, for which funding is to be received in large part by means of a loan from the USDA;

NOW THEREFORE, BE IT RESOLVED THAT:

The Town Council of the Town of Boone hereby authorizes the Mayor (or Mayor Pro Tem) and Town Clerk to accept and execute as necessary, on its behalf, the following items from USDA-Rural Housing Service:

1. A "Letter of Conditions" that has not changed substantially from the "draft" Letter of Conditions, with amendments, previously reviewed by the Council;
2. The "Environmental Assessment" with any accompanying mitigating measures;
3. The "Letter of Intent to Meet Conditions";
4. Form AD 1049, Certification Regarding Drug Free Workplace; and
5. Any and all other submissions or forms required by the USDA as part of its plan approval and loan application process.

It is understood that the Town of Boone is not obligated to accept such financial assistance as may be offered by the USDA.

This resolution was passed by a vote of ____ for and ____ against, at the regularly scheduled monthly meeting of the Town Council on October 15, 2015.

Adopted this 15th day of October, 2015.

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE 248)

RESULT:	APPROVED [3 TO 1]
MOVER:	Quint David, Council Member
SECONDER:	Lynne Mason, Council Member
AYES:	Mason, David, Brantz
NAYS:	Clawson
ABSENT:	Hay

MOTION #2

Town Attorney Allison Meade presented a second resolution for Council's consideration related to the condemnation proceedings. She advised Council that one condemnation was settled and withdrawn, adding that the action taken in closed session was made properly.

Upon a motion by Council Member Mason, seconded by Council Member David, Council moved to approve the second resolution titled, "Resolution by the Town Council of the Town of Boone, North Carolina relating to Condemnations and Related Proceedings to Acquire Property Interests for Construction, Installation, Maintenance, Repair and Improvement of a New Water Line."

Council Member David stated he felt the unresolved concerns were mostly based on partisan issues rather than facts. Council Member Mason stated someone in the community understands the need for the water but said it's been so long, it would be nice to get something in writing from the town summarizing the project. Ms. Mason recommended that the town do something to bring the people up-to-date. Council Member Clawson indicated she stood by her previous statement.

With no further comments, Mayor Pro Tem Brantz called for a vote.

RESOLUTION BY THE TOWN COUNCIL OF THE TOWN OF BOONE, NORTH CAROLINA RELATING TO CONDEMNATIONS AND RELATED PROCEEDINGS TO ACQUIRE PROPERTY INTERESTS FOR CONSTRUCTION, INSTALLATION, MAINTENANCE, REPAIR AND IMPROVEMENT OF A NEW WATER LINE

WHEREAS, the Town of Boone ("Town") operates a water supply and distribution system serving the citizens and residents of the Town of Boone and its environs, a public enterprise authorized by N.C. Gen. Stat. § 160A-311(2) ("the water supply system"); and,

WHEREAS, the Town has determined that it is necessary to improve and enlarge its water supply system in order to protect the public health by providing the public with an adequate and sound water system and meet the future needs of the Town and its residents and water customers; and

WHEREAS, the Town Council has previously authorized certain contracts, project plans, property acquisition, and other activities and efforts to enable planning, financing and construction of a new water intake facility on the New River and a water line from that new intake to the Town's existing water system (said water line, together with such pipes, manholes, fittings, fixtures and other accessories as from time to time may be required, being collectively referred to herein as the "new water line"); and,

WHEREAS, the Town is entitled to exercise the power of eminent domain through condemnation of property for those purposes described in N.C. Gen. Stat. § 40A-3(b) and relevant provisions of Chapter 160A of the North Carolina General Statutes, including for purposes of improving, extending, or enlarging its water supply system;

WHEREAS, the Town was able to acquire most of the property interests necessary for construction (and subsequent maintenance, repair, improvement and/or enlargement) of the new water line by voluntary agreement with affected property owners, but was unable to reach voluntary agreements with a minority of property owners; and,

WHEREAS, the Town Council has, in closed sessions, previously authorized and directed town staff and

the Town Attorney, as applicable, to acquire the property interests necessary for the new water line and, in the event voluntary agreements to purchase such property interests could not be achieved, to proceed with condemnation of such property interests;

AND WHEREAS, pursuant to said prior authorization given in closed session, the Town Attorney did file sixteen condemnation actions in Watauga Superior Court, file numbers 15 CVS 461 through 15 CVS 476 on September 16, 2015;

