

**MINUTES – REGULAR MEETING
BOONE TOWN COUNCIL
October 18, 2018**

CALL TO ORDER

A regular meeting of the Boone Town Council was called to order on Thursday, October 18, 2018 at 6:00 p.m. in the Council Chambers located at 1500 Blowing Rock Road. Mayor Rennie Brantz presided. Council Members present were Mayor Pro-Tem Loretta Clawson, Lynne Mason, Sam Furgieue, Connie Ulmer and Marshall Ashcraft. Staff present were Town Manager John Ward, Town Clerk Nicole Worley, Public Works Director Rick Miller, Planning Director Jane Shook, Police Chief Dana Crawford, Police Captain Andy LeBeau, Cultural Resources Director Pilar Fotta and Public Works Deputy Director Josh Eller. Town Attorney Allison Meade was also in attendance.

ANNOUNCEMENTS

RECOGNITION OF JANET PEPIN AND FRANCESCA FIELD'S SUPPORT OF THE BOONE POLICE K-9 PROGRAM

Police Chief Dana Crawford presented a plaque to Janet Pepin and Francesca Fields in appreciation of their support of the Boone Police K-9 program.

ANNOUNCEMENT OF BOARD VACANCIES

Mayor Brantz announced the following board vacancies:

BOARD OF ADJUSTMENT

Two alternate positions

COMMUNITY APPEARANCE COMMISSION

Three positions

CULTURAL RESOURCES ADVISORY BOARD

Three positions

DOWNTOWN BOONE DEVELOPMENT ASSOCIATION

One Council appointed position

HISTORIC PRESERVATION COMMISSION

Two positions

OUTSIDE AGENCY FUNDING REVIEW COMMITTEE

One position

WATER ADVISORY COMMITTEE

Two positions

TENTATIVE AGENDA ADOPTION

Town Manager John Ward announced the addition of three items to the agenda which included the following:

1. Consideration of Ordinance for the Annual Boone Christmas Parade
2. Consideration of Resolution Regarding Proposed Changes to Highway 105
3. Request for Authorization to Make Payment to Appalachian Theatre

Upon a motion by Council Member Furgieue, seconded by Council Member Mason, Council voted to adopt the tentative agenda as amended.

VOTE: Aye: All
Nay: None

PUBLIC COMMENT

There was no one signed up to speak during the public comment period.

QUASI-JUDICIAL HEARING

REQUEST FOR SERVICE - PLAAG PROPERTIES, LLC

Town Attorney Allison Meade opened the public hearing and administered the oath to the applicant, Eric Plaag and to Adrian Tate. Mr. Plaag presented the request for service noting his and others' desire to help solve a significant problem in Boone in providing homes for working, middle class families. He stated that his proposed development would consist of cottage-style housing of approximately 1,200 square feet with 2 bedrooms and the option of a third. Mr. Plaag confirmed that most of the land being used for the development was located in the County, but that their lot size and septic requirements were prohibitive which was why he was requesting Town services. He noted that the entire property would be annexed into the Town if the request were granted. Mayor Brantz noted that there was a previous effort to provide affordable housing in the Junaluska neighborhood but it was suspended due to negative feedback from neighbors. Mr. Plaag confirmed a question raised by Mr. Furguele that the property was previously zoned as R-A. Mr. Furguele stated that the property on that particular size of Eastview Drive was a part of the former ETJ and was zoned as R-1. He wondered if Council were to approve this request and the annexation process continued, what if the Planning Commission's recommendations were different than the R-1 zoning preferred by the applicant. Mr. Furguele questioned whether Mr. Plaag would still proceed in the event the property was zoned as R-A, which would mean that the property would not allow as many units. Mr. Plaag stated that he would still proceed with the project even though Council was unable to guarantee the outcome of the annexation process. He stated that it was suggested by the planning department that he ask for water service first since the annexation process was more costly and noted that the UDO did not specify which request should come first in the process. Mr. Plaag assured Council that he was committed to initiating a project along these lines, but that he did have a break even point which would be taken into consideration if the annexation process did not go as planned. Mr. Furguele stated that if the request were approved with the stipulation that the applicant proceed with the annexation process that if there was any construction prior to annexation that it be performed to UDO standards which could be met whether the property was zoned R-1 or R-A. Mr. Plaag stated that there was an inhabitable house on the property and dog kennels that would need to be demolished but agreed with Mr. Furguele's request. Mr. Furguele asked about the location of previous water connections on the property. Mr. Plaag stated that the small lot in the middle of the property had a trailer on it that had Town water and sewer service, but that the trailer had since been removed. He added that a house located on the property of Adrian Tate which was scheduled to be demolished may also have had water and sewer service. Mr. Plaag stated that he would anticipate beginning site preparations immediately and would begin construction in March or April of 2019. Mr. Plaag also noted that the proposed cost of the homes would be approximately \$300,000. Mr. Furguele inquired whether the possible third bedroom would be built up or out, to which Mr. Plaag answered that it would be built up. Driveways were discussed briefly before Planning Director Jane Shook was sworn and stated in response to Mr. Furguele that if the property were designated R-A in the annexation process that she was unsure if the applicant would be able to proceed with the project and would have to run the numbers to make a determination. She stated that she did not believe determinations had been made as to the viewshed on the Tate property, but that there were no viewshed issues on the other properties across the street. Upon questioning by Mr. Furguele, Ms. Shook outlined the annexation process for members and noted that advertisements would be placed in the newspaper and property owners within 150 feet would receive additional notification of the potential annexation. Public Works Director Rick Miller was sworn and stated that the property was located in the secondary pressure zone and noted that upper parts of the property may have a pressure issue if they decided to build several stories, but that issue could be solved with a booster pump. Mr. Miller stated that the properties could be served by lines already in place and that no extensions would be required. The public hearing was closed at 6:38 p.m. Mr. Furguele stated that he believed the annexation process should take place before a request was considered to ensure the property owner knew what zoning designation would be attached to the property. He added that he believed it was unfortunate that the annexation process was so expensive. Ms. Mason noted that this project would address a housing need in the community, that the request met the hardship requirements and that she was in support of approval. Council Member Mason made a motion, which was seconded by Council Member Ashcraft to approve the water request as presented with the understanding that

