MINUTES – REGULAR MEETING
BOONE TOWN COUNCIL
November 21, 2019

CALL TO ORDER

A regular meeting of the Boone Town Council was called to order on Thursday, November 21, 2019 at 6:00 p.m. at the Council Chambers located at 1500 Blowing Rock Road in Boone. Mayor Rennie Brantz presided. Council members present were Mayor Pro-Tem Loretta Clawson, Connie Ulmer, Sam Furgiuele, Lynne Mason and Marshall Ashcraft. Staff present included Town Manager John Ward, Town Clerk Nicole Harmon, Public Works Director Rick Miller, Deputy Public Works Director Todd Moody, Police Chief Dana Crawford, Planning Director Jane Shook, Building Inspector Stacy Miller and Fire Chief Jimmy Isaacs. Town Attorney Allison Meade was also in attendance.

ANNOUNCEMENTS

Mayor Brantz welcomed everyone in attendance and asked anyone who wised to speak during the public comment session to please sign up.

He then announced the following board vacancies:

BOARD OF ADJUSTMENT
Two alternate positions

COMMUNITY APPEARANCE COMMISSION
Four positions

CULTURAL RESOURCES ADVISORY BOARD
Four positions

DOWNTOWN BOONE DEVELOPMENT ASSOCIATION
One Board appointed position

HISTORIC PRESERVATION COMMISSION
Two positions

OUTSIDE AGENCY FUNDING REVIEW COMMITTEE
One position

PLANNING COMMISSION
One position

SUSTAINABILITY COMMITTEE
One position

WATER ADVISORY COMMITTEE
Two positions

TENTATIVE AGENDA ADOPTION

Mr. Ward noted the addition of the following carry-over items from Tuesday night's meeting:

1. Consideration of Approval of ABC Resolution (as item 3)
2. Consideration of Fee in Lieu Text (as item 4)

Upon a motion by Mr. Furgiuele, seconded by Mayor Pro-tem Clawson, Council voted to approve the agenda as amended.

VOTE: Aye: All

Nay: None

PUBLIC COMMENT

No one was signed up to speak during the public comment session.

REQUESTED APPEARANCES

JAMES MILNER - APPALACHIAN COMMERCIAL REAL ESTATE

James Milner with Appalachian Commercial Real Estate presented Council with an update on the surplus properties which were recently listed on the market in different exchanges. He stated that he had received multiple offers on both properties. On the Public Works property, Mr. Milner reported that he had received two written offers, and that on the Police Department property he had received one written offer and a letter of intent. He indicated that the interest was stronger at the Public Works property than at the Police Department Property, and noted that a meeting had been held with staff and an interested developer regarding the Public Works property. Mr. Milner stated that he would continue to keep an eye on the market and indicated that he had revised the land sale analysis of the Public Works property based on the recent sale of the old Subaru dealership property nearby. He further reported that the neighboring property owner had been located so that discussions could begin on whether he would be interested in a joint sale option at the Public Works location. Mr. Ward noted that this was the property that the Town leased for additional employee parking next to the Public Works building. Mr. Milner continued by adding that the issue at hand was that potential buyers were unable to make plans for either property or obtain financing due to difficulties in anticipating the amount of time before they would be able to start on a potential project. He added that there was a fair amount of interest in both properties, but since there was no place for police or public works operations to be housed in the event of a sale, he needed further direction. Mr. Ward reported that staff was working with the engineer on a site plan, and estimated completion at about five months out. He added that potential buyers were expecting the Town to participate in a lease-back option with delivery by mid-summer 2020 since they expected a 1-year construction window. Mr. Ward stated that these facts were cause for concern, since the Town would only be entering into the design phase once the site plan was complete. He added that all offers were contingent on the current market, not a year and a half out. Mr. Milner indicated that in a recent meeting, the local developer stated that they would give the Town as long as they needed, 2-3 years, but that it would relate to price which was unknown since there was no offer yet. Mayor Brantz asked whether most of the interest was coming from out of town or locally. Mr. Milner responded that most of the interest for the Public Works building was coming from local developers, and most of the interest in the Police Department site was coming from regional developers. Mr. Furgiuele stated that he had anticipated a lease-back option in this situation, and that he would like to explore that option with a conservative lease time estimate with a renewal option potential and suitable benefits to the purchaser if the Town needed to exercise those options. Mr. Ward noted that the limiting factor at the Public Works building was the ability to maintain vehicles and the fact that the equipment could not be easily moved, as well as the equipment for communications at the Police Department building and the space for public meetings. Mr. Milner indicated that the appraiser's methodology was to demolish the Public Works building and the value was just for the land. At the Police Department property, Mr. Milner indicated that the methodology for pricing the property was for the land value plus building improvements which were estimated at around $900,000. He noted that the demolition of the Public Works building was more complicated because the building was literally holding up Tracy Circle. Mr. Milner suggested that if the asking price was reduced slightly, that would generate additional interest which could in turn increase the price paid. Ms. Mason asked Mr. Milner what his recommendation would be for a new asking price, to which he responded that he would price the Police Department property at between $4.5-4.75 million which he believed would still allow room for negotiation. Mr. Furgiuele made a motion to allow Mr. Milner the authority to reduce the list price of the Police Department property at no lower than $4.5 million, but accepting the highest possible offer. Ms. Mason seconded the motion.

