

**MINUTES – REGULAR MEETING
BOONE TOWN COUNCIL
NOVEMBER 13, 2012**

A regular meeting of the Boone Town Council was called to order at 6:30 p.m., Tuesday, November 13, 2012, in the Council Chambers, 1500 Blowing Rock Road. Mayor Loretta Clawson presided. Council members present were Mayor Pro-Tem Jamie Leigh, Lynne Mason, Rennie Brantz, Andy Ball, and Allan Scherlen. Town Attorney Sam Furgieuele was also present. Staff members present were Town Manager Greg Young, Town Clerk Kimberly Brown, Finance Director Amy Davis, Police Chief Dana Crawford, Fire Chief Jimmy Isaacs, Public Utilities Director Rick Miller, Public Works Director Blake Brown, Planning Director Bill Bailey, Human Resources Director Peri Moretz, Cultural Resources Director Pilar Fotta, Building Inspector Todd Miller, and Waste Water Treatment Plant Superintendent Rudy Broschinski.

ANNOUNCEMENTS

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

Mayor Clawson announced that the Town of Boone's Jimmy Smith Wastewater Treatment Plant has been selected as the 2012 recipient of the NC AWWA-WEA Wastewater Treatment Plant Operation and Maintenance Excellence Award of the Year for the Western Region. The association's Professional Wastewater Operators Committee presents this award to one plant in each of the three regions of North Carolina with the most outstanding plant operation and maintenance efforts as a way to honor the wastewater plant personnel that serve their community with a high level of professionalism and diligent work. She recognized Public Utilities Director Rick Miller and WWTP Superintendent Rudy Broschinski.

TENTATIVE AGENDA ADOPTION

Town Manager Greg Young stated that there were no changes to the agenda. Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to adopt the agenda, as presented.

VOTE: Aye – All
 Nay – None

CONSENT AGENDA ADOPTION

Minutes: October 2, 2012 – Special Meeting.
 October 11, 2012 – Special Meeting.
 October 16, 2012 – Special Public Hearing.
 October 16/18, 2012 – Regular Meeting.

Adoption of Resolution – Approving Local Water Plan:

**TOWN OF BOONE
RESOLUTION APPROVING LOCAL WATER SUPPLY PLAN**

WHEREAS, North Carolina General Statute 143-355(I) requires that each unit of local government that provides public water services or plans to provide such services shall, either individually or together with other such units of local government, prepare and submit a Local Water Supply Plan; and,

WHEREAS, as required by the statute and in the interests of sound local planning, a Local Water Supply Plan for Boone, North Carolina, has been developed and submitted to the Boone Town Council for approval; and,

WHEREAS, the Boone Town Council finds that the Local Water Supply Plan is in accordance with the provisions of North Carolina General Statute 143-355(I) and that it will provide appropriate guidance for the future management of water supplies for Boone, North Carolina, as well as useful information to the Department of Environment and Natural Resources for the development of a state water supply plan as required by statute;

NOW, THEREFORE, BE IT RESOLVED that Boone Town Council intends that this plan shall be revised to reflect changes in relevant data and projections at least once every five years or as otherwise required by the Department, in accordance with the statute and sound planning practice.

This the 13th day of November, 2012.

Loretta Clawson, Mayor

ATTEST:

Kimberly S. Brown, Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE(S) 186)

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

VOTE: Aye – All
 Nay – None

PUBLIC COMMENT

There was no one present to speak during public comment.

REQUEST TO SCHEDULE A CHARETTE/WORKSHOP – FOR PUBLIC INPUT ON BUILDING HEIGHT REGULATIONS FOR DOWNTOWN AND DISCUSSION OF FORMAT FOR PRESENTATION OF THE TABLE OF PERMITTED USES

Council Member Mason stated that she would like the Council to consider holding a charette or workshop on the issue of building heights in the downtown area so that Council can consider public input on the matter. Additionally, she requested that the proposed changes to the UDO Table of Permitted Uses be introduced to the public before being adopted by Council since it encompasses major changes. Planning Director Bill Bailey stated that he is anticipating the tentative adoption of the Table of Permitted Uses to be in March 2013. He stated that the Council can consider the issue of building heights in downtown at the Planning Retreat. Council Member Leigh stated that she feels the Council may be moving too quickly by trying to schedule extra meetings to meet the tentative adoption of the changes in March. It was the consensus of the Council to defer discussion of this item until the December regular meeting.