the applicant would proceed with annexation and that if any construction took place before annexation was complete, that it be compatible with the UDO.

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

APPROVAL OF ITEMS ON CONSENT AGENDA

CONSIDERATION OF ORDINANCE FOR THE ANNUAL BOONE CHRISTMAS PARADE

Upon a motion by Mayor Pro-Tem Clawson, seconded by Council Member Furgieuele, Council voted to approve the following items on the consent agenda:

1. Ordinance for the Annual Boone Christmas Parade

**TOWN OF BOONE**

Ordinance _____

AN ORDINANCE DECLARING A ROAD CLOSURE FOR A HOLIDAY CELEBRATION

WHEREAS, the Boone Town Council acknowledges a long tradition of providing an annual Christmas parade 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 Christmas Parade 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): Saturday, December 8, 2018

Times: 10:30 a.m. – 12:30 p.m.

Route Description: King Street (U.S. Route 421) between Hardin Street and Poplar Grove Connector, and SR 1102 (Water St. / North Water St.)

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 _____ day of _____, 2017

The Honorable Rennie Brantz, Mayor

Attest:

Nicole Worley, Town Clerk

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

COUNCIL MATTERS

CONSIDERATION OF RESOLUTION REGARDING PROPOSED CHANGES TO HIGHWAY 105

Town Manager John Ward presented Council with a draft resolution regarding the proposed changes by NCDOT to Highway 105. Mr. Furgiuele thanked the Boone Area Chamber of Commerce for their letter of support and stated that the resolution reflected the discussion held on Tuesday night and was consistent with comments heard from the community. When asked by Mr. Furgiuele what he believed the impact of the resolution would be on the project, Mr. Ward stated that his feelings were that in adopting the resolution, it would assist our Senator and Representatives to have a collective view to utilize when approaching NCDOT. He added that he had been in contact with the Town's liaison to ASU who stated they would assist in any way possible and that Town lobbyists had been informed of the situation. Upon a motion by Council Member Furgiuele, seconded by Council Member Mason, Council voted to adopt the resolution as presented. Mayor Pro-Tem Clawson suggested that the term *eliminate* be added in place of the term *minimize* when speaking of loss of business. Mr. Furgiuele and Ms. Mason accepted this amendment, with Ms. Mason adding that the resolution should be sent to our state representative.