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

APPROVAL OF ITEMS ON CONSENT AGENDA

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

1. Town Council Regular Meeting Minutes - September 17, 2019
2. Town Council Regular Meeting Minutes - September 19, 2019
3. Town Council Regular Meeting Minutes - October 15, 2019
4. Town Council Regular Meeting Minutes - October 17, 2019

VOTE: Aye: All
Nay: None

COUNCIL MATTERS

TOWN MANAGER UPDATE

EV Charger Upgrade - The existing EV Fast Charger at North Depot Street is equipped with one Chademo style connector. An additional SAE (J1772) style connector can be added to our current charger for $5,200 not including travel expenses for a technician to travel from California. Mr. Ward indicated that the company only has a couple of technicians that can complete this upgrade. Another option for Council to consider is for Public Works to install a new charger beside the existing charger with the J1772 connector for approximately $1,300. Electric vehicles could utilize the existing parking space with access to both charger styles.

Highway 194 Update - Public Works is in the process of obtaining an Encroachment Agreement from NCDOT for sidewalk installation from East King Street to Perkinsville Drive. Staff anticipates construction to begin in the spring of 2020. After lengthy delays, staff has secured a new surveyor to work on easements for the proposed Hawk signal crossing at Hardin Park School.

LED Streetlight Conversion - Traffic Operations has currently converted 32% of Town maintained street lights to LED. Staff has been working with New River Light & Power over the last few months to get the number of light fixtures and the billing schedule as accurate as possible. Our most recent invoice shows a decrease of $950 per month, which is directly related to the cheaper rates and lower energy consumption for LED fixtures. Also, staff is currently testing LED fixtures from a new manufacturer which cost substantially less than our previous supplier. If these new fixtures prove reliable, staff would need approximately $200,000 to convert all the remaining Town maintained street lights to LED.

ADA Transition Plan Survey - The Town of Boone is completing an ADA Transition Plan. This plan will look at barriers to accessibility and strategies to address a variety of issues that impact the accessibility of Town services, facilities, sidewalks and streets in the public right-of-way. This survey is intended to inform the ADA Transition Plan update by generating priorities for improving town-owned infrastructure throughout Boone. Please visit www.townofboone.net and follow instructions on the homepage to participate in this survey.

Leaf Pick-Up - The Facilities Maintenance Division has collected 46 tons of leaves from October 14th till today. Leaf collection trucks will run daily routes through December 13th. Leaves should be placed curbside and free of all other debris. For current route information, please contact the Facilities Maintenance Division at (828) 268-6230.

Town CDBG and AIA grant applications were submitted to the respective state agency review boards for consideration at the end of September. Updates will be provided as more information becomes available.

Charles and Gladys Street/Water Storage Tank Rehabilitation - A pre-construction meeting was held with our contractor and design team on October 23rd to discuss scheduling and project logistics. Staff is now working to finalize contract documents and develop a complete project schedule.

Plaque in honor of Stacy Eggers, Jr. - Mr. Ward reported that during the transition of department heads in the Cultural Resources department, this task was dropped. Staff was working to move forward and hoped to have the plaque installed on the desk by the end of the year.

Audit - The audit has been completed and will be reviewed in December. Staff is pleased to report cost savings, no findings and the audit has already been approved by the LGC.

