

**MINUTES – REGULAR MEETING
BOONE TOWN COUNCIL
October 17, 2019**

CALL TO ORDER

A regular meeting of the Boone Town Council was called to order at 6:00 p.m. on Thursday, October 17, 2019 in the Council Chambers located at 1500 Blowing Rock Road in Boone. Mayor Rennie Brantz presided. Council Members present included Mayor Pro-Tem Loretta Clawson, Lynne Mason, Sam Furgiuele, Connie Ulmer and Marshall Ashcraft. Staff Members present included Town Manager John Ward, Town Clerk Nicole Harmon, Public Works Director Rick Miller, Planning Director Jane Shook, Senior Planners Christy Turner and Marty Little, and Police Chief Dana Crawford. Town Attorney Allison Meade was also in attendance.

ANNOUNCEMENTS

Mayor Brantz welcomed all in attendance and asked anyone who wished to speak to please sign up.

ANNOUNCEMENT OF BOARD VACANCIES....PACKET PAGE 4

Mayor Brantz announced the following board vacancies:

BOARD OF ADJUSTMENT

One alternate position

COMMUNITY APPEARANCE COMMISSION

Four positions

CULTURAL RESOURCES ADVISORY BOARD

Four positions

DOWNTOWN BOONE DEVELOPMENT ASSOCIATION

One Council appointed position

HISTORIC PRESERVATION COMMISSION

Two positions

OUTSIDE AGENCY FUNDING REVIEW COMMITTEE

One position

PLANNING COMMISSION

One position

SUSTAINABILITY COMMITTEE

One position

TOURISM DEVELOPMENT AUTHORITY

One position – business that collects tax

WATER ADVISORY COMMITTEE

One position

TENATIVE AGENDA ADOPTION

Upon a motion by Ms. Mason, seconded by Mayor Pro-Tem Clawson, Council voted to approve the agenda as presented.

VOTE:	Aye:	All
	Nay:	None

PUBLIC COMMENT

Mary Moretz of Boone spoke about the poor condition of the Hayes-Bryan cemetery on Charles Street in Boone. She stated that there were some significant people to the Town's history interred at this cemetery, including people with significance to Daniel Boone. Ms. Moretz stated that the cemetery was approximately 1/3 to 1/2 an acre and was a family cemetery. She was unsure who the trustees of the cemetery were but she was certain the Town could find out, with hopes of establishing a partnership with the Town for fencing and a historical marker. Upon a motion by Mr. Furgiuele, seconded by Mayor Pro-Tem Clawson, Council voted to amend the agenda to discuss this matter further at the end of Council matters.

VOTE: Aye: Furgiuele, Clawson, Mason, Ashcraft
 Nay: Ulmer

Jodie Feimster of Crumpler addressed Council regarding the item later on the agenda to discuss the conversion of the Town's electric vehicle charging station on Depot Street. She noted that the station currently did not serve the majority of the market of electric vehicles, and that as a Tesla owner, she knew what it was like to have to carry adapters around to try to get charges for her vehicle. Ms. Feimster added that she was not asking that Council remove the charger, only that Council add an adapter to it, which she believed was doable. Mr. Furgiuele asked Ms. Feimster if she knew what kinds of cars could be charged at the station currently. Ms. Feimster answered that she believed the station currently would charge the Nissan Leaf, a few Hondas and certain Teslas with the use of an expensive adapter. She noted that at almost \$500, most Tesla owners refused to purchase the adapter, and added that the cost would be approximately the same to install the adapter permanently. Mr. Ward stated that when the charger was initially installed, the Town was led to believe that Teslas came with the needed adapters, and noted that in order to encourage use of the charger, the Town decided not to implement a pay-to-use system. Ms. Feimster stated that electric vehicle charging stations were always free in her experience, but believed that the system would be flawed if it were not changed. After brief discussion regarding the ASU charging stations and phone applications that showed the location of certain chargers, Mr. Ward stated that staff had identified a potential grant to fund one of these charging stations, though he was unsure of the location in which it would be installed.

Lloyd Scott of Park Street in Boone spoke against the proposed annexation by Hackett Properties, Inc. He stated that he had lived in the area since 2010 and had concerns about the potential annexation. He believed that the proposed annexation had the potential to adversely affect the neighborhood depending on the scope of the project, and expressed concern about many aspects of the project including security, lights, traffic and environmental issues. Mr. Scott stated that his property was located approximately 15 feet away from the Hackett property line and that other neighbors were similarly close. He added that currently, the neighborhood was tranquil with little traffic, but believed that this project would negatively impact that with the increase in residents, and even more so if it was a student population. Mr. Scott believed that people in the neighborhood would rarely be able to open their windows due to the increase in noise and light pollution, and noted that if the entrance to the proposed development was shared with the entrance to Park Street, he was concerned with the street's ability to support the increase in traffic. He added that the street was deemed too narrow in the past and could barely support two-way traffic currently. Mr. Scott indicated that when he moved into the area, his moving truck could not fit on the road, and did not believe that the road could handle construction equipment or the increased traffic. He was also concerned about parking, especially overflow parking on game days. Mr. Scott added that the area also saw significant stormwater drainage issues and was concerned that this project would worsen the effects and would increase the chances of landslides in the area. Mr. Scott finished his comments by voicing his concern about the viewshed and tree removal in the area, some of which had already occurred, as well as the decrease in his property value if the annexation was allowed to move forward.

Juanita Hay expressed her thanks to Council for the work of the Public Works Water Department for their attention to a recent water problem at her home.