Resolution Regarding the Proposed Changes by N.C.D.O.T. on N.C. Highway 105/N.C. Highway 105 Bypass/Highway 105 and Highway 321 Intersection

WHEREAS, N.C. Highway 105 between Blowing Rock Road and the 105 Bypass is an important business corridor in Boone and needs to remain business accessible and friendly; and,

WHEREAS, the Super Street Plan presented by N.C.D.O.T. on October 9, 2018 to local elected officials does not reflect the character of Boone, which has limited incorporated areas with challenging topography, including streams and steep slopes; and,

WHEREAS, there is a need to eliminate the loss of parking spaces to businesses on this corridor, as adequate parking is critical to the viability of Boone's business community; and,

WHEREAS, there is a need to eliminate the displacement of businesses on this corridor, which would negatively impact our Town tax base, as it would be difficult for these businesses to relocate due to a lack of alternative options in Boone; and,

WHEREAS, there is a need for the Highway 105 Bypass to handle through traffic appropriately, which will reduce the demands on Highway 105; and,

WHEREAS, the Town of Boone recognizes that there is a need for improvements, safety and otherwise, on Highway 105, but the N.C.D.O.T. plan as presented is not the right plan for Boone; and,

WHEREAS, the Boone Town Council is in support of the letter from the Boone Area Chamber of Commerce Highway 105 Business Working Group which expresses a unified vision for our business community; and,

NOW, THEREFORE, BE IT RESOLVED that the Town Council for the Town of Boone requests that the N.C.D.O.T. provide design options other than the Super Street concept which we as a Town Council unequivocally oppose. These alternate designs, should preserve left hand turns from the center lane in both directions and utilize synchronized signals that are engineered to control speed without constantly stopping motorists, allowing Highway 105 to continue to be a business, resident and visitor friendly corridor, while also improving the overall safety of the road, incorporating the safety of vehicle travelers, pedestrians and cyclists; and,

That the Town Council for the Town of Boone requests that the N.C.D.O.T. present all three Highway 105 projects (U-6403, U-5705 and U-5603) along with the requested revisions in a unified manner so it is clear to everyone what the entire project will encompass and how it will function as a whole; and

That the Town Council for the Town of Boone requests that a revised Highway 105 design be presented in a public setting including a public comment/question and answer session with representatives from the N.C.D.O.T. and that the consulting design firm be in attendance to explain the revised design(s) with the integration of all three Highway 105 projects. The Town Council for the Town of Boone also requests an additional public comment period for the revised design(s) that would allow at least 90 days and include full and ample opportunity for public input; and,

That the Town Council for the Town of Boone intends to work with Watauga County, Appalachian State University, Town residents, Town businesses, concerned citizens groups and N.C.D.O.T. to guide the best design, function, usage, and appearance for Highway 105 and encourage N.C.D.O.T. to utilize this input in developing a redesign that does not utilize the currently proposed Super Street concept; and,

That the Town Council for the Town of Boone requests that the N.C.D.O.T. continue to plan for sidewalks, bike lanes and safe bus stops on both sides of Highway 105 in places where there currently are none; and,

That the Town Council for the Town of Boone requests that N.C.D.O.T. protect the existing Greenway Trail off Wilson Drive ensuring that it stays pedestrian and bicycle friendly and the Town of Boone owned greenspace identified as parcel #2910 03 6333 which is currently protected with a conservation easement, and reduce cuts into our mountains and hillsides so that impacts are consistent with the Town's Unified Development Ordinance; and,

That the Town Council for the Town of Boone intends to make the voices of the people whose lives will be affected by the outcome of the Highway 105 projects heard, since this project will affect the Town for decades to come.

Adopted by a unanimous vote of the Town Council on the 18th day of October, 2018.

Mayor Rennie Brantz

ATTEST:

Town Clerk Nicole Worley

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

REQUEST FOR AUTHORIZATION TO MAKE PAYMENT TO APPALACHIAN THEATRE

Town Manager John Ward presented a request to authorize the previously allocated \$100,000 to the Appalachian Theatre and to execute the deed for the property previously donated to the Theatre for their expansion. Mayor Pro-Tem Clawson made a motion, which was seconded by Council Member Mason to approve the payment to the Appalachian Theatre. Council Member Furguele asked about the progress of the construction on the Theatre, to which Appalachian Theatre Executive Director Laura Kratt responded that construction was currently in the second phase and that demolition has progressed substantially, with the removal of the stage house and platform, and added that crews were digging down to create orchestra space currently. She stated that crews were working hard to stay on schedule and anticipated that the project would be completed in late summer or early fall of 2019 barring any unforeseen circumstances. Mr. Furguele inquired as to whether wing construction would begin immediately, with attorney for the Theatre Jim Deal responding that

