

**MINUTES - REGULAR MEETING
BOONE TOWN COUNCIL
NOVEMBER 20, 2008**

A regular meeting of the Boone Town Council was called to order at 6:30 p.m., Thursday, November 20, 2008 in the Council Chambers, 1500 Blowing Rock Road. Mayor Loretta Clawson presided. Council members present were Mayor Pro-Tem Lynne Mason, Liz Aycok, Rennie Brantz, Janet Pepin and Stephen Phillips. Town Attorney Sam Furguele was also present. Staff members present were Town Manager Greg Young, Town Clerk Freida Van Allen, Assistant to the Manager Jim Byrne, Public Utilities Director Rick Miller, Public Services Director Blake Brown, Development Services Director John Spear, Lt. Jim Wilson, Fire Chief Reggie Hassler and Human Resources Director Peri Moretz.

ANNOUNCEMENTS

Mayor Clawson made the following announcement:

I am very pleased to announce this evening that the Town of Boone has recently been the recipient of four awards.

First, at the Farm-City Banquet two weeks ago, the fourth annual "Active at Work" Community Award was presented to Lieutenant Mike Teague of the Boone Fire Department by Susan Tumbleston of the Be Active—Appalachian Partnership. The Boone Fire Department has promoted an in-town walking program for its members, an action which has helped improve the department's physical fitness, in addition to setting a positive example for the community.

Also at the Farm-City Banquet, I accepted the L. E. Tuckwiller Award on behalf of the Town of Boone. The Town won the Tuckwiller Award for its efforts in "making the best even better." This year, the Town established an Adopt-A-Flowerbed program, expanded the Adopt-A-Street program, and promoted recycling, water conservation and energy conservation.

The third award was presented at the 2008 North Carolina Planning Conference held in the Raleigh Convention Center. Mayor Pro-Tem Lynne Mason, Council Member Stephen Phillips, Planning Commission Chairman Bunk Spann and I attended the conference awards ceremony to receive the 2008 North Carolina Marvin Collins Planning Award for the Boone Smart Growth Audit. This award recognizes innovative and/or highly successful efforts to encourage quality growth and economic development. The Boone Smart Growth Audit was selected by the North Carolina American Planning Association Awards Committee because of the Town's existing growth and development policies, programs, and ordinances in relation to the principles of Smart Growth which exemplify the Special Theme—"Managing to Grow." The Audit provides dozens of macro- and micro-scale best-practice recommendations for implementing Smart Growth in Boone.

In October at the North Carolina League of Municipalities Centennial Conference in Charlotte, the Town received the Green Challenge Award from the North Carolina League of Municipalities. The purpose of this green challenge is to recognize member cities and towns for implementing short-term and long-range actions that will conserve resources and save money, thereby protecting the environment and operating municipal government in a more cost-effective, energy-efficient and environmentally-friendly manner.

I heartily believe that the Town is to be commended for its efforts in making Boone a better place in which to live. Thank you for your care, your concern, and your hard work!

TENTATIVE AGENDA ADOPTION

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

1. **Addition** of Item 4.D. - Adoption of Resolution - 21st Century Transportation.
2. **Deletion** of Item 6.I. - Presentation of Status Report on Jones House Centennial.
3. **Addition** of Item 6.L. - Discussion of Planning Commission priorities.
4. **Addition** of Requested Appearance - Residents of Charles & Gladys Street - Requesting a neighborhood overlay district. (After Council Matters)

- 5. **Deletion** of Item 7.E. - Clark Unlimited 2, LLC. Water/Sewer request.
- 6. **Addition** to Closed Session (NCGS 143-318.11a5)).
-Nature Conservancy.

On a motion by Council member Brantz, seconded by Council member Phillips, Council moved to adopt the agenda as amended.

VOTE:Aye-All
Nay-None

CONSENT AGENDA ADOPTION

On a motion by Council member Phillips, seconded by Council member Aycock, Council moved to adopt the following consent agenda items:

Minutes: October 8, 2008, Special Meeting.

 October 20, 2008, Regular Meeting.

Tax Releases & Refunds: October, 2008.

Taxpayer	Year	Amount	Description
LOWERY, BRANDON MICHAEL	2008	12.47	LIVES IN HENDERSON
GEE, PAUL EUGENE	2008	51.47	NOT IN TOB
CLARK, DAVID ALTON	2008	9.99	TURNED IN TAG
TOYOTA OF BOONE INC.	2008	770.14	GROSS RENTALS
WHITE, ALLISON ELIZABETH	2008	16.24	TURNED IN TAG
MAXWELL, JOSETTE LOU	2008	57.31	TURN IN TAG
RUPPARD, KATELYN MARIE	2008	10.36	VEHICLE TOTALLED
OHASHI, TAKAKO	2008	3.97	SOLD VEHICLE
MCQUEEN, MARY	2008	11.92	BILLED ON INCORRECT ACCT
WJ OFFICE CITY	2008	46.18	NOT IN TOB
SANQUI, JOSE ALMER	2008	3.44	SOLD VEHICLE
LUBSEN, ERIC CHRISTOPHER	2008	14.52	TURN IN TAG
DAVIS, DAVID E AND FREIDA	2008	5.39	TURN IN TAG
US EXPRESS LEASING INC	2008	57.02	NO BUSINESS PERSONAL IN TOB FOR 2008
LOWES FOODS #177	2008	113.96	EQUIPMENT NO LONGER IN TOB
INNKEEPERS OF BOONE INC	2008	54.75	TURN IN TAG
HALLOWELL, CAROLINE EWING	2008	12.36	TURN IN TAG
ATZEL, JR., LOU FRANK	2008	39.19	TURN IN TAG
USB LEASING LT	2008	36.21	TURN IN TAG
CLAWSON, BOBBY LEE	2008	12.95	ADJ FOR HIGH MILES
CHASE, SAUL ELLIOTT	2008	4.36	TURN IN TAG
MARSH LTD	2008	970.88	NO HOUSE ON PROPERTY
JACKSON, WILLIAM HARRY	2008	17.69	TURN IN TAG
MCCAULLEY, GRANT OBRIEN	2008	7.66	MOVED TO ILLINOIS
ELROD, KRISTEN NAOMI	2008	9.23	TURN IN TAG
TRIPLETT, BETTY MARTHA	2008	38.72	TRANSFERRED TITLE
GRACE EVANGELICAL LUTHERAN CHURCH	2008	1.18	EXEMPT
COLDIRON, RONALD ALAN	2008	66.12	TURN IN TAG
J BOLES ACCOUNTING	2008	32.56	INCORRECT SITUS
J BOLES ACCOUNTING	2007	28.49	INCORRECT SITUS
CALLOWAY, ANNIE ELIZABETH	2007	63.55	TURN IN TAG
		2580.28	