Community Solar Project - Mr. Ward announced that, in contrary to a rumor that had been going around, the community solar project was not dead. The agreement with NTE had been altered but that ASU fully intended to continue, through New River Light and Power, with the project and that they had been working for the past month to double the size of the solar array. Mr. Ward indicated that he had been working with Ed Miller of NRLP to attend the Council meeting in December to give an update on the project. He added that NRLP were hoping for a 2021 completion date, and noted that the issue with NTE was that they had anticipated this project to be constructed on private property so that they could receive tax credit. Mr. Ward stated that when NTE found out that the project was on tax-exempt property, they were no longer interested. He further added that in 2021, New River Light and Power would no longer be obligated or restricted by who they purchase their solar power from, so they will be able to enter the market and purchase from larger vendors. Mr. Ward reiterated that the local solar array was not off the table and noted that while the site may have changed, it will still be in town and will be close. Mr. Furgiuele asked whether the site would be unwooded, to which Mr. Ward answered that the property would be unwooded for the most part.

Peacock Lot Parking Deck - Mr. Ward reported that renderings had been completed and that ASU was currently gravitating toward a prefabricated, brick covered facade with 650 spaces. He added that discussions indicated that 1-2 levels would be used for commercial parking, though he was unsure of an exact number.

Mr. Ward announced that the Boone Tourism Development Authority would soon be rolling out new promotional videos and noted a more than 17% increase in hotel/motel stays in Town in the past year. He further noted that there had been some recent movement for other short-term rental platforms, such as VRBO to be required to pay taxes, and reminded members that this was directly tied to Howard Street project funding.

Mr. Ward gave a legislative update and stated that since no actual State budget was ever passed, none of the special appropriations, including funding for the Appalachian Theatre were approved.

Announced the opening of a new restaurant on Howard Street - Howard Station.

Passed out updated meeting schedule. It was the consensus of Council to schedule the annual planning retreat on January 22, 2020 at 9:00 a.m. at Council Chambers, and the annual budget workshops on February 4 and 5, 2020 beginning at 9:00 a.m. at Council Chambers.

TOWN ATTORNEY UPDATE

Ms. Meade passed out a copy of a community improvement report gathered by the Town's Community Improvement Officer. She noted that there were only two appeals in the two years' worth of information, and that even though there was often voluntary compliance, there was also often repeat violators which she believed would support the need for an increased repeat violator penalty. Mr. Furgiuele stated that he saw at least a dozen repeat violators and agreed with Ms. Meade's assessment that there was a need for an increased repeat violator penalty. Ms. Meade added that she believed the report suggested that enforcement went a long way, and felt that concerns may have come from concentrated areas.

Ms. Meade reported that she worked with staff to hold a training session for the Board of Adjustment last month and felt that it went well. She stated that UNC School of Government modules were shown and talked through

in sessions under two hours. Ms. Meade noted that staff planned to hold two more sessions with the Board of Adjustment and would hold sessions with other boards as well.

Ms. Meade recommended that she work with staff to draft a UDO text amendment to give the Planning Director explicit authority to make non-substantive changes to the UDO, such as amending typographical errors. It was the consensus of Council to allow Ms. Meade to move forward with this draft text and to bring it back to Council at a future meeting.

Ms. Meade stated that she had hoped to have a report for Council on the franchise agreement with NRLP, but that she felt that she needed to do additional research. She indicated that she had an appointment with staff at the Public Utilities Commission in order to obtain additional education on the subject.

Ms. Meade finished her update by going over her updated priority list: 1. Nuisance 2. Franchise Agreements with NRLP 3. Riparian Buffers 4. AirBnB. Mr. Ashcraft suggesting moving the riparian buffer matter up to number 2 since Ms. Meade needed to do additional research on the franchise agreements and because it was not time sensitive. Mr. Furgiuele suggested that Council wait to alter positions until Ms. Meade reported what she learned from her meeting with the Public Utilities Commission.

Mr. Ward noted additional items that he neglected to update Council on during his update: Staff has coordinated with the Police Department and Parking Department to monitor the Greenway parking lot off of Deerfield Road due to a reported increase in student parking in the area. Staff has worked with ASU to get word out to students about not parking here to walk to class. Mr. Ward reported that staff had seen a decrease in student parking after the email was sent. He added that staff believed they had learned a pattern and could anticipate student parking in order to adjust enforcement. Mr. Furgiuele asked whether staff did find at increase in use by students, with Mr. Ward confirming. Mr. Ward further added that he had worked with Waste Water Treatment Plant Superintendent Rudy Broschinski to reach out to the State energy office to get a complete audit of the plant, at no cost to the Town, since they were the Town's largest energy user. Staff plans to bring the audit findings back to Council in December or early 2020.