it would, and noted that in order to obtain a loan for the construction, the deed must be in hand by the Theatre. He stated that he hoped to be able to present the deed to Council in the next few weeks and to obtain the loan by early November. Mr. Deal confirmed that the Theatre had funds to continue building, but that they did not have funds to complete the project. Mr. Furgiuele asked whether the Town Hall parking lot would be blocked off for the remainder of the construction, to which Mr. Deal responded he was unsure of the timeline. Mr. Furgiuele stated that he appreciated this request coming before Council and that the Theatre was a huge piece of downtown.

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

TOWN MANAGER UPDATE

Town Manager John Ward updated Council on the following topics:

-Joint parking deck proposal with ASU: Noted that Paul Forte expressed his support of exploring options and added that ASU had a parking consultant under contract which would be able to help with the project. Mr. Ward indicated that ASU was open to day lighting the stream in the area and to the continuation of Appalachian Street to link to Rivers Street and stated that New River Conservancy was excited to partner with the Town on this project. Mr. Furgiuele stated that the day lighting of the stream and the greening of the area was important, with Ms. Mason noting that ASU had done a good job on day lighting the stream at Durham Park.

-New River/NTE Solar Garden Project on ASU Property: Mr. Ward stated that staff had been working hard to honor the requests of Mr. Ayers for the \$100,000 allocation to sustainability. He noted that any trees removed at the site across from Payne Branch Road would be replanted and that staff had been working with the NC Forestry Service to choose trees that had higher carbon offsets. Mr. Furgiuele suggested that a sign be installed on the property to educate people on how much power was being generated at the solar garden. Mr. Furgiuele also stated that it should not be assumed that the funding for this project would come from the 100,000 since the amount for the project had not been confirmed, and suggested that the fund should be supplemented to the extent possible.

- Water intake progress
- Report on facade update on former PNC Bank building
- Leaf pickup
- Green Street sewer upgrade
- Notice of construction
- Operation Medicine Cabinet
- Police Department blood drive
- Jimmy Smith Maranon

CONSIDERATION OF LICENSE AGREEMENT WITH THE WATAUGA COUNTY FARMER'S MARKET

Cultural Resources Director Pilar Fotta presented for Council's consideration a License Agreement with the Watauga County Farmer's Market. Mr. Ward noted that the former Council chose not to charge rent in the past four years and looked at it as an extension of Town services for a non-profit organization. Mr. Furgiuele added that the Farmer's Market was extremely important and that he was glad previous Council decided to waive licensing fees. Mr. Furgiuele made a motion, which was seconded by Ms. Ulmer to approve the License Agreement with the Watauga County Farmer's Market. Ms. Fotta noted that the Farmer's Market representatives had indicated that they would like to extend the lease to include the month of April and to extend the operation time until 2:00 p.m. on Saturdays. She added that these options had been discussed previously and that Council chose not to support them due to the desire to hold more Town-sponsored programming at the space and that these options would be restrictive to that. Ms. Meade noted that the agreement could be changed in the future if

needed. Ms. Mason reminded everyone that the winter Farmer's Market would continue to take place at the Watauga County Agricultural Extension building.

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

CONSIDERATION OF LICENSE AGREEMENT WITH SAHA

Ms. Fotta presented for Council's consideration a License Agreement with the Southern Appalachian Historical Association. Mr. Ward added that parking for the event would expand to the former recycling site. SAHA chairman Skip Greene stated that a Christmas Carol type event was planned for the month of December. Upon a motion by Mayor Pro-Tem Clawson, seconded by Ms. Ulmer, Council voted to approve the license agreement with the Southern Appalachian Historical Association.

Mayor Brantz declared a break at 7:57 p.m. Council reconvened at 8:07 p.m.

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

CONSIDERATION OF BAMBOO ROAD SEWER REPAIR PROJECT

Upon a motion by Council Member Mason, seconded by Mayor Pro-Tem Clawson, Council voted to approve the Bamboo Road Sewer Repair Project.