**MSD TAX RELEASES
OCTOBER, 2008**

Taxpayer	Year	Amount	Description
LUBSEN, ERIC CHRISTOPHER	2008	8.24	TURN IN TAG
HALLOWELL, CAROLINE EWING	2008	7.01	TURN IN TAG
		15.25	

**TAX REFUNDS
OCTOBER, 2008**

Taxpayer	Year	Amount	Description
WILLIAMS, FRANK DANIEL	2007	4.19	TURN IN TAG
J BOLES ACCOUNTING	2006	22.76	INCORRECT SITUS
J BOLES ACCOUNTING	2005	25.28	INCORRECT SITUS
		52.23	

Adoption of Memorandum of Understanding: High Country RPO

**MUNICIPAL STATEMENT OF ADOPTION
OF THE AMENDED MEMORANDUM OF UNDERSTANDING
REGARDING THE RURAL PLANNING ORGANIZATION FOR
ALLEGHANY, ASHE, AVERY, MITCHELL, WATAUGA AND YANCEY COUNTIES**

The amended memorandum of understanding for cooperative comprehensive and continuing transportation planning and the establishment of a Rural Planning Organization for the Counties of Alleghany, Ashe, Avery, Mitchell, Watauga, Wilkes and Yancey and the participating municipalities in each county is hereby adopted by the Town of Boone, this the 20th day of November, 2008.

Mayor

ATTEST:

Town Clerk

Adoption of Resolution: 21st Century Transportation.

RESOLUTION

WHEREAS, the state of North Carolina’s rapid growth has placed an increased strain on the State’s current transportation infrastructure; and that growth is expected to continue with North Carolina projected to have more than 12 million residents by 2030; and

WHEREAS, due to the increases in construction costs for steel, concrete, and asphalt, the North Carolina Department of Transportation has experienced a significant funding shortfall over the past several years; and

WHEREAS, the North Carolina Department of Transportation has identified a \$64 billion funding shortfall in regards to statewide transportation needs through the year 2030 and

additional funding sources are needed to construct important local, regional and statewide transportation projects; and

WHEREAS, traditional transportation funding sources have proved inadequate to address the multi-modal transportation needs of the State, especially highways, transit, rail, bicycle, and pedestrian facilities as well as the congestion relief needed in urban areas; and

WHEREAS, relatively small projects have the ability to significantly improve the efficiency of the existing transportation system in very cost-effective ways; however, funds to do so are very inadequate or restricted to other uses only ; and

WHEREAS, the 2007 North Carolina General Assembly established the 21st Century Transportation Committee to study the transportation infrastructure needs of the State; and

WHEREAS, the 21st Century Transportation Committee was asked to report on several important topics related to addressing these challenges, including innovative funding methods, local funding options, urban congestion relief, the division of transportation infrastructure between State and local governments, multi-modal needs, and energy conservation with its report to due on or before December 31, 2008.

NOW THEREFORE, be it resolved that the Town of Boone recommends the following:

1. The current process for transferring roads from the State to local governments through mutually-approved street and highway system responsibility agreements that recognize the relative importance of all roadways --- not just state and federal highways --- to the integrity of the major thoroughfare system works well and should be maintained with enhancements as may be deemed beneficial. Any wholesale unilateral transfer of all state secondary roads within municipalities from the state to local governments is contrary to this principle and is strongly opposed. Any transference of maintenance and construction responsibilities for highways or secondary roads from the State to the local governments must provide continuing dependable funding sources for those roadways at a level acceptable to local governments.
2. Adopt a complete streets policy for the State to ensure that facilities for transit, bicyclists and pedestrians are included in all appropriate transportation projects as consistent with the North Carolina Board of Transportation's resolution as adopted on September 8, 2000.
3. Support greater levels of investment in strategic multi-modal improvements to establish and support alternative forms of passenger and freight transportation, such as railroads, public transit systems, and bicycle and pedestrian facilities.

Adopted this the 20th day of November, 2008.

Mayor

ATTEST:

Clerk

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE 87)

VOTE: Aye-All
Nay-None

PUBLIC HEARINGS

Mayor Clawson opened the public hearing at 6:36 p.m. Development Services Director John Spear said this is the third and final step in the voluntary annexation process. There being no public comment the public hearing closed at 6:37 p.m.