ADOPTION OF RESOLUTION – ESTABLISHING A PRIMARY FIRE DISTRICT

Town Attorney Sam Furgieuele explained that the town is required to adopt a primary fire district by general statute. He stated that the fire district designation addresses areas where buildings are close together and include regulations on the types of materials that can be used. Mr. Furgieuele stated that the town is not required to hold a public hearing on the adoption of a primary fire district but does have that option if desired. Building Inspector Todd Miller presented a power-point on the proposed primary fire district limits for the town. **(Copy of power-point presentation permanently on file in the November 2012 meeting information file.)** Upon a motion by Council Member Ball, seconded by Council Member Brantz, Council moved to adopt the following resolution and to hold a public hearing on the adoption of a primary fire district at the December regular meeting:

RESOLUTION

WHEREAS, North Carolina General Statutes §160A-435 mandates that every incorporated city in North Carolina adopt one or more ordinances designating primary fire limits which at least include the principal business portions of the city; and

WHEREAS, the purpose of the primary fire district is to avoid fires which easily spread among multiple structures which are of such proximity, one to another, as to create an unusual threat of such spread; and

WHEREAS, within an adopted primary fire district, pursuant to §160A-436 the exterior use of flammable materials such as wood is restricted and may only be utilized in construction alteration, repair or otherwise upon the permit of the Boone Planning and Inspections Department and permission of the North Carolina Commissioner of Insurance or his designee; and

WHEREAS, the Boone Town Council is charged with protecting the safety of the public; and

WHEREAS, the Boone Fire Department and Planning and Inspections Department have examined the areas within the corporate limits of Boone which present a heightened concern of fire spreading across property lines due to the density of existing and permissible construction, and both departments have recommended the designation of a primary fire district as delineated in the attached map;

NOW, THEREFORE, PURSUANT TO N.C. GEN. STAT. § §160A-435, THE TOWN COUNCIL OF THE TOWN OF BOONE, NORTH CAROLINA, DIRECTS THE CLERK TO NOTIFY ALL AFFECTED PROPERTY OWNERS WITHIN THE BOUNDARIES OF THE PROPOSED DISTRICT OF THE INTENTION OF THE TOWN TO ADOPT A PRIMARY FIRE DISTRICT, AND SCHEDULE A PUBLIC HEARING CONCERNING THE PROPOSED FIRE DISTRICT ON DECEMBER 13, 2012 AT 6:30 P.M. IN THE COUNCIL CHAMBERS, 1500 BLOWING ROCK ROAD.

ADOPTED the 13th day of November, 2012.

ATTEST:

Mayor

Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE(S) 187)
(MAP ATTACHED IN RESOLUTION BOOK 3, PAGE(S) 188)

VOTE: Aye – All
 Nay – None

P & I MONTHLY REPORT

Planning Director Bill Bailey presented the P & I Monthly report. **(Permanently on file in the November 2012 Town Council packet.)**

OUTSIDE AGENCY FUNDING COMMITTEE RECOMMENDATION – DEFINITION OF OUTSIDE AGENCY

Council Members Leigh and Brantz informed the Council that the Outside Agency Funding Committee has met to discuss the definition of what constitutes an outside agency. Council Member Leigh explained that the committee recommends the definition of an outside agency as the following: “...*to include standalone, charitable, non-profit organizations with a 501(c)(3) as well as other non-profit organizations without a 501(c)(3). In addition, the non-profit organizations with a 501(c)(3) will have priority over those without the 501(c)(3) in regard to funding.* Council Member Ball suggested the committee handbook be revised to reflect this change. Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to approve the aforementioned recommendation from the Outside Agency Committee and to remove the word “standalone” and to direct the committee to revise the handbook accordingly.

VOTE: Aye – All
 Nay – None

CULTURAL RESOURCES BOARD RECOMMENDATION – AMEND OFFICIAL NAME OF BOARD

Cultural Resources Director Pilar Fotta presented a recommendation from the Cultural Resources Board to amend the title of the board to the Cultural Resources *Advisory* Board. She explained that the board feels that this change will acknowledge and clearly state the role of the board to make recommendations to the Town Council for consideration. Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to approve this recommendation.