Michael Curcio of Park Street in Boone spoke against the proposed annexation by Hackett Properties, Inc. and stated that he had numerous issues with the project. He believed that Mr. Hackett had every right to develop six acres of his property as the UDO allows, but not at the expense of the long-established neighborhood. Mr. Curcio felt that there were too many unknowns that would potentially effect the neighborhoods and did not believe it would be possible for the Town to properly enforce its own occupancy restrictions within the R4 zoning district. He stated that there had been a long history with this tract of land, and that the original plan was to subdivide it. Mr. Curcio believed that if the applicant was allowed to annex ten acres into the Town limits as R4, that would leave six acres

for the developer to develop as he sees fit by right. He continued by saying that he does not believe that that is what Mr. Hackett bought, but that he bought six acres zoned as R4. He believed that if the applicant was allowed annex ten acres into the Town as zoned as R1 with multiple zoning designations, that he could use those ten acres as part of livable space for the R4 development, which he believed would be an incompatible density. He believed that there were too many unknowns and too many unforeseen consequences that would negatively impact the neighborhoods. Mr. Curcio added that he was not opposed to Mr. Hackett subdividing the land, and stated that he and his wife had invested in the Town of Boone and that he expected protection with the established zoning.

Marjon Zimmerman of Park Street in Boone spoke against the proposed annexation by Hackett Properties, Inc. She stated that she and her family moved from Orchard Street due to the King and College Development, and that she may have to consider moving away from Park Street due to the Hackett development if this annexation was approved. Ms. Zimmerman stated that she hoped Council would take the neighborhood residents into consideration when making their decision.

REQUESTED APPEARANCES

PAUL FORTE - VICE CHANCELLOR FOR BUSINESS AFFAIRS APPALACHIAN STATE UNIVERSITY.....PACKET PAGE 6

Paul Forte, Vice Chancellor for Business Affairs at Appalachian State University asked for Council's consideration on a U1 zoning allowance in a B3 district in order to allow classes to be held at the Appalachian Theatre. Mayor Brantz asked what kind of classes would be held at the Theatre if approved, and how many students would be permitted to be in each class. Mr. Forte answered that the classes would consist on average of 150 students or less, with a need for larger classes from time to time. Ms. Mason noted that there had been numerous parking problems at the Greenway trail near the Health Sciences building and believed in order for this project to be considered, that anticipating parking needs should be critical. She stated that many days downtown parking was full at 8 a.m., and that she was of the opinion that it was easier for a student to accumulate parking tickets than to pay for costly parking on campus. Ms. Mason added that she and others had worked hard to develop a vibrant downtown and that Council needed to make sure that they were doing all they could to protect parking. She asked if there was a legitimate need for this classroom space, to which Mr. Forte responded that there was, due in part to the fact that Sanford Hall was closed. He added that ASU had worked with the Theatre to help fund them and that the University needed to get some value in return for that funding. Mr. Forte stated that the University would be using the Theatre for classes Monday through Thursday and that they would be providing additional parking with the new Peacock parking deck. Ms. Ulmer was worried that additional traffic in the downtown area would congest traffic even more, with Mr. Forte stating that he believed students would walk to their classes at the Theatre. He added that faculty would work to educate students on their parking options and he did not believe parking would be an issue at all. Mr. Forte noted that ASU had moved 100 offices off-campus which alleviated parking spaces. Mr. Furguele asked how much money was given to the Theatre by ASU. Mr. Forte answered that ASU had pledged \$100,000 for 10 years. When asked by Mr. Furguele what the impact would be to the University if they were not able to hold classes in the Theatre, Mr. Forte answered that ASU would not be able to move forward with the funding contract. Mr. Furguele stated that he would endorse the zoning allowance as long as there was a sunset period, since he wanted to see the Theatre thrive. He asked whether ASU would be open to prohibiting students from attending classes there from parking downtown with the threat of academic discipline. Mr. Forte was unsure how this would be enforced and whether or not it was legal, with Mr. Furguele suggesting that students provide their license plate number to Town parking enforcement, though he was unsure of the law surrounding the matter. Mr. Forte answered that he would work with Mr. Ward to see if this was feasible and noted that the owner of the Theatre was in favor of the arrangement with ASU. Mr. Furguele stated that he was not in favor rezoning the Theatre and believed that this should be an accessory use with a sunset date. Mr. Forte stated that he and the Theatre were in agreement. Ms. Mason asked what percentage of classes would be held at the Theatre, with Mr. Forte answering that the Theatre would be used 112 instructional days per year for four weeks between September 1 and August 31 as a combination of classes and general theatre use. Ms. Mason asked whether classes would prevent the Theatre from setting up for shows, with Mr. Forte responding that ASU would work together with the Theatre, and noted that the Theatre had another room upstairs that students could use for classes. He noted that both the main room and the additional room would not be used by students at the same time. Mr. Furguele