Resolution in Support of the Current Control System - Ms. Mason made a motion to approve the ABC resolution. Mayor Pro-Tem Clawson seconded the motion. Mr. Furgiuele offered a friendly amendment to send the resolution to the Town's lobbyists and the State legislators. Ms. Mason and Mayor Pro-Tem Clawson accepted the amendment and the motion passed unanimously.

Resolution # _____

RESOLUTION BY THE TOWN COUNCIL
OF THE TOWN OF BOONE, NORTH CAROLINA IN SUPPORT OF
THE CURRENT CONTROL SYSTEM FOR THE SALE OF LIQUOR

WHEREAS, in scores of peer-reviewed scientific journal articles, alcohol control has been shown to reduce alcohol outlet density and overall consumption,[1] and to generate more revenue than the private sale of alcohol;[2]

[1] *Preventing Excessive Alcohol Consumption: Regulation of Alcohol Outlet Density*, by the Community Preventive Services Task Force (February 2007), available at https://www.thecommunityguide.org/findings/alcohol-excessive-consumption-regulation-alcohol-outlet-density .

[2] *Alcohol Beverage Control: The North Carolina Policy Implications*, by the North Carolina Alcohol Policy Alliance (October 2018), available at http://ncalcoholpolicy.org/ABC%20The%20Policy%20Implications-updated%2010.5.18.pdf. **Unless otherwise noted by means of a footnote, the facts set forth in this Resolution are derived from this paper and based upon the authorities cited therein.**

WHEREAS, based upon systematic review of the evidence, the Community Preventive Services Task Force and the United States Centers for Disease Control recommend against the privatization of state-run alcohol sales because privatization resulted in substantial increases in excessive alcohol consumption;[3]

WHEREAS, in the seven States surrounding and including North Carolina, three of which are control states and four of which are license states, control states average five off-premises spirits outlets per 100,000 residents whereas license states average 14 outlets -- nearly three times as many outlets per resident;

WHEREAS, of the 50 states, North Carolina ranks 44th lowest in alcohol consumption per capita and 7th highest in revenue per capita, demonstrating that North Carolina's current ABC control system provides an appropriate and effective balance between both revenue and public health, welfare and safety objectives;

WHEREAS, Washington State privatized its liquor system in 2011, and the number of retail outlets increased from approximately 330 to over 1,600 as of 2015;[4]

WHEREAS, the overwhelming evidence indicates that privatization would result in a substantial increase in the number of liquor sales outlets, longer hours of sale, greater advertising and promotion and significantly greater consumption of alcohol; and

WHEREAS, increased excessive alcohol consumption leads to problems such as increased crime, violence, underage drinking, fetal alcohol spectrum disorders and other negative health consequences;

NOW, THEREFORE, BE IT RESOLVED BY THE BOONE TOWN COUNCIL that the Town of Boone supports keeping North Carolina's current control system for the sale of liquor in place and believes that privatization of liquor would lead to many adverse effects.

_____
Rennie Brantz, Mayor

ATTEST:

_____(SEAL)
Nicole Harmon, Town Clerk

[1] *Opinions on the Privatization of Distilled-Spirits Sales in Washington State: Did Voters Change Their Minds?* Meenakshi S. Subbaraman, Ph.D. and William C. Kerr, Ph.D., J Stud Alcohol Drugs. 2016 Jul; 77(4): 568–576, available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4987069/#B28

Fee in Lieu - Mr. Furgiuele asked how the fee in lieu would be quantified for greenways, and wondered if it should be linked to the cost for construction. Ms. Meade stated that since Mr. Miller indicated costs for installation of greenways were the same as cost for installation of sidewalks, the text was kept the same. She added that she felt it would be difficult and inaccurate if greenways were separated. Mr. Furgiuele asked whether these specifications should be in a manual that would list different fees based on dimensions and surface materials since there could be differentials. He felt that reference should be made to a manual in order to allow for flexibility. Ms. Meade believed that the language provided did keep flexibility, and did not believe that the text should not be pegged to the actual cost of construction. Mr. Furgiuele felt that the text should be adopted, but it should be discussed in the future whether it is working or not, and believed that the Town may

[3] *Alcohol – Excessive Consumption: Privatization of Retail Alcohol Sales*, by the Community Preventive Services Task Force (April 2011), available at https://www.thecommunityguide.org/findings/alcohol-excessive-consumption-privatization-retail-alcohol-sales .