ADOPTION OF ORDINANCE - DAVIS ANNEXATION

Development Services Director John Spear said the effective date of annexation is December 31, 2008. On a motion by Council member Mason, seconded by Council member Brantz, Council moved to adopt the following ordinance:

Ordinance 08-10

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE TOWN OF BOONE, NORTH CAROLINA (Davis)

WHEREAS, the Town Council has been petitioned under G.S. 160A-58.1 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 6:30 p.m. on November 20, 2008 after due notice by Watauga Democrat on November 10, 2008; and

WHEREAS, the Town Council finds that the area described therein meets the standards of G.S. 160A-58.1(b), to wit:

-) The nearest point on the proposed satellite corporate limits is not more than three (3) miles from the corporate limits of the Town;
-) No point on the proposed satellite corporate limits is closer to another municipality than to the Town;
-) The area described is so situated that the Town will be able to provide the same services within the proposed satellite corporate limits that it provides within the primary corporate limits;
-) No subdivision, as defined in G.S. 160A-376, will be fragmented by this proposed annexation;
-) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, does not exceed ten percent (10%) of the area within the primary corporate limits of the Town, and

WHEREAS, the Town Council further finds that the petition has been signed by all owners of real property in the area who are required by law to sign; and

WHEREAS, the Town Council further finds that the petition is otherwise valid, and that the public health, safety and welfare of the Town and of the area proposed for annexation will be best served by annexing the area described;

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-58.2, the following described non-contiguous territory is hereby annexed and made part of the Town of Boone, as of December 31, 2008.

BEGINNING on a PK nail placed in the eastern right-of-way line of Highway 105 By-Pass (located S03-11-45E 25.81' from the southwest corner of the Lyons house), thence from the BEGINNING and along the right-of-way N42-47-30W 155.58' to a ½" rebar placed on the south side of the Lyons Road (NCSR 1106), thence along the south side of same N57-12-30E 100.00' to a point, thence N88-12-30E 50.00' to a point, thence along the Lyons Road in part and the George Wilson Road in part S62-39-55E 126.05' to a 2.5' iron pipe found, thence with the Warren line (deed book 207 at page 1085) S46-19-20W 54.42' to a 2.5" iron pipe found, thence

with a new line N72-30-05W 17.43' to ½" rebar placed, thence with a new line S46-38-00W passing within 2.00' of the northwest corner of a apartment building 116.02' to the point and place of beginning containing 0.500 of an acre by coordinate geometry as surveyed and shown on plat no. 97-075 dated September 3, 1997 by Hencle J. Matheson RLS L-2561. This land being a portion of that property conveyed to Earl J. Lyons in a Deed recorded with Watauga County Register of Deeds in Book 43, page 439.

Section 2. Upon and after December 31, 2008, 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 herein 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 the 20th day of November, 2008.

Mayor

ATTEST:

Town Clerk

(ORDINANCE TO BE TYPED IN BOOK 3, PAGES 362-363)

VOTE:Aye-All
Nay-None

ADOPTION OF ZONING AMENDMENTS

Case 20080621 - Appalachian State University - Appalachian State University requested to change the zoning classification of property located at 186 South Depot Street from B-1, Central Business District to U-1, University District. Development Services Director John Spear said the Planning Commission unanimously recommended approval of the zoning map amendment. On a motion by Council member Phillips, seconded by Council member Aycock, Council moved that the proposed amendment to the Town's zoning map is consistent with the Town's comprehensive plan and other applicable adopted plans of the Town which relate to this application because:

1. The rezoning encourages maintenance and revitalization of downtown Boone in accordance with 2.1.5 F;
2. The property has been owned and used by the University for over 8 years; and
3. Recently adopted U-1 development standards will ensure compatibility with adjacent properties.

Before voting, Council member Mason said she could support the request because ASU has owned the property for over eight years and because it is adjacent to the B-1 district it will be in harmony with B-1 zoning requirements. Council member Brantz agreed and felt it is the appropriate designation.

VOTE:Aye-All
Nay-None

On a motion by Council member Phillips, seconded by Council member Aycock, Council moved to approve the proposed amendment to the Town's zoning map and believe approval is reasonable and in the public interest because:

1. The rezoning is consistent with the Town's comprehensive plan; and
2. The property has been owned and used by the University for institutional purposes.

VOTE: Aye-All

Nay-None

Case 20080165 Courtyard by Marriott - Boone Five, LLC requested to change the zoning classification of property located on NC Highway 105 across from Hampton Inn. The request is to change the zoning from split B-3, General Business and R-1, Single-Family Resident to CDB-3, Conditional District General Business. Approval of the request would permit the construction of a 100-unit Courtyard by Marriott. Development Services Director John Spear said the Planning Commission recommended approval of the zoning map amendment with conditions. Mr. Spear reminded Council that a valid protest petition was received on the case which will require a super majority vote of Council to approve. Mayor Clawson reopened the public hearing on the case at 6:50 p.m.

Damon Malletere, developer of the project, reported that a request to change the retaining wall structures that was made by Ms. White earlier today could not be accommodated. Mr. Malletere said he has agreed to many of the conditions that were presented at the public hearing and that he is requesting that Council either approve or disapprove of the request tonight. Mr. Malletere reiterated that he has accommodated all the neighbors' request to the best of his economic ability. Mr. Malletere said he has agreed to over \$100,000 in landscaping which includes plans to restore the cut along Wintergreen Lane to its original slope. Mr. Malletere said the property owners have a grading plan that will allow a cut within 25' of adjacent properties and that the property can be subdivided to allow fast-food restaurants.