asked how many spaces were available at the pay lot next to Town Hall, to which Mr. Ward answered approximately 75. Mr. Furgiuele asked how full the lot was first thing in the morning, with Mr. Ward responding that the lot was almost always mostly full. Mr. Furgiuele asked if the Town could offer the spaces behind the Vetro building temporarily for use by students. Mr. Ward stated that Council could choose to do so, but this would be taking spaces away from downtown businesses. Ms. Mason stated that her commitment was to see that businesses were not hurt and that she witnessed the difficult parking situation every day, and believed that this could have a negative impact on the downtown businesses. Mayor Brantz suggested that faculty add educational information about the parking situation into the class syllabus. Mr. Forte reiterated that faculty and staff would educate students about the parking situation and added that if they had to go through the Student Government Association, they would do so. Ms. Meade stated that in terms of enforcement if students were prohibited from parking downtown, the Town could identify violators, but ASU would have to take penal action, especially against students. Ms. Ulmer stated that the whole Town was inundated by vehicles, that it was an ongoing issue, and believed that Council should move forward on a trial basis. Mr. Furgiuele agreed that there should be a trial period with the potential for renewal. He pointed out that at least in the past, ASU monitored the behavior of students off-campus, such as for drinking and drug violations, using its powers of suspension and expulsion to control off-campus behavior, and that he would be interested in having an answer to whether or not the parking situation could be monitored before moving forward with a decision. Mr. Furgiuele made a motion to authorize staff to develop a proposed text for an accessory use in the B1 zoning district for a limited period of time. Mayor Pro-Tem Clawson seconded the motion. Mr. Ashcraft suggested that staff get input from the Downtown Boone Development Association regarding parking since most downtown businesses open after 10 a.m., and if there was a way that classes could potentially end before 10 a.m., that could lessen the impact. Mr. Furgiuele and Mayor Pro-Tem Clawson accepted Mr. Ashcraft's amendment. Mr. Forte noted that class schedules had to be published in January and was concerned about the timeline of this process. Mr. Furgiuele responded that that would not work with the Town's public hearing schedule. He added that he was alright with the draft text not coming back to Council prior to the public hearing, but asked that staff work with the applicant to make sure that all the expressed concerns were adequately addressed, and noted that there would not be support otherwise. Mr. Ward noted that there was no way for parking staff to run every single tag in Boone in an attempt to ticket a student attending classes at the Theatre parked downtown, but that he would work to explore other options.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Sam Furgiuele, Council Member
SECONDER:	Loretta Clawson, Mayor Pro-Tem
AYES:	Mason, Clawson, Furgiuele, Ulmer, Ashcraft

APPROVAL OF ITEMS ON CONSENT AGENDA

Upon a motion by Mayor Pro-Tem Clawson, seconded by Mr. Furgiuele, Council voted to approve the following items on the Consent Agenda:

1. Special Town Council Meeting Minutes - May 28, 2019
2. Special Town Council Meeting Minutes May 30, 2019
3. Regular Town Council Meeting Minutes July 18, 2019
4. Regular Town Council Meeting Minutes August 13, 2019
5. Regular Town Council Meeting Minutes August 15, 2019

VOTE:	Aye:	All
	Nay:	None

COUNCIL MATTERS

DISCUSS THE TOWN'S TOWING/"BOOTING" ORDINANCE REGARDING PREDATORY PRACTICES

Mr. Furgiuele presented a request for the Town Attorney to outline changes which were made to the towing and booting ordinance during a previous settlement of a lawsuit against the Town, as well as for her to give her view of the limits of the Town's authority and her recommendations, if any, as to how the ordinance could be strengthened to reduce predatory and burdensome practices taking place in Town. He added that two things motivated him to submit this action item. The first was an email from a motorist who was charged \$130 to retrieve their vehicle from a very short distance tow. The second was when he overheard a young woman walking behind him who was crying while telling a friend about having her vehicle towed from a private lot during a recent football game. When the young woman called the towing company to inquire about retrieving her vehicle, she was told that they were closed until Monday. The young woman lived in Raleigh and had no way to get back to Town the next week. Mr. Furgiuele believed that measures needed to be taken to fill in any holes in the ordinance and was concerned that predatory practices continued in Town. Mayor Brantz was under the impression that after the lawsuit had concluded, that the ordinance had been strengthened and things had improved. Chief Crawford replied that complaints had drastically reduced and that safe guards were in place to protect against predatory practices. Ms. Meade noted that changes had been made to require companies to provide fee schedules to the Police department which prohibited them from charging more than what was listed on the fee schedule within two days' notice. She added that there had been changes to the requirements for signage, identification badges, car signage, receipts, and noted that she believed it to be illegal per the ordinance for a motorist to be told that they could not get their car until Monday, she believed that the company would only have thirty minutes to give the motorist access to their vehicle. Ms. Meade believed that the idea of the previous ordinance changes was to wait and see what happened, and that Council would come back if they found it to be insufficient. Mr. Furgiuele expressed specific concern about the changes made to the ordinance regarding the return of a towed vehicle that had been taken to a distant location and the high charges which are being made. Mr. Furgiuele made a motion to direct the Town Attorney to research and bring back ways to strengthen the towing and booting ordinance to make sure the Town was not condoning predatory practices in Town involving towing and booting. Mayor Pro-Tem Clawson seconded the motion. Mr. Furgiuele added that he wanted to see if the Town had the ability to criminalize a violator if they did not return someone's vehicle within the stated time period. Mayor Pro-Tem Clawson accepted this addition.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Sam Furgiuele, Council Member
SECONDER:	Loretta Clawson, Mayor Pro-Tem
AYES:	Mason, Clawson, Furgiuele, Ulmer, Ashcraft

TOWN MANAGER UPDATE

Mr. Ward updated Council on the following items:

1. Staff is working on coordinating an ICMA SolSmart Project, which is a US Department of Energy program that offers technical assistance to communities to review their ordinances in an attempt to remove barriers in installing solar collectors in private property.
2. Staff is continuing work on the USDA community facilities loan application, as well as the Appalachian Regional Commission grant application, both for the Howard Street project.
3. Green Street Sanitary Sewer Improvements: survey, design, permitting, and inspection performed by Davis, Martin & Powell, construction by Public Works - Utility Operations Division: The project is now complete. Complete street resurfacing of the construction area was made possible through project cost savings by Town staff.
4. Charles and Gladys Street Water Storage Tank Rehabilitation, Design, Permitting, Bidding, Contact Administration and Inspection by McGill Associations: Staff has solicited and received 3 bids for the project. The project engineer's recommendation was presented for consideration and approved at Tuesday's meeting.

Staff will now proceed with execution of additional contract documents and work with the contractor and engineer to develop a project schedule.