VOTE: Aye – All
 Nay – None

CULTURAL RESOURCES BOARD RECOMMENDATION – APPROVAL OF MISSION STATEMENT

Cultural Resources Director Pilar Fotta presented a recommendation from the Cultural Resources Board for the Council to approve the following mission statement for the board: “The mission of the Cultural Resources Advisory Board is to advise the Town Council on matters relating Town-supported cultural resources and programs that improve the quality of life and encourage tourism and economic growth.” Upon a motion by Council Member Leigh, seconded by Council Member Mason, Council moved to approve the recommended mission statement for the Cultural Resources Advisory Board.

VOTE: Aye – All
 Nay – None

CULTURAL RESOURCES BOARD REQUEST – RESOURCES AND PROGRAMS RELATED TO TOWN’S CULTURAL RESOURCES

Cultural Resources Director Pilar Fotta presented a request from the Cultural Resources Board for a proposal that the following be approved as Town-supported resources in relationship to the mission statement for the Cultural Resources Advisory Board:

1. Rivers Property
2. Jones House Community Center
3. 33+ acres that encompasses the following: amphitheater, parking area, Strawberry Hill, Jaycee Park, Town of Boone storage facility, etc.
4. Post Office (limited to public space only at this time. Other space to be utilized by P&I for staff and operations)
5. Any additional properties designated and assigned to the CRB.

Additionally, the board proposes that the following be approved as Town-supported programs in relationship to the mission statement for the Cultural Resources Advisory Board:

1. Artistic, historic, and cultural exhibits (currently held at the Jones House)
2. Summer Concerts at the Jones House
3. Music Lessons (currently held at the Jones House)
4. Open Community Jam sessions (currently held at the Jones House on Thursday evenings)
5. Boone Christmas Parade and activities that follow at the Jones House
6. Boone 4th of July Parade and activities that follow at the Jones House
7. Annual Easter EGGstravaganza
8. Annual Downtown Boo
9. Any additional events to be proposed by the CRB and approved for support by Town Council.

Ms. Fotta stated that she will present this information for approval at the December regular meeting.

CULTURAL RESOURCES BOARD RECOMMENDATION – DISPOSAL OF PROPERTY AT 122 MORETZ STREET (WHITE HOUSE ON RIVERS PROPERTY)

Cultural Resources Director Pilar Fotta presented a request from the Cultural Resources Board for a recommendation on the disposal of the structure, known as the white house, at 122 Moretz Street. She listed the following options:

1. Offer the house for sale to be relocated from the current location to a new location at the buyer’s expense. The listing would be set to expire prior to April 2013 in order to allow for budgeting of alternative options.
2. Offer the house to the Boone Police Department and Boone Fire Department to be used as a training facility with the eventual burning of the building after any potential hazards have been assessed and removed. Followed by site clean-up and grass seeding.
3. Demolish the building as soon as possible, clean the site, and seed with grass.
4. Allow the building to deteriorate to the point that it collapses, and then clean-up and seed the site with grass. (Ms. Fotta stated that this option is the least desirable option.)

After brief discussion regarding any possible historic significance of the building, Council requested that the Building Inspector perform an in-house evaluation of the structure and to direct Ms. Fotta to present information to Council on both selling the property or demolishing the structure, as outlined in her presentation. She will appear before the Council to present this information at the next regular meeting.

CULTURAL RESOURCES BOARD RECOMMENDATION – INVESTIGATE POSSIBILITY OF A NATIONAL HISTORIC REGISTRY DESIGNATION FOR THE ROCK HOUSE (150 CLAY HOUSE DRIVE)

Cultural Resources Director Pilar Fotta presented a request from the Cultural Resources Board to investigate the possibility of pursuing National Historic Registry designation for the Rock House located at 150 Clay House Drive on the Rivers property. Upon a motion by Council Member Brantz, seconded by Council Member Ball, Council moved to approve the request as presented.

VOTE: Aye – All
 Nay – None

PRESENTATION OF PEDESTRIAN AND BICYCLE TRAFFIC DATA – NEW MARKET BOULEVARD

Public Works Director Blake Brown presented the following information on pedestrian and bicycle traffic on New Market Boulevard:

**Nu-Metrics Traffic Analyzer Study
Computer Generated Summary Report
City: BOONE
Street: NEW MARKET BLVD**

A study of vehicle traffic was conducted with HI-STAR unit number 4446. The study was done in the TO E KING ST lane on NEW MARKET BLVD in BOONE, NC in WATAUGA county. The study began on 09/19/2012 at 04:05 PM and concluded on 09/26/2012 at 01:50 PM, lasting a total of 165 hours, 45 minutes. Data was recorded in 15 minute time periods. The total recorded volume of traffic showed 11,970 vehicles passed through the location with a peak volume of 129 on 09/21/2012 at 07:35 AM and a minimum volume of 0 on 09/19/2012 at 10:50 PM. The AADT Count for this study was 1,733.