Devin Staley with Blowing Rock Engineering presented a cross section profile of the berm and explained that the landscaping buffer will include green giant arbor vitae trees. Council member Mason asked why changing the retaining walls is not viable. Mr. Staley said if the length of the retaining wall is increased, it will lower the height of the berm, an action which will mean less landscaping.

Bill Dixon, architect for the project, feels that the developers have made extended efforts to appease the neighborhood with hopes for a "win/win" situation for all involved. Mr. Dixon reviewed the changes made, such as reducing the flood heights, using low-level lighting and installing a flat roof.

Lynne White of Wintergreen Lane reiterated that the proposed berm is not adequate and will not buffer noise. Ms. White requested that the rezoning be denied as presented.

Susan Owen of Wintergreen Lane read emails from her daughters regarding the situation. Ms. Owen said the developers have worked very hard to appease the neighborhood and that she is in favor of the rezoning request with the conditions that were negotiated.

Jeff Collins, one of the property owners, said this will be a beautiful project and that it is well engineered. Mr. Collins said the developers have tried to do everything that Ms. White has asked of them.

Bob Schlagal of Highland Avenue felt his neighborhood is one in crisis and that he would like to see the property restored as a park; however, he will concede to a hotel given the alternatives.

There being no further public comment the public hearing closed at 7:23 p.m.

Council member Pepin commended the neighborhood and developers for their negotiations citing that there are no easy or perfect answers. Council member Pepin said that some neighbors have more to lose than others and that for the developers every change costs money. Council member Mason asked the developers if they have agreed to the Planning Commission conditions. Mr. Malletere nodded yes. Council member Mason said even though she has seen great efforts on both sides, that not everyone is going to be satisfied with this rezoning. Council member Brantz agreed that the solution is not perfect but that people working together is the direction

Boone wants to move forward. Council member Aycock pointed out that the alternatives can be worse for the neighborhood. Council member Phillips said if one envisions a “worst-case” scenario, the hotel is more compatible with the neighborhood. Council member Mason agreed that most of the parcel is zoned B-3 with development that can occur without public comment.

On a motion by Council member Phillips, seconded by Council member Aycock, Council moved that the proposed amendment to the Town’s zoning map is consistent with the Town’s comprehensive plan and other applicable adopted plans of the Town which relate to this application because:

1. A hotel is more compatible with the adjacent neighborhood than many other uses permissible in B-3 zoning districts.
2. Effort has been made to provide effective buffering and/or landscaping where commercial use adjoins residential use.
3. Effort has been made to minimize the impact of the development on the neighborhood.
4. The site utilizes current infrastructure and is in the primary growth area.
5. The projects encourages economic development and revitalization of a currently under-used site primarily located in a commercial area
6. The project will improve the appearance of a major roadway.

VOTE: Aye-All

Nay-None

On a motion by Council member Phillips, seconded by Council member Aycock, Council moved to approve the proposed amendment to the Town’s zoning map and believe approval is reasonable and in the public interest because:

1. The staff recommendations for the project are as follows:
2. The applicant agreed to comply with his letter of response to the neighborhood residents as follows:

CONDITIONS OF APPROVAL

Staff recommended conditions of approval:

1. The project is approved subject to a zoning map amendment petition received from Boone Hotel Five, LLC and all accompanying civil, architectural and electrical drawings bearing a received date of November 3, 2008; **revised architectural elevations and sections bearing a received date of November 13, 2008; and the handout depicting the proposed earthen berm and landscaping along Wintergreen Drive dated November 14, 2008.** Minor modifications may be permitted in order to comply with the requirements of the UDO. Any commitments and representations concerning the proposed project made by the applicant or his representatives at the public hearing shall also become a condition of approval.
2. Final plans shall be submitted that are in compliance with the provisions of the UDO and other applicable provisions of Town, State and Federal Codes prior to final zoning approval.
3. NCDOT driveway permits shall be obtained prior to final zoning approval

Developer’s proposed conditions of approval:

Date: **November 20, 2008 FINAL COPY**

(edited in blue to include comments from November 17, 2008 Planning Commission Meeting)

To: Members of the Boone Planning Commission and Boone Town Council

RE: Neighborhood Request and Developer Response
CB3 Zoning Request - Courtyard by Marriott Hotel

Please find below a list of requests from Lynn White and Susan Owen. The developer's response is in red.

Lynn White's Comments/Questions:

1. The height of the hotel will not exceed three (3) stories from the N.C. Highway 105 street level. The developer will not be able to accommodate this request, though we are proposing measures beyond the requirements of the UDO to lessen the impact of the development on the neighbors.

The steep embankment at the 105 sidewalk will be reduced by almost ½ the current height (Four and one-half (4 ½) feet to six (6) feet is proposed to be cut across the front of the property. The proposed main finished floor is approximately five and one-half feet above Highway 105 at mid point of the site. Some of the factors affecting this decision are 1) Minimizing the grade at driveway entrance, and 2) Continued "cutting" of the grade at 105 worsens the grading conditions at back of property and Winter Green Lane.

The proposed four story building of which 95% is in the currently B3 zoning more than meets all of the setback and height requirements of the UDO, if the CB3 zoning is approved. The cost of land, construction costs, and current economic conditions necessitate the developer construct a four story building. Town council previously approved water allotment for a 101 room hotel. The proposed hotel is 100 rooms. The height of the proposed four story hotel **does not** exceed the height of the previous three story with gable roof hotel plans which were submitted during the request/approval for water. The gain of a fourth story allowed us to reduce the building footprint by approximately 2,500 square feet and reduce the length of the building by approximately 50 across its length.