5. USDA Water Intake Project: The new intake and booster pump station are being utilized for normal operations and are working very well. The project has been completed and closed out with USDA. The Town was able to recapture \$1,648,902.74 of the money advanced for engineering and legal costs, \$1,824,000.00 or 90.4% of the available grant funds.

6. Emergency Sanitary Sewer Repair - ASU Raley Hall Area: In the course of sidewalk construction near Raley Hall on the campus of Appalachian State University, a sanitary sewer issue was discovered. The problem concerns a town owned sewer line that serves multiple structures and property owners in this area, and upon further investigation by both ASU and Town staff, it was determined that the sewer line was in complete disrepair and a potential danger to public health. The sewer line in question is greater than 15 feet deep and in a location that is inaccessible for traditional excavation and repair methods. In light of this information, an emergency repair using specialized methods was deemed necessary and Iron Mountain Construction was contracted for this task at a cost of \$45,360.00. Construction is now underway and will hopefully be complete by the time this update is provided to you. Funds from our existing water and sewer maintenance budget were utilized to pay for this expense however, if necessary Public Works may present a budget amendment later in the fiscal year for Council's consideration.

7. Perkinsville Drive - In the last month, approximately 700' of storm water pipe, 10 catch basins, and 950' of curb & gutter have been installed from the Grove Street intersection to Bojangle's. Sidewalk installation will continue in this section until cold weather prevents concrete pouring. Also, the roadway has been widened and resurfaced from Grove Street to Modern Drive.

8. The Town of Boone Public Works Department began residential leaf pick up on October 14, 2019. Leaf collection trucks will run daily routes through December 13, 2019. Leaves should be placed curbside and free of all other debris. It is not necessary to call to schedule a pick up. For current route information, please contact the Town of Boone Facilities Maintenance Division at (828) 268-6230.

9. LED light conversion project: staff has worked with New River Light and Power on a full assessment of Town of Boone street lights. Not every light has a meter, but does get assessed a monthly fee based on estimated use. Mr. Ward stated that the Town would be receiving a credit for some of the lights that were switched, which could be used for switching out more lights. Mr. Ward stated that more information would be given before the end of the year.

10. Water Bill Donation Project: Staff has been working with the Town's utility billing software company to allow for customers to donate money to a fund which will be sequestered away and distributed to outside agencies with which the Town has a contract. The plan is to roll out the program around the Thanksgiving season. Mr. Ward added that he hoped organizations would lean on their social media platforms to get the word out about the program.

11. Mr. Ward announced a recent news article in the New York Times highlighting the area.

12. Updated list of meetings and events.

13. Mr. Ward announced that the Town had received several requests to block neighborhood roads on Halloween. Due to a home game on Halloween resulting in a lack of resources, the Town will not be able to accommodate these requests. The Police department will increase patrol as they are able.

14. Town of Boone 2019 election update and schedule

15. Staff is working on bringing staff ID cards into compliance to be used as voter ID's

16. \$582,100 in grant funding has been secured this year

17. Staff has been working to provide increased fishing opportunities in the Brookshire area, which would have a huge tourist draw.

18. Jones House Trees: The Town has had four arborists, forestry service employees, Town staff, and a tree historic preservationist, and that it was recommended that the trees be pruned and cabled for stabilization which was scheduled on the 27, 28 of this month in an effort to extend the life of the trees. Mr. Ward noted that there was a seedling in one of the gaps in one of the trees that the parties felt confident could be removed and replanted to keep gene growing. Staff will explore signage to protect the trees and to increase caution during wind events, and will also explore an update for fencing around the lawn to provide additional safety for visitors.

19. Staff will continue working on a resiliency plan

Mr. Furgiuele asked if staff had heard from the Watauga County Food Council on whether they would bring their report back in November with recommendations for a local food plan. Staff confirmed that the report would be presented in November.

Mr. Ward noted that Burrell Street and Martin Luther King, Jr. Street signs had been installed and maps had been updated. A ceremony celebrating Martin Luther King, Jr. Street will be scheduled for January. Letters have been sent to affected property owners and staff has been working with public safety and delivery drivers to notify them of the changes as well.

Mayor Pro-Tem Clawson and Mr. Ashcraft expressed their thanks to Mr. Ward for his work.

Mayor Brantz declared a break at 8:27 p.m. Council reconvened at 8:39 p.m.

TOWN ATTORNEY REPORT

Ms. Meade updated Council on the following items:

1. Updated priority list: Nuisance ordinance; AirBnB; ASU classes; smoking and vaping at AppalCart stops; Town's legal authority regarding riparian buffers. Mr Furgiuele believed that the riparian buffer issue should be moved to second place on the list, and that the renegotiation of the franchise agreement with New River Light and Power should be added to the list. He added that he did not believe the towing/booting ordinance to be as critical. Mr. Ashcraft asked what the timetable was on the franchise agreement, to which Ms. Meade responded that it did not expire and that it had been in place for 100 years, and added that she needed time to research utility laws. Ms. Meade restated the revised list of priorities: Nuisance ordinance, riparian buffers, AirBnB, NRLP franchise agreement. Mr. Furgiuele stated that he would also like to discuss having the Community Appearance Commission bring in experts on birds to discuss environmental protection and the ways the Town's appearance codes could be reconsidered to protect wildlife.

BOARD LIAISON REPORT

Ms. Mason stated that the Transportation Committee had recently completed a walking audit and that they were working to compile a report to bring back to Council. Mr. Furgiuele stated that the Community Appearance Commission was scheduled to meet next week and that they hoped to finish up their draft on the downtown interface and core standards for review by the Town Attorney and subsequent presentation to Council. Mayor Brantz stated that the Historic Preservation Commission had approved the local historic district boundary map at its most recent meeting.