SPEED

Chart 1 lists the values of the speed bins and the total traffic volume for each bin.

Chart 1

0	10	15	20	25	30	35	40	45	50	55	60	65	70	75
to	to	to	to	to	to	to	to	to	to	to	to	to	to	>
9	14	19	24	29	34	39	44	49	54	59	64	69	74	
0	127	487	1175	2430	3691	2436	901	303	166	85	47	40	33	22

At least half of the vehicles were traveling in the 30 – 34 mph range or a lower speed. The average speed for all classified vehicles was 33 mph with 13.3 percent exceeding the posted speed of 35 mph. The HI-STAR found 1.19 percent of the total vehicles were traveling in excess of 55 mph. The mode speed for this traffic study was 30 mph and the 85th percentile was 39.60 mph.

CLASSIFICATION

Chart 2 lists the values of the eight classification bins and the total traffic volume accumulated for each bin.

Chart 2

0	21	28	40	50	60	70	80
to	to	to	to	to	to	to	>
20	27	39	49	59	69	79	

11519	288	110	19	5	2	0	0
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Most of the vehicles classified during the study were Passenger Cars. The number of Passenger Cars in the study was 11,807 which represents 98.90 percent of the total classified vehicles. The number of Small Trucks in the study was 110 which represents 0.90 percent of the total classified vehicles. The number of Trucks/Buses in the study was 19 which represents 0.20 percent of the total classified vehicles. The number of Tractor Trailers in the study was 7 which represents 0.10 percent of the total classified vehicles.

HEADWAY

During the peak time period, on 09/21/2012 at 07:35 AM the average headway between the vehicles was 6.92 seconds. The slowest traffic period was on 09/19/2012 at 10:50 PM. During this slowest period, the average headway was 900.0 seconds.

WEATHER

The roadway surface temperature over the period of the study varied between 52 and 111 degrees Fahrenheit. The HI-STAR determined that the roadway surface was Dry 100.00 percent of the time.

**Nu-Metrics Traffic Analyzer Study
Computer Generated Summary Report
City: BOONE
Street: NEW MARKET BLVD**

A study of vehicle traffic was conducted with HI-STAR unit number 3885. The study was done in the TO HWY 194 lane on NEW MARKET BLVD in BOONE, NC in WATAUGA county. The study began on 09/19/2012 at 04:05 PM and concluded on 09/23/2012 at 07:50 PM, lasting a total of 99 hours, 45 minutes. Data was recorded in 15 minute time periods. The total recorded volume of traffic showed 7,071 vehicles passed through the location with a peak volume of 143 on 09/20/2012 at 07:35 AM and a minimum value of 0 on 09/20/2012 at 01:20 AM. The AADT Count for this study was 1,701.

SPEED

Chart 1 lists the values of the speed bins and the total traffic volume for each bin.

Chart 1

0 to 9	10 to 14	15 to 19	20 to 24	25 to 29	30 to 34	35 to 39	40 to 44	45 to 49	50 to 54	55 to 59	60 to 64	65 to 69	70 to 74	75 >
0	121	413	539	1436	2502	1590	363	49	13	3	1	1	4	1

At least half of the vehicles were traveling in the 30 – 34 mph range or a lower speed. The average speed for all classified vehicles was 31 mph with 6.18 percent exceeding the posted speed of 35 mph. The HI-STAR found 0.10 percent of the total vehicles were traveling in excess of 55 mph. The mode speed for this traffic study was 30 mph and the 85th percentile was 38.05 mph.

CLASSIFICATION

Chart 2 lists the values of the eight classification bins and the total traffic volume accumulated for each bin.

Chart 2

0 to 20	21 to 27	28 to 39	40 to 49	50 to 59	60 to 69	70 to 79	80 >
6758	121	147	10	0	0	0	0

Most of the vehicles classified during the study were Passenger Cars. The number of Passenger Cars in the study was 6,879 which represents 97.80 percent of the total classified vehicles. The number of Small Trucks in the study was 147 which represents 2.10 percent of the total classified vehicles. The number of Trucks/Buses in the study was 10 which represents 0.10 percent of the total classified vehicles. The number of Tractor Trailers in the study was 0 which represents 0.00 percent of the total classified vehicles.