2. The establishment of a complete "closure" of the large unsightly gap across from 148 Wintergreen Lane. This destruction of the natural earthen buffer was caused by an UNAUTHORIZED roadway access to the B-3 tract of land. The closure will require a 20-foot tall earthen berm with aesthetically pleasing vegetation planted on it, including a 10-foot tall cedar hedge along the entire ridge of the berm, spaced as to create a "solid" vegetated buffer. The proposed development will restore, as much as practically possible, the pre-existing natural contours of the property at the "opening" at the Winter Green Lane curve. To restore the proposed berm to what appears to be natural grade, the height of the berm will range from approximately 7' on the upper end, tapering to 0' on the lower end. An opaque Type 'C' buffer will be provided. It is our opinion that very little of the proposed hotel will be visible through the current "opening" after the "cut" is restored and the landscaping completed. The developer has agreed to construct the berm and landscaping within six months of the approval for the CB3 zoning (May 20, 2009) and Development Services Department approval, so that both the berm and landscaping can be established prior to construction commencing in several years.

3. No further cutting of any trees currently located within the wooded area of the R-1 tract of land adjacent to Wintergreen Lane and the Owen property boundary. (This was a recommendation also made by the Town of Boone Arborist, Brian Johnson, on April 23, 2007). No quality existing vegetation will be removed from the current wooded area along Winter Green Lane, with two exceptions: 1) Two trees will be removed in the parking lot and retaining wall area (14" poplar and 24" white pine-as indicated on landscape plan), and 2) Two older white pines near Susan Owen's house, which the developer has agreed to remove, which, should they fall, could cause extensive damage to Susan's house. It is the developer's intention (and benefit) that all high quality existing vegetation to remain along the perimeter of the site with new landscaping interspersed through out. Brian Johnson will work with landscape designer and installer in determining what existing vegetation will remain or be removed at the time of installation.

4. No further grading of land within the current wooded area of the R-1 tract adjacent to Wintergreen Lane and the Owen property boundary. This will retain a natural wooded earthen buffer between the neighborhood and the commercial development. Agreed. No grading will occur in the wooded area, with the exception of restoring the natural grade at the unfortunate opening in the vegetation at Winter Green lane. New landscaping, exceeding the town's standards, will be interspersed in the existing trees.

5. The planting of a 10-foot tall cedar hedge, spaced to create a "solid" vegetated buffer, located just beyond the south edge of the current wooded area described in #3 & #4, and connecting with the hedge described in #2. The developer will install minimum 15' high 'Green Giant' Arbor Vitae trees with a minimum of two rows with plants staggered to form an opaque buffer as proposed on landscape plan.

6. Removal of all dead trees and brush from the wooded area. Agreed.

7. Parking will be provided only underground and at the front of the hotel, with none behind the structure. Developer cannot provide underground parking. Per the Long Range Master Plan, the UDO, and Smart Growth Concepts, the majority of the proposed parking will be away from the street and

behind the building, with the balance of parking distributed at the two ends and front of the proposed building.

8. There will be no "sports bar" established within the hotel. Agreed. No sports bar is planned for the hotel. There will be a breakfast buffet bar, and a limited "pre-pared meal" dinner menu for hotel guests. There will also be a small bar in the lobby for hotel guests.

9. No intense lighting will be erected behind the hotel, nor will such light be directed toward the residential neighborhood. Only one security light will be erected at the rear of the hotel, unless more are required by the franchise. Agreed. As evidenced by the multiple site lighting plans submitted, and continued development of alternative site lighting options, the developer will keep site and building lighting to a minimum, while meeting both the town's UDO and franchise's lighting requirements.

Susan Owen's Comments/Questions:

1. Roof elevation to be no more than 3200 feet in height. Developer will limit the height of the parapet walls to 3203 feet (based upon current survey information and proposed finished floor elevation of 3151.71). The proposed building more than meets the setback and building height requirements required by the UDO.

2. Roof shall be flat and grey in color. Agreed.

3. The 25-foot planned buffer between my property and the hotel will be moved back from my boundary line, and be as close as possible to the hotel, up to the limits of the already disturbed area. The plants in this buffer will be decided upon by me, Brian Johnson and the landscape architect for the project. Agreed. The twenty-five foot buffer has been moved away from the property line and located at the top of the proposed bank.

4. We will not tolerate any light pollution from this project- hence no lighting will be seen from my yard. Bollard type (low profile) lighting to be used as much as possible. Pole/Carriage lights to be kept at a minimum. (Lighting could shine down from the retaining walls?) No exterior lights on the building higher than 1st floor. The building will not be "uplighted." (No lights from ground level shining up onto the building.) Agreed with exceptions. On the back and two ends of the building, no lights will be installed above first floor and no ground lights shining up will be installed. The Highway 105 elevation facing the street can be lighted per developer's and architect's discretion, within the requirements of the UDO. Architect and Engineer will continue to develop the site lighting plans to minimize off site light pollution. 'Low to the ground' lighting options under consideration are recessed lights in retaining and courtyard walls, bollard lighting, and low landscape lights. Also see comment # 9 above.

5. No dumping/deliveries, etc. between the hours of 10pm to 7am. The back-up "beepers" on commercial trucks are very loud; they wake us up in the middle of the night from across Hwy. 105, even with our windows closed. Agreed.