CONSIDERATION OF REAPPOINTMENT - RPO RTAC

Mayor Pro-Tem Clawson nominated Mayor Brantz to serve as the Town representative for the High Country Rural Planning Organization on the Rural Transportation Advisory Committee. Hearing no further nominations, Mayor Brantz called for a vote.

VOTE: Aye: All
 Nay: None

Mayor Brantz's term will expire on January 1, 2022.

APPOINTMENT TO PLANNING COMMISSION

Mr. Furguele nominated John Tippet to serve on the Planning Commission. Hearing no further nominations, Mayor Brantz called for a vote.

VOTE: Aye: All
 Nay: None

Mr. Tippet's term will expire on October 31, 2022.

CONSIDERATION OF CASES HEARD AT THE SEPTEMBER 23, 2019 PUBLIC HEARING

Senior Planner Marty Little presented a request for Council to consider the two cases heard at the January 28, 2019 Planning Commission meeting. He noted that due to the late hour, members were only able to make recommendations on the map amendments, with the rest of the amendments being tabled to the October 28, 2019 meeting.

Case PL02977-082019 Caldwell Hospice - General Use Zoning Map Amendment

Mr. Furguele felt that there was confusion among Planning Commission members in that they thought they were considering a site specific plan, and that there was no discussion about the many other uses in the O/I zoning district which would be allowed with a general rezoning. Mr. Little stated that this was in fact a component of the discussion during the meeting, and that the Planning Commission was made aware that this case was a general use zoning map amendment. Mr. Furguele noted that he did not see that discussion or deliberation reflected in the meeting minutes, and that because it was such a large tract, there was essentially nothing to prevent the property from being subdivided into smaller parcels with something more invasive such as an emergency response facility, all-night restaurant, or utility facility potentially developed on portions of the property. He added that if the lot size were smaller or if the applicant had requested a conditional district zoning process, he would not have such discomfort. Ms. Mason stated that she wished there was a more clear process for annexation. Mr. Little noted that uses were addressed during the meeting and that members felt that O/I addressed all the needed protections. Mr. Furguele stated that in reading the meeting minutes it appeared that members only discussed O/I and B3 zoning districts, and was concerned that the applicant could decide in the future to market the property as a park-and-ride business, or another similar, heavy impact business. Ms. Mason asked if it was possible to designate a different zone and have the applicant come back to Council at a later date to apply for conditional district zoning, but believed this to be a good opportunity to implement land use planning and stormwater management where there would otherwise be no control. Mr. Furguele agreed with this idea, but believed that it should not be zoned O/I or B3 but should rather be zoned lower such as R1 or RA to begin with, and then when the applicant has a site specific plan in place, they could come back to Council to request O/I zoning. Ms. Meade indicated that Planning staff went forward with recommending O/I zoning since they felt that was how they were directed by Council, and believed that it would make sense moving forward to make multiple zoning recommendations. She added that an application could also be made for conditional district zoning. Mr. Ashcraft made a motion to amend the agenda to consolidate this issue with the annexation item for the same case so that the petitioner would be able to speak. Mr. Furguele seconded the motion.

VOTE: Aye: All
 Nay: None

Ms. Meade opened the public hearing on Case PL02977-082019 Caldwell Hospice - Voluntary Annexation Petition. Mike Trew spoke on behalf of the applicant and stated that they understood Council's concerns, but

that they were serious going forward with the project which they had outlined. He stated that the applicant had already hired Municipal Engineering to complete topographical, geographical and wetland surveys and that they planned to move forward if they could obtain the proper zoning. He indicated that the bank would not approve funding for the project without proper zoning and noted that the applicant did not want to buy the entire property in the first place, but that since anything less than 10 acres was considered a subdivision, they were forced to buy a minimum of 10 acres. Mr. Trew noted that in his opinion, only the terrain at the front of the parcel was buildable, and that the remainder of the parcel was not conducive to development, other than possibly a few single-family homes. He added that hospice was a needed service in the area and that they had outgrown their current facility that was already in Town. He reminded Council that the applicant would have to meet UDO requirements when it was developed in terms of stormwater, and that they had already gone through their due diligence process and had spent a lot of time and effort in annexation process. Mr. Furgiuele was concerned that if the bank denied their loan, then Council could have potentially rezoned a tract of land that could no longer be used by the applicant. He stated that his objections had nothing to do with the quality of the applicant's services but that there were still contingencies on the property and that things could always change. He wondered why the applicant would not come forward and request conditional zoning with the site plan if it was already done. Mr. Trew reminded Council that protections were in place if they chose to annex this property into Town. Ms. Meade noted that Council was legally not allowed to approve petitions based on specific proposed uses, that they had to look at general uses. She also added that it would be possible for Council to table their vote and to allow the applicant to come back to Council with a different zoning petition combined with a conditional district zoning petition before annexation was reached, though it would mean a two-month delay. Mr. Furgiuele supported tabling the annexation request to change to conditional district zoning using the current plans. Mr. Trew expressed that Council had thrown his clients a curve ball since they had taken the advice given to them by staff, and noted that they had not yet done a stormwater retention study. Mr. Furgiuele confirmed with Mr. Trew that if approved, construction could not start until spring of 2020. Mr. Trew answered that it would depend, that crews could do some grading work. He expressed some frustration with the extended time frame. Ms. Shook asked Council for a 5 minute break to allow the applicant time to discuss the matter with the engineer. She also stated that her impression of the Planning Commission meeting discussion was that members did consider conditions, but that they considered the Town's zoning protections were worth choosing over the County's lack of protections. She asked whether Council would consider holding a special public hearing regarding this matter and it was the general consensus of Council to hold a special public hearing if needed to hear this item. Upon a motion by Mr. Furgiuele, seconded by Mayor Pro-Tem Clawson, Council voted to table this item to allow the applicant time to confer.