HEADWAY

During the peak time period, on 09/20/2012 at 07:35 AM the average headway between the vehicles was 6.25 seconds. The slowest traffic period was on 09/20/2012 at 01:20 AM. During this slowest period, the average headway was 900.0 seconds.

WEATHER

The roadway surface temperature over the period of the study varied between 60 and 113 degrees Fahrenheit. The HI-STAR determined that the roadway surface was Dry 100.0 percent of the time.

He stated that the Transportation Committee will be making a recommendation at the next meeting regarding this street. He indicated that the committee will be recommending a public input session regarding any changes to this street. Council Member Mason added that exploring the complete street concept for this street would be appropriate. Council Member Leigh maintained that this street should not be considered as a “cut-through” street and that it is not within a residential neighborhood. She pointed out that New Market Boulevard already contains sidewalks for biking and walking, whereas other streets in town do not have any sidewalks. It was the consensus of the Council to have public input for this issue.

MONTHLY NOISE ORDINANCE REPORT

Police Chief Dana Crawford presented a noise report for October 2012. **(Copy of report permanently on file in the November 2012 Town Council packet.)**

APPROVAL OF CONTRACT – DAVIS-MARTIN-POWELL FOR CREST DRIVE, MAC STREET AND ARBOR LANE SEWER DESIGN

Public Utilities Director Rick Miller presented a request for approval for a contract with Davis-Martin-Powell for the engineering design and construction administration for the Crest Drive, Mac Street, and Arbor Lane sewer main replacement project. He stated that the contract is in the amount of \$44,000. Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to approve a contract with Davis-Martin-Powell for the engineering design and construction administration for the Crest Drive, Mac Street, and Arbor Lane sewer main replacement project. **(Copy of contract permanently on file in the Clerk’s office.)**

VOTE: Aye – All
 Nay – None

MONTHLY WATER USE STATUS REPORT

Public Utilities Director Rick Miller presented the monthly water status report. **(Copy of report permanently on file in the November 2012 Town Council packet.)**

APPROVAL OF BUDGET AMENDMENTS

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

Description	Account#	To:	From:
MAINT & REPAIR-BLDG & GROUNDS (CULTURAL RESOURCES)	010-418-000-525101	\$7,000	
APPROPRIATED FUND BALANCE-GENERAL FUND	010-000-000-499900		(\$7,000)

VOTE: Aye – All
 Nay – None

RECESS MEETING

Upon a motion by Council Member Mason, seconded by Council Member Ball, Council moved to recess the meeting until Thursday, November 15, 2012, at 6:30 p.m. in the Council Chambers, 1500 Blowing Rock Road.

VOTE: Aye – All
 Nay – None

CALL TO RECONVENE

A recessed meeting from November 13, 2012, was called to order at 6:30 p.m., Thursday, November 15, 2012, in the Council Chambers, 1500 Blowing Rock Road. Mayor Loretta Clawson presided. Council members present were Mayor Pro-Tem Jamie Leigh, Lynne Mason, Rennie Brantz, Andy Ball, and Allan Scherlen. Town Attorney Sam Furgiuele was also in attendance. Staff members present were Town Manager Greg Young, Town Clerk Kim Brown, Finance Director Amy Davis, Fire Chief Jimmy Isaacs, Police Chief Dana Crawford, Public Works Director Blake Brown, Public Utilities Director Rick Miller, Human Resources Director Peri Moretz, Planning Director Bill Bailey, and Cultural Resources Director Pilar Fotta.

CALL TO ORDER & ANNOUNCEMENTS

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

TENTATIVE AGENDA ADOPTION

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

1. Addition of Item 12.B. – DBDA Quarterly Report.
2. Addition of Item 12.C. – Appalachian Theater Quarterly Report.
3. Addition of Items to Closed Session (Pursuant to NCGS 143-318(a)(3):
-Item 15.D. – Legal Advice – To consult with the Town Attorney in order to preserve the attorney/client privilege between the attorney and the Town Council to consider and give instruction concerning the handling of a settlement offer regarding Wilco-Hess.

-Item 15.E. - Legal Advice – To consult with the Town Attorney in order to preserve the attorney/client privilege between the attorney and the Town Council to consider and give instruction concerning the handling of a settlement offer regarding Sam Abdin.