6. Restrict the outside 'courtyard' hours to no later than 10pm as well. Drinking and dining outside can very loud as well. Developer will restrict the use of the exterior courtyard at the rear of the building to 11:00 pm.

7. The large dead pine trees along the boundary line close to my house will be taken down, as well as the last standing one in my yard. They are all in a close clump- if all are taken down leaving one standing, it poses a greater risk that the one tree will fall. Agreed.

8. The large gap at the curve of Wintergreen Lane be filled in, as high as possible, to be able to support plantings of large trees and shrubs, to create an opaque buffer. Agreed.

In closing, we believe we have addressed the neighborhood concerns, and have gone to extraordinary measures to include the neighbors in the site and building design, allowing this process to truly be a "community design." Assuming the CB3 zoning is approved, this proposed project supports many of the goals of Boone's Long Range Master Plan, meets the requirements of the town's current Unified Development Ordinance, and follows many of the ideas in "Smart Growth" planning.

If the project fails to be approved, the current property owners could, without a change to the current zoning, subdivide the property into several individual parcels currently zoned B3 along Highway 105, and several individual home sites in the property currently zoned R-1, which in my opinion, would have a much greater negative impact on the immediate neighbors and neighborhood as a whole, than the proposed development. This could probably be realized without any neighborhood input or consideration at all.

We appreciate your time and your commitment to this community. Damon Malletere, the developer, or myself, will be happy to address any concerns you have, or answer any further questions.

William (Bill) Max Dixon, Jr., AIA, NCARB

VOTE:Aye-All
Nay-None

ADOPTION OF RESOLUTION - CERTIFYING RESULTS OF BOND REFERENDUM

On a motion by Council member Brantz, seconded by Council member Aycock, Council moved to adopt the following resolution:

Resolution Certifying and Declaring the Results of the Special Bond Referendum on the Bond Order Authorizing the Issuance of \$25,000,000 General Obligation Water System Bonds, Held for the Town of Boone, North Carolina on November 4, 2008

WHEREAS, the Town Council of the Town of Boone, North Carolina has considered the Certificate of Canvass of the Watauga County Board of Elections canvassing the referendum held for the Town of Boone, North Carolina on November 4, 2008 and certifying the result thereof to the Town Council and has canvassed the result of said Referendum.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE TOWN OF BOONE, NORTH CAROLINA that it be and hereby is certified and declared that the number of voters registered and qualified to vote at said Referendum was 15,608.

BE IT FURTHER RESOLVED, that it be and hereby is certified and declared that the total number of voters who voted “**Yes**” in answer to the question

“*SHALL* the order authorizing \$25,000,000 of bonds secured by the pledge of the full faith and credit of the Town of Boone, North Carolina to provide funds to pay the capital costs of acquiring, constructing and equipping facilities for a new water source along the South Fork of the New River, including the costs of related studies, plans and design; acquiring land and rights-of-way in land and installing water transmission lines related to the acquisition of the new water source; renovating the Town of Boone Water Treatment Plant in order to increase its daily capacity, including improvements to and the acquisition and installation of plant equipment, and a tax to be levied for the payment thereof be approved?” was 5,554. The total number of voters who voted “**No**” in answer to such question was 2,097. The question in the form submitted was **APPROVED** by the affirmative vote of a majority of those who voted thereon at said referendum.

BE IT FURTHER RESOLVED, that a statement substantially in the form hereinafter set forth declaring the result of said referendum shall be prepared, delivered to the Town Clerk for filing and recordation and published in accordance with law.

BE IT FURTHER RESOLVED, that this Resolution shall become effective on the date of its adoption.

Adopted this the 20th day of November 20, 2008.

Mayor

ATTEST:

Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE 88)

VOTE:Aye-All
Nay-None

GREENWAY, PARKS & GARDEN COMMITTEE BOARD APPOINTMENTS

Nominations were accepted for two open positions on the Greenway, Parks and Garden Committee. Council member Brantz nominated John Callahan. Council member Mason nominated Joseph Cazier. There being no further nominations, both were appointed by acclamation. Both terms will expire July 31, 2011.

CABLE TV ADVISORY COMMITTEE BOARD APPOINTMENT

There were no applications for the one open position. Council advised the Town Clerk to continue to advertise for the position on the Town's website.

APPOINTMENT OF COUNCIL MEMBER TO MOUNTAINKEEPERS

On a motion by Council member Mason, seconded by Council member Brantz, Council moved to appoint Council member Liz Aycock to the Mountainkeepers board.

VOTE: Aye-All
Nay-None

ESTABLISHMENT OF POST OFFICE PLANNING COMMITTEE

Council member Brantz thanked the citizens of Boone for their support of the recent purchase of the Downtown Boone Post Office. Council member Brantz said, after some thought, he would like for Council to discuss the establishment of a space needs committee at the next retreat. Council member Pepin agreed and said a short-term budget is needed for exterior repairs to the post office; however, she stated a long-term budget and major planning are needed for interior renovations.

REQUEST FOR FUNDING FOR HISTORIC PRESERVATION INTERN

Council member Brantz reported that the Historic Preservation Commission has been working to identify historic structures within the Town. So far the Commission has identified 146 structures that could possibly be designated as historic. Council member Brantz asked that Council consider hiring an intern to help the Commission catalog these structures. Council member Brantz noted that the ASU public history program is contributing \$500 and that he hopes the project will be complete within three months. On a motion by Council member Brantz, seconded by Council member Mason, Council moved to allocate \$500, plus administrative costs, towards the hiring of an intern. The funds will come from the undesignated fund balance.