VOTE: Aye: All
Nay: None

CONSIDERATION OF GLENN VOLUNTARY ANNEXATION PETITION (3RD STEP)

Ms. Meade opened the public hearing on Case PL02841-070319- Glenn voluntary annexation. Upon a motion by Mr. Furgiuele, seconded by Ms. Mason, Council voted to approve the Ordinance to Extend the Corporate Limits as presented.

Ordinance # _____

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE
TOWN OF BOONE, NORTH CAROLINA
(Robert Chase Glenn and Timothy Dale Glenn)

WHEREAS, the Town Council has been petitioned under G.S. 160A-31 to annex the area described below; and

WHEREAS, the Town Council has by resolution directed the Town Clerk to investigate the sufficiency of the petition; and

WHEREAS, the Town Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at Council Chambers at 1500 Blowing Rock Road at 6:00 p.m. on October 17, 2019, after due notice by the Watauga Democrat on October 2, 2019; and

WHEREAS, the Town Council finds that the petition meets the requirements of G.S. 160A-31;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Boone, North Carolina that:

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described territory is hereby annexed and made part of the Town of Boone, as of October 17, 2019:

A parcel of land lying on the north side of Poplar Grove Road approximately 1600 feet east from The Meadows and approximately 1.15 miles from the intersection of Poplar Grove Road and NC Hwy 105 and being an portion of the lands described in Book of Records 1895 at page 91 of the Watauga County Public Registry, bounded on the west by ASU Endowment Fund, shown on plat recorded in Plat Book 11 at page 217, on the north by Corporation of the Presiding Bishop of The Church of Jesus Christ of Latter-Day Saints, described in Book of Records 543 at page 725, on the east by Johnny K. & Allison C. Hodges, shown on plat recorded in Plat Book 20 at page 150, as surveyed by Donald H. McNeil, P.L.S., L-2809, survey no. 19104, dated May 6, 2019 as BEGINNING on an existing 5/8 inch rebar found being the common corner between ASU Endowment Fund and Corporation of the Presiding Bishop of The Church of Jesus Christ of Latter-Day Saints, being located South 62 degrees 54 minutes 50 seconds West 138.96 feet from an existing 5/8 inch rebar being the northeast corner of the lands conveyed to Robert Chase Glenn and Timothy Dale Glenn by deed recorded in Book of Records 1895 at page 9, and being the beginning corner for Robert Chase Glenn and Timothy Dale Glenn shown on plotted survey dated May 6, 2019, a boundary and annexation survey; thence from the BEGINNING North 62 degrees 54 minutes 50 seconds East 24.86 feet to an calculated point being a point in the southern property line of Corporation of the Presiding Bishop of The Church of Jesus Christ of Latter-Day Saints and the property line of Robert Chase Glenn and Timothy Dale Glenn, point being a corner of City Limits of Boone; thence with the City Limits of Boone South 43 degrees 23 minutes 55 seconds East 91.48 feet to an calculated point in the center of Poplar Grove Road; thence with the center of Poplar Grove Road and leaving the City Limits of Boone with a curve to the left with radius of 235.00 feet; an arc length of 115.49 feet (chord South 62 degrees 49 minutes 00 seconds West 114.33 feet) to an calculated point; thence continuing with center of Poplar Grove Road South 48 degrees 44 minutes 20 seconds West to an calculated point at the point of curvature, then with a curve to the right having a radius of 155.00 feet an arc length of 30.62 feet (chord South 54 degrees 23 minutes 55 seconds West 30.57 feet) to an calculated point in the center of Poplar Grove Road and being a common corner to ASU Endowment Fund; thence leaving Poplar Grove Road and with the lands of ASU Endowment Fund North 19 degrees 45 minutes 50 seconds East passing an existing 1/2 inch conduit at 55.18 feet and continuing 79.39 feet in total 134.57 feet to an existing 5/8 rebar being an common corner to ASU Endowment Fund and located North 31 degrees 46 minutes 40 seconds West 2.25 feet from the western corner of one story wood frame house; thence continuing with ASU Endowment Fund line North 47 degrees 17 minutes 50 seconds 59.56 feet to the BEGINNING and covering an area of 0.251 acres as calculated by the coordinate geometry and having bearings

relative to North Carolina Geodetic Survey (NAD '83 (NSRS 2007)) per GPS control and all distances being horizontal measurements.

Section 2. Upon and after October 17, 2019, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the Town of Boone and shall be entitled to the same privileges and benefits as other parts of the Town of Boone. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the Town of Boone shall cause to be recorded in the office of the Register of Deeds of Watauga County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the County Board of Elections as required by G.S. 163-288.1.

Adopted this 17th day of October, 2019.

Rennie Brantz, Mayor

ATTEST:

APPROVED AS TO FORM:

Nicole Harmon, Town Clerk

Allison Meade, Town Attorney

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Sam Furgiuele, Council Member
SECONDER:	Lynne Mason, Council Member
AYES:	Mason, Clawson, Furgiuele, Ulmer, Ashcraft

CONSIDERATION OF ANNEXATION PETITION - HACKETT PROPERTIES, INC.