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

CONSIDERATION OF THE ADDITION OF REGULAR REPORT BY TOWN ATTORNEY

Town Attorney Allison Meade suggested that Council may benefit from a regular report from her each month that would be similar to the Town Manager update. She updated Council on the following topics:

-Deer birth control: Ms. Meade stated that deer birth control had been attempted in some northern states, with indications that it could reduce fawning by up to 80%, but that there was currently no research on free range deer populations.

-Dedication of Town streets and water infrastructure: Ms. Meade stated that she had not found a policy or ordinance across the state to this effect, but that she did find that Councils only accepted streets or utilities that were up to the Town's standards. She noted that Huntersville had a policy that did not allow private streets inside its corporate limits. Ms. Meade stated that staff would agree that the Town would end up paying for private streets in the long run and noted that it was costly venture. Ms. Mason suggested that standards should be set since they change over time.

AUTHORIZATION FOR TOWN ATTORNEY TO PROVIDE LEGAL SUPPORT TO THE WATER USE COMMITTEE

Upon a motion by Council Member Furguele, seconded by Mayor Pro-Tem Clawson, Council voted to authorize the Town Attorney to provide legal support to the Water Committee on the following:

1. Draft amendment language for Chapter 50 which would allow staff to approve water and/or sewer service connections, requested under hardship, not more than two single-family homes or a single duplex unit in existence prior to January 1st, 2018, and with the understanding that if annexation of the requesting property is possible the applicant would petition Council to do so. The intent of the proposed amendments are in no way binding staff to approve any or all such requests but to merely to allow staff the discretion to address cases where public health may benefit from expedited approval.
2. Investigate aspects of the potential formation of a water and sewer authority and the feasibility thereof and to report findings back to the Water Use Committee.

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

CONSIDERATION OF RECOMMENDATIONS FROM WATER USE COMMITTEE

Upon a motion by Council Member Furguele, seconded by Mayor Pro-Tem Clawson, Council voted to approve recommendations as presented by the Water Use Committee. Council Member Ashcraft wondered whether a limit of two single-family homes would be appropriate for in-house hardship approvals, with Mr. Furguele stating that it was the consensus of the Water Use Committee to move forward with a limit of two single-family homes, but that the matter could be revisited if needed. Council Member Mason added that a Town water authority was discussed in 2005.

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

CONSIDERATION OF AMENDMENT TO OWNER-ENGINEER AGREEMENT (NO. 8) WITH WK DICKSON

Public Works Deputy Director Josh Eller presented for Council's consideration an amendment to the owner/engineer agreement with WK Dickson for the water intake project. Mr. Eller noted that the amendment to the agreement would be for contract administration, construction observation and special inspections required for the continued work performed by the Harper Corporation and that the cost for the additional services was \$137,600.00. He noted that he did not currently have an end date for the project and that services would only be rendered on an as-needed basis. Mr. Eller stated that the amendment would allow for additional flexibility of at least three months and added that WK Dickson would have to come back to Council for approval for additional authority in the future if needed. When asked about WK Dickson's compliance to the County's noise ordinance by Council Member Furguele, Mr. Eller stated that he believed WK Dickson did comply with the noise ordinance since they were bound by all local laws and regulations. Mr. Furguele asked that staff remind WK Dickson that they were expected to adhere to the County's noise ordinance. Mr. Furguele expressed concern regarding a provision in the amendment that could allow WK Dickson to raise rate schedule rates. Mr. Eller assured Council that if rates were raised, they would come back to Council for consideration. Mr. Furguele noted that the amendment allowed for rates to automatically adjust after the first of the year and that he believed WK Dickson should be held to the amounts approved at the time of the approval of the amendment. Town Attorney Allison Meade suggested that this demand be communicated to WK Dickson, and if they did not agree the matter would need to be discussed further before December 31st. Mr. Furguele inquired about the cancellation of site visits by the engineer and confirmed with Mr. Eller that these cancellations could be

attributed to error by the contractor. Mr. Furguele questioned certain charges in the agreement which were highlighted to which Ms. Meade and Mr. Miller responded that these charges would even out in the final payments and that the Town was not being asked to pay extra for these charges. After another question regarding cancelled meetings, Ms. Meade asked whether there were no specifications built into the agreement for cancelled inspections. Mr. Eller stated that the funds to cover items such as this would come from the contingency fund and that there was no dedicated fund that he was aware of. Mr. Furguele noted that the Town was required by the USDA to have an engineer on site, and that he felt there was no other option but to approve the amendment. Mr. Furguele stated that he was concerned that if the project extended past December 31st Council would not have information on how much engineering costs were and suggested that changes should come back to Council for consideration or that WK Dickson should be bound by the amounts in the amendment presented. Council Member Ulmer made a motion to accept the amendment as presented with the expectation that any changes made to the rate schedule would be brought back to Council for consideration. Council Member Mason seconded the motion. Mr. Furguele also asked that staff inquire of WK Dickson the reason of the cancellation of meetings and inspections.