Upon a motion by Council Member Scherlen, seconded by Council Member Mason, Council adopted the agenda, as amended.

VOTE: Aye – All
 Nay – None

PUBLIC COMMENT

There was no one present to speak during public comment.

BOARD APPOINTMENTS

Affordable Housing Task Force – There were no applications for these vacancies.

Board of Adjustment – Mayor Clawson noted that an application had been received from Mark Bradbury for consideration. Council Member Scherlen nominated Mark Bradbury for appointment to the Board of Adjustment as an alternate resident position. With no other nominations, Mayor Clawson called for a vote.

VOTE: Aye – All
 Nay - None

Bicycle Plan Steering Committee – Mayor Clawson noted that an application had been received from Laura Keeton for consideration. Council Member Ball nominated Laura Keeton to serve on the Bicycle Plan Steering Committee. With no other nominations, Mayor Clawson called for a vote.

VOTE: Aye – All
 Nay - None

Community Appearance Commission – There were no applications for this vacancy.

Outside Agency Funding Committee – There were no applications for this vacancy.

Planning Commission – Mayor Clawson noted that an application had been received from Phoenix Buathier for the ASU representative position. Council Member Scherlen nominated Phoenix Buathier to serve on the Planning Commission as the ASU representative. With no other nominations, Mayor Clawson called for a vote.

VOTE: Aye – All
 Nay - None

Boone Tourism Development Authority Board – There were no applications submitted for this vacant position. Council Member Mason clarified the requirements of this position to be a person who is a resident of Watauga County and an owner/operator of a restaurant in the town of Boone.

Tree Board – There were no applications submitted for these vacancies.

DBDA QUARTERLY REPORT

Cultural Resources Director Pilar Fotta presented the DBDA quarterly report for the third quarter for July, August and September 2012. **(Copy of report in the November 2012 Town Council meeting information file.)**

APPALACHIAN THEATER – QUARTERLY REPORT

Cultural Resources Director Pilar Fotta presented the Appalachian Theater quarterly report for the third quarter of July, August and September 2012. **(Copy of report in the November 2012 Town Council meeting information file.)**

REQUESTED APPEARANCE – MATT BAGLEY

Matt Bagley, of the New Market Estates neighborhood, appeared before Council to request assistance from the town in getting natural gas installed in his neighborhood. He explained that there continues to be a lack of response from Frontier Natural Gas to a letter requesting service and a petition from the neighborhood. Town Manager Greg Young stated the town does have a franchise agreement with Frontier Natural Gas for service in town which was adopted in 1997. Town Attorney Sam Furgiuele explained that the agreement is non-exclusive, and the company is required to have sufficient resources and supply in order to provide service to the town. He stated the town can request the company provide information on where it plans to install and expand lines. Upon a motion by Council Member Brantz, seconded by Council Member Ball, Council moved to request a representative from Frontier Natural Energy to attend the January regular meeting to discuss this issue and to present the rules and regulations adopted and on file with the NC State Utilities Commission.

VOTE: Aye – All
 Nay – None

REQUESTED APPEARANCE – REBECCA KAENZIG

Rebecca Kaenzig, chair of the Daniel Boone Native Gardens, appeared before the Council to present the third quarter report for July, August and September 2012. **(Copy of report permanently on file in the November 2012 Town Council meeting information file.)**

REQUESTED APPEARANCE – JAMES SMITH

Bill Owen, on behalf of James Smith and United Developers Inc., appeared before the Council to request a special public hearing for a conditional district rezoning for property located off Clawson Street. He explained that the project would like to construct a multi-family, affordable housing complex at this site consisting of a mix of two- and three-bedroom units. As an affordable housing project, Mr. Owen stated that the company must comply with a deadline of the third week in January 2013 for necessary paperwork submitted to the state. Upon a motion by Council Member Mason, seconded by Council Member Ball, Council moved to schedule a special public hearing on Monday, December 10, 2012, at 5 p.m. in the Council Chambers, 1500 Blowing Rock Road.

VOTE: Aye – All
 Nay - None

REQUESTED APPEARANCE – EVA RAND

Eva Rand appeared before Council to encourage the Council to support initiatives to reduce the use of plastic bags by businesses and grocery retailers. She included the financial and environmental benefits of reducing plastic bag usage.