Senior Planner Christy Turner presented an annexation petition for voluntary annexation for contiguous property located off Park Street in Boone. Mr. Furgiuele noted that it appeared from the survey that the entrance to the proposed development would be off of Ridgewood Road, and echoing the issue raised by Mr. Curcio during public comment, and expressed concern that if the property was zoned as R1 or R1A, that the developer would potentially be able to increase the density within the R4 portion of the property without regard to the fact that it was a different zoning district. Ms. Turner noted that the applicant had not submitted any information about what work would take place once the annexation was complete, and she was unsure whether part of the property brought into the Town could be used to meet intensity requirements for the other portion already in Town, and she noted that much of the property was in the viewshed and that there would therefore be significant grading restrictions on it. Mr. Furgiuele expressed concern that there were houses on both sides of the small spur of property that would potentially be used as a driveway, and that this could negatively affect those property owners' lives. He added that people along Park Street were already concerned about how narrow the street was and that this new development would only add to their frustrations. Ms. Turner noted that the Fire department also had access concerns when reviewing this annexation application. Mr. Furgiuele stated that upon the offer of a prior owner of the property the Town had previously required that the undeveloped land be placed in a perpetual land conservancy and wondered if this requirement was still valid. Ms. Meade did not believe that any of the prior agreements were valid and said she said that the Town could not require that any of the land be put into a conservation trust. Ms. Turner indicated that the applicant would like to address Council. Ms. Meade stated that that would be up to Council to decide, but that this was not the time for public hearing which would come later if the Council allowed it to move forward. Mr. Furgiuele stated that he was not against sending this matter to public hearing to allow input on the rezoning of the property, but that he had significant concerns about the eventual use of the property. Ms. Meade asked whether there were water issues since the property was located in the secondary pressure zone and since the property was outside the Town limits and not extensions could be made-only connections. Mr. Furgiuele wanted to see staff's analysis for R1 and R1A zoning districts and to hearing from Public Works about water availability and Town-owned margins along Park Street. He then made a motion to send the case to public hearing on December 17. Ms. Ulmer seconded the motion.

VOTE: Aye: All
Nay: None

Mr. Furgiuele made a second motion to have staff prepare analyses for the property for R1 and R1A zoning districts. Ms. Mason seconded the motion.

VOTE: Aye: All
Nay: None

CONSIDERATION OF CALDWELL HOSPICE VOLUNTARY ANNEXATION PETITION (3RD STEP)

Ms. Meade re-opened the public hearing on Case PL02849-070319 Caldwell Hospice voluntary non-contiguous annexation. Mr. Trew stated that he and his clients had discussed Council's comments at length and felt that Council had thrown them for a loop. They believed that they had done everything that had been asked of them by Council and staff and noted that time was a very important factor in this project. He indicated that his clients would have to ask for an extension of their contract and that they would have to deal with the upcoming election and the uncertainty of new Council members and that this could put them in a bind. The applicants felt that if they had known Council's concerns prior to this public hearing, that would have been helpful. Mr. Furgiuele asked Ms. Meade whether if Council moved forward with a general rezoning and delayed the effective date of

the annexation and general rezoning until February 1, 2020, would the applicant be able to move forward, and whether Council would be able to revisit or renegotiate the zoning or reverse its annexation action if the plans submitted were not consistent with what was originally indicated. Ms. Meade stated that she was comfortable with that approach. Ms. Shook confirmed that on a satellite annexation Council had six months to make the annexation effective. Ms. Mason felt that this case and the new process was uncharted territory and that she was sympathetic to the applicant. She hoped that the Town could come up with a more clear and transparent annexation process in the future. Mr. Furgiuele agreed that Council and staff was still in the learning process and added that with a parcel this size, he would have a higher level of comfort having a site plan to review before making a decision. He asked for guidance as to a proposed effective date of annexation. Ms. Meade indicated that date needed to be a month or two after the main plans were submitted. Ms. Shook reminded members that staff could not release any permits until after the property was actually in the Town's jurisdiction. Mr. Trew reiterated that no construction work would take place until spring. Ms. Meade felt that time should be allowed if an issue arose, and believed that the annexation should be effective in March. Ms. Mason made a motion to approve the annexation petition because it is consistent with Comprehensive Plan policy 1.1 Economic Development; 1.2 Growth Strategy Map (secondary growth area); 2.1.1A Economic Development. Ms. Mason restated her motion to remove Comprehensive Plan policy section 1.2 Growth Strategy Map (secondary growth area) from her motion. Mr. Furgiuele seconded the motion.

VOTE: Aye: All
Nay: None

Ms. Mason made a second motion to approve the annexation petition because the annexation is a means to incorporate an unzoned property into the Town where the property will be zoned and subject to zoning regulations. Mayor Pro-Tem Clawson seconded the motion.

VOTE: Aye: All
Nay: None

Ms. Mason made a motion, which was seconded by Mayor Pro-Tem Clawson, to adopt the Ordinance to Extend the Corporate Limits as presented effective February 1, 2020.

VOTE: Aye: All
Nay: None

DISCUSSION OF UPCOMING MEETING SCHEDULE

Ms. Shook presented Council with a list of upcoming planning-related meetings and asked for further direction on how they would like staff to proceed. Mr. Ward noted that prior to the last election, in an effort to conclude items heard at the previous public hearing, the sitting Town Council called a special meeting to take action on these items before the new Council was sworn in. Mr. Furgiuele agreed that the Council should try to complete all the old items possible, and asked whether the November Planning Commission meeting should be scheduled for earlier in the month. Ms. Shook stated that she would check with Planning Commission members to see if they would be available, and asked Council to prioritize cases. It was the consensus of Council that the priority of cases should be: 1. Potential general use zoning map amendment case in connection with an annexation request; 2. Case PL03171-10319 R1 Small Home Residential Zoning District; 4. Case PL 03173-100319 R3 Minimum Lot Size; 9. PL 03178-100319 B3 Reduce Building Height and to try to meet at 5 p.m. on November 18 and to be continued on December 16 if needed. Mr. Ashcraft expressed discomfort with the current Council approving items before the new Council was sworn in. Mr. Furgiuele added that the Hackett annexation should not be the first item on the agenda.