VOTE: Aye-All
Nay-None

DISCUSSION ON ESTABLISHMENT OF A SIDEWALK FUND

Council member Aycock requested that Council establish a sidewalk fund so developers that wish to defer sidewalk construction can contribute to the fund. Council member Aycock explained that on occasion developers are required to construct a sidewalk in front of projects "that lead to nowhere." If that is the case she stated that the developer can contribute the cost of the sidewalk to the Town's fund. The Town can then expend the funds of sidewalks that have been prioritized by Council. Council member Mason agreed this is a good idea and stated that the sidewalk prioritization plan should be completed soon. On a motion by Council member Mason, seconded by Council member Aycock, Council moved to have the staff and Town Attorney prepare a text amendment to the UDO for the February 2009 Quarterly Public Hearing regarding the establishment of a sidewalk fund.

VOTE: Aye-All
Nay-None

MONTHLY WATER USE STATUS REPORT

Public Utilities Director Rick Miller presented the following monthly water use status report:

(ON FILE IN THE NOVEMBER 20, 2008 PACKET)

DISCUSSION OF PLANNING COMMISSION PRIORITIES

Council member Mason requested this item be discussed at the special meeting of Monday, November 24, 2008.

REQUESTED APPEARANCE - RESIDENTS OF GLADYS AND CHARLES STREET

Mr. Maran Sigman of 145 Gladys Street appeared before Council to present a petition and request that Council designate the following area as a neighborhood conservation district. The area begins at the intersection of Green Heights Drive and Queen Street and includes the parcels on the north side of Queen Street to Stoneybrook Court; parcels on both side of Queen Street to the end of Queen Street; all parcels on Charles Street, both sides; all parcels on Gladys Street, both sides; and Stoneybook Court. On a motion by Council member Mason, seconded by Council member Brantz, Council directed the staff and Town Attorney to prepare a text and map amendment for the February 2009 Quarterly Public Hearing that would designate the area listed above as a neighborhood conservation district.

VOTE:Aye-All

Nay-None

Mayor Clawson declared a break at 8:12 p.m. Council reconvened at 8:24 p.m.

WATER AND SEWER REQUEST - ANDREW SALDINO

Council member Aycock reported that she had contact with Mr. Saldino and asked that she be excused from deliberating and voting on this request. On a motion by Council member Mason, seconded by Council member Pepin, Council moved to excuse Council member Aycock from this water and sewer request.

VOTE:Aye-All

Nay-None

Town Attorney Sam Furgiuele opened a public hearing at 8:28 p.m. to hear sworn testimony from Andrew Saldino, Public Utilities Director Rick Miller and Development Services Director John Spear on a request for water and sewer service to property located at the Junaluska Overlook subdivision. Mr. Saldino testified that he purchased 3.2 acres on Junaluska Road with plans to subdivide into seven lots. Mr. Saldino said he plans to construct five single family homes and two duplexes on the seven lots. Mr. Saldino said the project will be constructed in an environmentally conscious manner, with LEED certifications on the buildings and containment of all rainwater and stormwater on site. Mr. Saldino said even though the property is within a geologic high hazard area, none of the sites exceed a 30% grade. Mr. Saldino said none of the lots perked for a septic system, the reason why a sewer connection is needed. Council member Mason asked Mr. Saldino if he is willing to annex the subdivision. Mr. Saldino said yes. Council member Brantz asked how many bedrooms will be in the duplexes. Mr. Saldino said the duplexes will be three-bedroom, two-bath and about 2,500 square feet each. Council member Mason asked when water service will be needed. Mr. Saldino said he hopes to have the duplexes constructed by August 2009. Council member Pepin noted that the property is located in the secondary pressure zone and asked what the implications of that fact are. Public Utilities Director Rick Miller said that Ordinance 05-01 does allow for connections into the secondary pressure zone if the property were located within the corporate limits before March 8, 2007. Mr. Miller noted this property is currently outside the Town limits. Council member Pepin asked if the subdivision can be annexed. Development Services Director John Spear said yes. Council member Brantz asked about the geologic hazard area. Mr. Spear explained that a geologic hazard plan will have to be submitted for each lot before construction can begin. There being no further testimony, the public hearing closed at 8:51 p.m. Council member Mason pointed out that Ordinance 05-01 will not allow approval at this time even though the lines are in place. Council member Mason suggested reviewing the standards for connections in the secondary pressure zone at the next water committee meeting. On a motion by Council member Mason, seconded

by Council member Brantz, Council moved to table the request until the next meeting.

VOTE:Aye-All

Nay-None

Excused-1 (Aycock)