REQUESTED APPEARANCE – RANDY JONES

Randy Jones of David R. Jones Architecture appeared before Council to update the process of the Downtown Post Office renovation project. He stated that electric power has been connected and temporary heating can be used. He stated that the stone masonry work is being done, as well as the bike rack being installed. Mr. Jones stated the foundation work and water-proofing is complete. He stated that the project is progressing as anticipated and should be complete by March 2013.

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

WATER & SEWER REQUEST – DONNIE BASSINGER/CCC&TI

Town Attorney Sam Furgiuele opened a public hearing at 7:58 p.m. to hear sworn testimony on a request for water and sewer service to property located off Community College Drive. Bruce Youngberg, of Court Architectural Group, began by stating the request is for water and sewer service for an 8,000 square-foot building that will include classrooms, administrative area, offices, and basic toilet facilities. He explained that the project will connect to existing water and sewer lines. Steve Melton, executive director for Caldwell Community College, stated that this facility will increase options offered to students and will increase the number of students the school can serve. Public Utilities Director Rick Miller stated that the lines are private and that the applicant will incur all costs in extending the line. He stated that the site is located in the secondary pressure zone. Planning Director Bill Bailey described the location of the proposed structure. Gary Childers, a trustee for the college, voiced his support of the project. With no other public testimony, Mr. Furgiuele closed the public hearing at 8:12 p.m. Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to approve the request for 750 gallons per day made by Caldwell Community College.

VOTE: Aye – All
 Nay - None

CLOSED SESSION

Upon a motion by Council Member Brantz, seconded by Council Member Ball, Council moved to enter Closed Session at 8:14 p.m. pursuant to NCGS 143-318-11a(3)(5) to hear the following items:

- A. Legal Advice – To consult with the Town Attorney in order to preserve the attorney/client privilege between the attorney and the Town Council to consider and give instruction concerning the handling of legal proceedings against Bank of America.
- B. Legal Advice - To meet with the Town Attorney in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged, regarding legal issues surrounding the establishment or reestablishment of a primary fire district.
- C. Property Acquisition - To instruct staff or agents regarding negotiating position on the price and other material terms of a real property acquisition contract for a portion of the Coffey estate located near Howard Street.

- D. Property Acquisition and Legal Advice – To consult with the Town Attorney in order to preserve the attorney/client privilege between the attorney and the Town Council and to instruct Town staff and the Town Attorney concerning the positions to be taken by or on behalf of the Town in negotiating the price and other material terms of proposed contracts for the acquisition of easements in real property related to the proposed raw water intake, and to consult with an attorney employed or retained by the public body, which privilege is hereby acknowledged, to consider and give instructions to the attorney concerning the handling or settlement of a judicial action.
- E. Legal Advice – To consult with an attorney employed by the public body in order to preserve the attorney-client privilege between the attorney and the public body to consider and give instruction to Town staff and the Town Attorney concerning the positions to be taken by or on behalf of the Town concerning a potential claim or judicial action for the Wilson Drive project.
- F. Legal Advice – To consult with an attorney employed by the public body in order to preserve the attorney-client privilege between the attorney and the public body to consider and give instruction to Town staff and the Town Attorney concerning the positions to be taken by or on behalf of the Town for the sale of an easement on the Greenbriar property.
- G. Property Acquisition – To instruct the public body’s staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease for property located off of Deerfield Road.
- H. Legal Advice – To consult with an attorney retained by the public body in order to preserve the attorney/client privilege between the attorney and the public body regarding a potential claim, judicial action, mediation, arbitration, or administrative review involving Watauga Medics.

VOTE: Aye – All
 Nay – None

Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to exit Closed Session at 9:23 p.m.

VOTE: Aye – All
 Nay – None

POSSIBLE ACTION FOLLOWING CLOSED SESSION

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to approve a settlement with Tim Wilson in the amount of \$100.00.

VOTE: Aye – All
 Nay – None

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to approve a settlement with Wilco Hess in the amount of \$1,000.

VOTE: Aye – All
 Nay – None

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to approve a settlement with Sam Abdin in the amount of \$2000.

VOTE: Aye – All
 Nay – None

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to authorize the Mayor to execute an agreement with the Coffey Estate for the exchange of property and to execute an encroachment agreement.

VOTE: Aye – All
 Nay - None

ADJOURNMENT

Upon a motion by Council Member Mason, seconded by Council Member Ball, Council moved to adjourn at 9:24 p.m.

VOTE: Aye – All
 Nay – None

Kimberly S. Brown, Town Clerk

Loretta Clawson, Mayor