Upon a motion by Mr. Furgiuele, seconded by Ms. Mason, Council voted to close Town of Boone offices on December 27, in addition to the regularly scheduled 24, 25 and 26th for the Christmas holiday.

VOTE: Aye: All
Nay: None

Upon a motion by Mr. Furgiuele, seconded by Mayor Pro-Tem Clawson, Council voted to temporarily suspend the rule to prohibit the discussion of new agenda items after 10:30 p.m.

VOTE: Aye: Furgiuele, Clawson
Nay: Ulmer
Abstain: Ashcraft, Mason

RESULT: CONSENSUS

UDO AMENDMENT - TRANSITIONAL ZONE PROTECTION TO LOW DENSITY AREAS IN FORMER ETJ

Mr. Furgiuele explained that the general rezoning request by Caldwell Hospice had brought into focus the problems with protecting single family neighborhoods outside the Town's zoning jurisdiction after the loss of the ETJ, and that if the Town wanted to be a good neighbor for people in the former ETJ, the transitional zone protections needed to be extended to areas where there had previously been low density zoning which was negated by the actions of the General Assembly. Upon a motion by Mr. Furgiuele, seconded by Ms. Mason, Council voted to direct staff to draft a UDO amendment to extend transitional zone protections to low-density areas in former ETJ areas.

RESULT: APPROVED [UNANIMOUS]
MOVER: Sam Furgiuele, Council Member
SECONDER: Lynne Mason, Council Member
AYES: Mason, Furgiuele, Ulmer, Ashcraft
ABSENT: Clawson

DEVELOP PLAN FOR OFFERING TOWN SERVICES AT END OF ASU SCHOOL YEAR TO PICK-UP ITEMS FOR RE-USE

Mr. Furgiuele asked that Council consider developing a cooperative plan for offering Town services at the end of the ASU school year to pick up reusable household items for redistribution at Legends. Mr. Ward stated that the Town currently did not have such a policy, but that staff was currently stretched to the limit, as was the Sustainability Committee. He added that he was glad to look into it further, but he was concerned with adding another task to their to-do list. Mr. Furgiuele asked that the conversation be continued in an attempt to draw awareness to the amount of items going into landfills. Mr. Furgiuele made a motion to direct staff to explore a project with ASU and develop a plan to divert usable household items around town away from landfills to Legends for resale at the end of the ASU school year. Mayor Pro-Tem Clawson seconded the motion.

RESULT: APPROVED [4 TO 0]
MOVER: Sam Furgiuele, Council Member
SECONDER: Loretta Clawson, Mayor Pro-Tem
AYES: Mason, Clawson, Furgiuele, Ulmer
ABSTAIN: Ashcraft

DISCUSS POTENTIAL AMENDMENT TO CODE TO CONFORM WITH BEE CITY DESIGNATION AND BIRD PROTECTION

Mr. Furgiuele presented a request for Council to discuss a potential code amendment to allow for better conformity with the Town's Bee City designation and bird protection, and asked members to think about how to balance appearance and maintaining a natural habitat for birds and bees. He made a motion to assign a task to the Community Appearance Commission once they have completed the downtown design standards and either with or subsequent to their consideration of tree protection in residential areas, to invite experts in bee and bird

health to participate in discussion about the lives of bees and birds in our community and to make recommendations back to the Town Council as to how the Town can work to balance the values of maintaining an attractive community with protecting natural areas and habitat. Mayor Pro-Tem Clawson seconded the motion.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Sam Furgiuele, Council Member
SECONDER:	Loretta Clawson, Mayor Pro-Tem
AYES:	Mason, Clawson, Furgiuele, Ulmer, Ashcraft

CONVERSION OF TOWN CHARGING STATION ON DEPOT STREET

Mr. Furgiuele presented a request to investigate the conversion of the electric vehicle charging station on Depot Street in an effort to allow use by a wider array of vehicles, including Teslas, and whether the use of the space by non-electric vehicles could be prevented, and made a motion to this effect. Mayor Pro-Tem Clawson seconded the motion.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Sam Furgiuele, Council Member
SECONDER:	Loretta Clawson, Mayor Pro-Tem
AYES:	Mason, Clawson, Furgiuele, Ulmer, Ashcraft

UDO MODIFICATION - REQUIRE LANDLORDS IN NCD TO REQUIRE COMPLIANCE WITH NOISE ORDINANCE IN LEASE

RESULT:	TABLED [UNANIMOUS]	Next: 11/19/2019 6:00 PM
MOVER:	Sam Furgiuele, Council Member	
SECONDER:	Lynne Mason, Council Member	
AYES:	Mason, Clawson, Furgiuele, Ulmer, Ashcraft	

AUTHORIZE TOWN MANAGER AND TOWN ATTORNEY TO RE-NEGOTIATE FRANCHISE AGREEMENT WITH NRLP

Upon a motion by Mr. Furgiuele, seconded by Mayor Pro-Tem Clawson, Council voted to authorize the Town Attorney to research and renegotiate the parameters of the franchise agreement between the Town and New River Light and Power, specifically to research whether it was proper to include terms for net metering. Mayor Pro-Tem Clawson seconded the motion. Mr. Ashcraft offered a friendly amendment to ask Ms. Meade to review other opportunities to encourage energy conservation within the confines of a franchise agreement. Mr. Furgiuele and Mayor Pro-Tem Clawson accepted this amendment.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Sam Furgiuele, Council Member
SECONDER:	Loretta Clawson, Mayor Pro-Tem
AYES:	Mason, Clawson, Furgiuele, Ulmer, Ashcraft

ADJOURNMENT

The meeting was adjourned at 11:02 p.m.

Nicole Harmon, Town Clerk

Rennie Brantz, Mayor