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Boone, North Carolina, hereby affirms and ratifies its prior authorization of the filing of the aforesaid condemnation actions as necessary and in the public interest so that the Town may acquire such remaining real property interests (including but not limited to permanent easements and temporary construction easements) as are reasonably necessary or useful to construct, install, maintain, repair and/or improve the new water line;

AND BE IT FURTHER RESOLVED, that the Town Council authorizes and directs the Town Attorney to proceed with prosecution of said condemnation actions and related proceedings as such may be deemed reasonably necessary;

AND BE IT FURTHER RESOLVED, that the Town Council authorizes and directs Town officials, employees, representatives, contractors and agents, including but not limited to the Director of Public Works, the Town Manager, the Town Clerk, the Town Manager, the Mayor and the Mayor Pro Tem, to execute such documents and provide such testimony or other evidence as may be required for the prosecution of such condemnation actions and related proceedings.

Adopted this 15th day of October, 2015.

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE 249)

RESULT:	APPROVED [3 TO 1]
MOVER:	Lynne Mason, Council Member
SECONDER:	Quint David, Council Member
AYES:	Mason, David, Brantz
NAYS:	Clawson
ABSENT:	Hay

TOWN MANAGER UPDATE

Town Manager John Ward updated Town Council on the following items:

- Police Chief Dana Crawford introduced the new Communications/Records Supervisor Kevin Hardy.
- The greenway restoration project has an expected completion date of Oct. 23 with paving and trail restoration.
- Announcement of upcoming events and update on recent events in town.

Council Member Mason stated she'd like to see a dedication planned with the town, Army Corps, New River Conservancy and others involved in the greenway restoration project. Mr. Ward advised he would follow-up on this.

ANNOUNCEMENT OF BOARD VACANCIES

Mayor Pro Tem Brantz announced current vacancies on various Town boards. He also noted that Pam Williamson has resigned from her position on the Affordable Housing Task Force. This position is set to expire Feb. 18, 2016.

APPOINTMENT OF MEMBER TO PLANNING COMMISSION

Council Member Clawson nominated Charlie Myers for the ASU representative position on this commission. With no further nominations, Mayor Pro Tem Brantz called for a vote.

Mr. Myers' term on this commission will expire June 30, 2016.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Loretta Clawson, Council Member
AYES:	Mason, David, Clawson, Brantz
ABSENT:	Hay

APPOINTMENT OF MEMBER TO SUSTAINABILITY, ECONOMICS AND ENVIRONMENT COMMITTEE

Council Member Clawson nominated Harvard Ayers to serve on this committee. With no further nominations, Mayor Pro Tem Brantz called for a vote.

Mr. Ayers' term on this committee will expire Oct. 15, 2017.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Loretta Clawson, Council Member
AYES:	Mason, David, Clawson, Brantz
ABSENT:	Hay

CLOSED SESSION

ENTERING CLOSED SESSION

Upon a motion by Mayor Pro Tem Brantz, seconded by Council Member Clawson, Council moved to enter into closed session to hear the following items:

A. 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 a potential claim involving the Town of Boone.

B. 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 a claim involving the Town of Boone and Ronald S. Cooper, et al.

C. 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 public body, which privilege is hereby acknowledged, for legal advice concerning the unsealing of closed session minutes of the Boone Town Council.

D. 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 the State of North Carolina.

E. Pursuant to N.C.G.S. 143-318.11(a)(3) and (a)(5), 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 terms of possible acquisition of property.

F. Pursuant to N.C.G.S. 143-318.11(a)(3), to discuss with the Town Attorney the condemnation actions filed as 15 CVS 462 through 476, Watauga County Superior Court.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Rennie Brantz, Mayor Pro-Tem
SECONDER:	Loretta Clawson, Council Member
AYES:	Mason, David, Clawson, Brantz
ABSENT:	Hay

EXITING CLOSED SESSION

Upon a motion by Mayor Pro Tem Brantz, seconded by Council Member Clawson, Council moved to exit closed session at 8:55 p.m.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Rennie Brantz, Mayor Pro-Tem
SECONDER:	Loretta Clawson, Council Member
AYES:	Mason, David, Clawson, Brantz
ABSENT:	Hay

ADJOURNMENT

MOTION

Upon a motion by Council Member David, seconded by Council Member Clawson, Council moved to adjourn the meeting at 8:58 p.m.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Quint David, Council Member
SECONDER:	Loretta Clawson, Council Member
AYES:	Mason, David, Clawson, Brantz
ABSENT:	Hay

Christine Pope, Town Clerk

Rennie Brantz, Mayor Pro Tem