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

CONSIDERATION OF FOOD POLICY ACTION PLAN

Council Member Furguele presented members with a proposal to initiate a food action plan for the Town of Boone and noted the importance of the local food movement while keeping the welfare of citizens in mind. He asked Council to consider making a donation to the Watauga County Food Council in the amount of \$5,000.00 to support their mission. Town Manager John Ward asked Mr. Furguele how he would like staff to handle the donation in relation to outside agency funding, with Mr. Furguele responding that the food council could apply for outside agency funding, but that he would like to see funds set aside annual to support the group, in the same way funds were given to AppalCart and SAHA. Discussion turned to the plan in place in the city of Asheville, with Mr. Furguele stating that he would like to have recommendations on how the Town could support the local food movement. Mr. Furguele noted that this had been a topic of discussion with the Sustainability, Economics and Environment Committee, but since the committee had such a heavy workload involving the Town's conversion to renewable energy, it was pulled. Mr. Furguele made a motion, which was seconded by Mayor Pro-Tem Clawson to ask the Watauga County Food Council to provide the Town with proposals and to draft a Food Policy Action Plan for the Town. After withdrawing his first motion, Mr. Furguele made a subsequent motion to ask the Watauga County Food Council to make recommendations to the Town at the appropriate time regarding ways the Town could more consistently and better support the local food movement and that a \$5,000.00 contribution from the general fund be made to the Watauga County Food Council and that this contribution not be contingent on the Watauga County Food Council providing recommendations to the Town. Mayor Pro-Tem Clawson seconded this motion as well.

RESULT:	APPROVED [3 TO 2]
MOVER:	Sam Furguele, Council Member
SECONDER:	Loretta Clawson, Mayor Pro-Tem
AYES:	Mason, Clawson, Furguele
NAYS:	Ulmer, Ashcraft

CONSIDERATION OF AMENDMENT TO UDO REGARDING BROWNFIELD PARCELS

Council Member Furguele presented a request to Council that the UDO be amended so that in the case of developments which include a brownfield parcel, that the combination of parcels into a single lot be prohibited unless all lots qualified as brownfields. This request was made in an attempt to prohibit developers from

combining multiple parcels into one tract for development in order to qualify for tax relief under state law. Mr. Furguele stated that some technical obstacles were involved which would need to be addressed. Discussion turned to the Riverswalk property, with Ms. Meade noting that she found it to be puzzling that the state allowed the three separate parcels to come in as a single brownfield property, even though the Southern States property had no contamination on it. Mr. Furguele stated that the Town needed to be heavily involved in this type of situation and that contact needed to be made with the state in the future if there was any possibility of development on a brownfield. Mr. Furguele asked that this matter be tabled until more research could be done and noted that state officials may not have realized that the Riverswalk property was divided into separate parcels with Ms. Meade noting that it was clear that the property was divided into separate parcels. Mr. Furguele added that even if the state was convinced that they should not treat the Riverswalk property as a series of tracts, that the Town UDO was still without mechanisms and this fact needed to be addressed. Ms. Meade stated that if the state had done what it should have done, only two of the Riverswalk parcels should have been classified as brownfields. Mr. Ward noted that the front part of the Riverswalk property was within the Municipal Service District. Ms. Meade suggested that staff discuss the situation with the state before moving forward. Mr. Furguele made a motion to table the request and to authorize the Town Attorney and the Town Manager to further investigate the situation by engaging in dialogue with the state about the Southern States/Riverswalk property. Ms. Ulmer seconded the motion. Mr. Ashcraft questioned whether staff should proceed with drafting UDO text amendments to this effect, with Mr. Furguele noting that since there may be future legal action in this particular situation, that staff should hold off on drafting text.