WATER AND SEWER REQUEST - APPALACHIAN STATE UNIVERSITY

Town Attorney Sam Furguele opened a public hearing at 9:00 p.m. to hear sworn testimony from Joe Rinehart, Yonatan Strauch, Erica Porras, Lisa Doty, Dayton Cole and Public Utilities Director Rick Miller on a request for water and sewer service to property located at Watauga County landfill. Joe Rinehart, a graduate student in the ASU department of Technology, testifying on behalf of Watauga County, requested a water connection in order to construct a greenhouse on the landfill property. Mr. Rinehart said the greenhouse will be constructed using experimental foam. Once constructed the greenhouse will be used to grow algae for the development of biofuel technology. Yonatan Strauch testified that ASU received two EPA grants to construct the greenhouse. Mr. Strauch said the greenhouse will use 200 gallons of water initially and then use about 20 gallons per month, as the greenhouse will utilize a closed-loop system. Erica Porras explained plans to grow algae for foodstock for biofuel. Ms. Porras estimated the algae ponds will require 300 to 500 gallons of water initially, with a monthly replenishment. Council member Brantz asked the length of the project. Mr. Rinehart answered that he hoped the project would be ongoing. Council member Brantz asked about ownership of the greenhouse. Mr. Rinehart said the ASU Foundation will own the building. Council member Mason asked about the connection fees. Mr. Rinehart said they are able to pay the fees, but are hoping that the Town will donate or waive the fees. ASU Attorney Dayton Cole explained that ASU is leasing property from Watauga County, with the Foundation actually owning the greenhouse. Council member Pepin asked if the project is terminated can the water allocation be terminated. Public Utilities Director Rick Miller said the line will still be in place; however, the meter can be removed. Council member Pepin asked who is responsible for the monthly water bill. Mr. Cole responded that ASU will pay the monthly bill. Recycling Coordinator Lisa Doty pointed out that she sees the project as a joint partnership between the County and ASU in hopes that the Town can be a partner also. There being no further testimony, the public hearing closed at 9:27 p.m. Council member Mason pointed out that Council does not have the authority to waive connection or availability fees. Only the Town Manager has the authority to waive fees based upon hardship. After little discussion, on a motion by Council member Mason, seconded by Council member Aycock, Council moved to grant 50 gallons per day water from the 2008 allocation. This connection is for this greenhouse project only and any change must be reported to Council. No annexation is required.

VOTE:Aye-All

Nay-None

WATER AND SEWER REQUEST - BOONE JEWISH COMMUNITY

Council member Brantz reported that he receives funding in his position at ASU from the Boone Jewish Community. On a motion by Council member Aycock, seconded by Council member Pepin, Council moved to excuse Council member Brantz from deliberating and voting on this matter.

VOTE:Aye-All

Nay-None

Town Attorney Sam Furguele opened a public hearing at 9:31 p.m. to hear sworn testimony from Stephen Price and Public Utilities Director Rick Miller on a request for water and sewer service to property located off West King Street. Stephen Price, architect for the project, said the Boone Jewish Community has been meeting for years at Alliance Bible and St. Elizabeth's and is looking for a permanent home. Mr. Price said the proposed synagogue will be a low-density, 4,000-square-foot, one-story facility located on the Coleman property. Mr. Price said the property is very limiting toward development and he felt this would be the best use for the property. Council member Pepin pointed out that another water allocation was previously granted for the property. Public Utilities Director Rick Miller agreed and reminded Council of the 10,000 gallon per day allocation to Oscorp Investment. Mr. Miller advised Council members

that they could either approve the request now, with a letter of release, or wait until the allocation expires in January. Mr. Price noted that the water allocation will not be needed until late 2009 or early 2010. There being no further testimony, the public hearing closed at 9:39 p.m. On a motion by Council member Pepin, seconded by Council member Mason, Council moved to grant the water allocation of 465 gallons per day from the 2009 allocation, contingent upon Oscorp Investment releasing its previous allocation.

VOTE:Aye-All
Nay-None
Excused-1 (Brantz)

WATER AND SEWER REQUEST - MPVILLC

Town Attorney Sam Furguele opened a public hearing at 9:41 p.m. to hear sworn testimony from Jackson Hughes and Public Utilities Director Rick Miller on a water and sewer request to property located at 2135 Blowing Rock Road. Jackson Hughes, real estate developer for CVS pharmacies, presented plans for a 13,000-square-foot pharmacy, a 1,000-square-foot bank and retail/medical offices to be located on the property of the old Cardinal Inn. Council member Phillips explained the Town's smart-growth audit and suggested that the buildings be constructed closer to the road with parking provided in the rear of the property. Public Utilities Director Rick Miller pointed out that 450 gallons per day of water was previously allocated to High Country Bank, and Council can either approve now, with a letter of release, or rescind the previous allocation. There being no further testimony, the public hearing closed at 9:47 p.m. On a motion by Council member Pepin, seconded by Council member Mason, Council moved to allocate 1,369 gallons per day water from the 2008 allocation contingent upon High Country Bank releasing the previous allocation of 450 gallons.

VOTE:Aye-All
Nay-None

PUBLIC COMMENT

Council member Phillips questioned why the Christmas lights remain on 24 hours per day. Public Services Director Blake Brown explained that there is not a photocell on the lights. Council agreed to reactivate the decoration committee to discuss the decorations for next year.

Council member Aycock felt that the public comment should be at the beginning of the agenda. Town Attorney Sam Furguele pointed out that in order to change the structure of the agenda a code amendment must be made. Council member Pepin agreed that Council may want to consider this change.

CLOSED SESSION

On a motion by Council member Brantz, seconded by Council member Mason, Council moved to enter Closed Session at 9:58 p.m. pursuant to NCGS 143-318.11a)3)5) in order to discuss property acquisition for Howard Street; property acquisition for CWWW,LLC donation; and the Nature Conservancy proposal; legal advice on occupancy tax; and legal advice on Faulkner condemnation.

VOTE:Aye-All
Nay-None

On a motion by Council member Aycock, seconded by Council member Pepin, Council moved to exit Closed Session at 11:07 p.m.

VOTE:Aye-All
Nay-None

ADJOURNMENT

On a motion by Council member Pepin, seconded by Council member Mason, Council moved to

adjourn at 11:08 p.m.

VOTE:Aye-All
Nay-None

Town Clerk

Mayor