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

CONSIDERATION OF AMENDMENT TO UDO TO ELIMINATE FEE-IN-LIEU OF OPTION

Mr. Furguele presented Council with a request to consider a UDO amendment to eliminate the Fee-in-Lieu of program for sidewalk construction in Town. Mr. Furguele stated that he believed developers should not be able to pay their way out of building sidewalks due to the increased use of sidewalks by skateboarders and cyclists and the importance of connecting segments together. He added that the cost was a moving target and may not be enough to significantly assist the Town with the construction of sidewalks. Ms. Mason disagreed with this statement, stating that the Town had a master sidewalk plan and that anything within the plan would be constructed. She added that one reason the Fee-in-Lieu program was put into place was because properties were being developed on public roads with steep slopes and other barriers that developers could not reasonably install a sidewalk. She further stated that in situations such as these, she would like to see money go into a Town fund and that she didn't view the program as a way for developers to avoid installing sidewalks along their property. Sidewalks along Shadowline Drive were discussed, with Mr. Furguele adding that the developer believed it to be impossible to install sidewalks in the area due to the steep terrain and that in order to comply with Town regulations, developers may have to change where sidewalks are placed to become compatible with the UDO. Planning Director Jane Shook noted that it would be hard to say when the program was used, but she believed it was used mostly in instances when there was not an existing sidewalk to connect to and added that Public Works may have concerns about maintaining sidewalks that were not connected. Public Works Director Rick Miller stated that sidewalks on private property were not currently maintained by the Town, with Mr. Furguele adding he believed that property owners should be required to maintain the sidewalks on their own property. Mr. Miller stated that the balance of the Fee-in-Lieu of fund was approximately \$188,000 and that this line is where sidewalk funding comes from. Ms. Mason stated that she would like to revisit the Fee-in-Lieu language in the UDO and refine the parts that were not working. Mr. Furguele added that funds were collected based on today's rate, but that the cost of concrete was likely to increase in the future. Mr. Miller stated that he believed the Town was not currently collecting enough from the program. Mr. Furguele inquired whether the Town Attorney felt confident that the Town could be defended should one arise in the future if someone were to view the fee as an impact fee. Ms. Meade stated that while she was unsure, she believed the Town could be defended in such an action should one arise. She further noted that it was her opinion that the Fee-in-Lieu program was different than an impact fee in that a developer has to actually build in order to be assessed the fee, and added

that a portion of the sidewalk fund came from vehicle taxes as well. Discussion ensued regarding the maintenance of sidewalks, with Mr. Ashcraft suggesting Council consider an option to continue accepting fee-in-lieu payments combined with requiring dedication of an easement for future sidewalk construction. Mr. Miller noted that not all sidewalks in Town were on Town-maintained streets and that if a sidewalk was not contiguous to a Town sidewalk, staff did not maintain it, though some private sidewalks were pushed in the winter in order to reach Town-maintained sidewalks in certain situations. Mr. Furgiuele stated he believed staff should not do this without an easement. Mr. Ward stated he was surprised that easements were not added into the Fee-in-Lieu process. Upon a motion by Council Member Furgiuele, seconded by Mayor Pro-Tem Clawson, Council voted to direct staff to look into the legalities of removing the Fee-in-Lieu program and amending the UDO to require developers to build sidewalks which they would also maintain.

RESULT:	APPROVED [3 TO 1]
MOVER:	Sam Furgiuele, Council Member
SECONDER:	Loretta Clawson, Mayor Pro-Tem
AYES:	Clawson, Furgiuele, Ashcraft
NAYS:	Mason
ABSTAIN:	Ulmer

CLOSED SESSION

Upon a motion by Mayor Pro-Tem Clawson, seconded by Council Member Mason, Council voted to enter into closed session at 9:45 p.m. pursuant to:

1. N.C. Gen. Stat.§ 143-318.11 (a)(1), to review, approve and seal closed session minutes from Council's prior closed session(s).
2. N.C. Gen. Stat.§ 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 obtain legal advice, consider and/or give instructions to the attorney concerning one or more potential legal claims.

VOTE: Aye: All
 Nay: None

Upon a motion by Mayor Pro-Tem Clawson, seconded by Council Member Ulmer, Council voted to exit closed session at 11:06 p.m.

VOTE: Aye: All
 Nay: None

ADJOURNMENT

Upon a motion by Mayor Pro-Tem Clawson, seconded by Council Member Mason, Council voted to adjourn the meeting at 11:08 p.m.

VOTE: Aye: All
 Nay: None

Nicole Worley, Town Clerk

Rennie Brantz, Mayor