be creating a legal issue in forcing fee in lieu. He added that he was not against the concept of having administration having the authority to dictate what an applicant had to do instead if a sidewalk could not be built. Mr. Ashcraft suggested adding this topic to the planning retreat agenda for continued discussion. Mr. Furgiuele made a motion that the proposed amendment to the Town's zoning ordinance is consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that are applicable because it is in alignment with the following: Comprehensive Plan Policy 1.1 Open Space: Integrate open space and greenways into the urban fabric of the Town. Preserve the countryside by discouraging suburban sprawl. Avoid development in floodplains, on ridgetops, and on steep slopes; 2.1.1: Planned Systems of pedestrian ways, bikeways, greenways, and similar facilities shall be encouraged as energy efficient and environmentally sound transportation alternatives. Site planning that incorporates secure bicycle storage at places of living, working or schooling, shopping, and gathering shall be required, where appropriate; 2.2.1 All future road construction within the Town shall be examined for bike and pedestrian feasibility. Wherever possible, compatible bike lanes and pedestrian walkways shall be implemented in conjunction with accompanying road construction. Ms. Mason seconded the motion.

VOTE: Aye: All
Nay: None

Mr. Furgiuele made a second motion to approve the proposed amendment to the Town's zoning ordinance and believes approval is reasonable and in the public interest because of the Comprehensive Plan policies noted in the first motion, and that even if the Town is unable to provide an uninterrupted system of sidewalks immediately, this system would provide sidewalk constructions as redevelopment occurred. Ms. Mason offered a friendly amendment that this text amendment was also an effort in support of the Town's commitment to climate neutrality goals. Mr. Furgiuele accepted this amendment. Ms. Mason seconded the motion.

VOTE: Aye: All
Nay: None

ORDINANCE #_____

AN ORDINANCE TO REVISE ARTICLE 23 OF THE TOWN OF BOONE UNIFIED DEVELOPMENT ORDINANCE RELATING TO SIDEWALK CONSTRUCTION FEE-IN-LIEU

WHEREAS, the Town Council recognizes and finds that there is significant public interest and benefit in encouraging the build-out of the Town of Boone's sidewalk infrastructure;

WHEREAS, the Town Council believes and finds it in the public interest to require sidewalk construction for new development to the greatest extent reasonably feasible;

WHEREAS, it is in the public interest for the Town to collect the actual cost of its sidewalk construction, which it has not in fact done for years;

WHEREAS, in light of the foregoing, the Town Council deems it in the interest of the Town to limit the fee-in-lieu alternative to sidewalk construction to those rare cases in which building sidewalk is, on balance, not in the public interest because of site-specific circumstances;

WHEREAS, the Boone Town Council is authorized to enact this Ordinance pursuant to its zoning authority under G.S. Chapter 160A, Article 19;

WHEREAS, this proposed UDO text amendment was duly noticed for public hearing; a public hearing was held with respect to the proposed amendment on September 23, 2019; and the Boone Planning Commission has had an opportunity to submit a written report to the Boone Town Council with respect to the proposed amendment;

NOW THEREFORE, BE IT ORDAINED BY THE BOONE TOWN COUNCIL THAT:

SECTION 1. The following subsections of the Boone UDO are hereby amended as follows, with deletions and additions shown in ~~red~~ and blue respectively:

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23.08 Pedestrian Circulation and Sidewalk Requirements

23.08.01 When Sidewalks Must Be Constructed: Sidewalks shall be required for:

A. All new major subdivisions;

B. All new multi-family residential development;

C. All new office, institutional, commercial and industrial development;

23.08.02 An easement for the following items shall be conveyed to the Town where required due to ~~insufficient right-of-way~~:

A. Public sidewalks; and

B. Any greenway or alternative method of pedestrian circulation as further described in Subsection 23.08.04; and

C. In the event that circumstances may change over time, any area as to which the applicant has been permitted to pay a fee-in-lieu rather than install required sidewalks as further described in Subsection 23.08.05.

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23.08.03 Design Requirements.

A. Sidewalks shall be required along the entire length of any portions of public streets which abut the development parcel.

B. Sidewalks will be constructed in accordance with the Roadway & Sidewalk Program Handbook for the Town of Boone.

1. Any deviation from the requirements must be approved by the Administrator.

a. Deviations may only be allowed when strict compliance with the Roadway & Sidewalk Program Handbook is not reasonably possible due to topography or other site conditions beyond the applicant's control and not of the applicant's making.

C. Whenever curb and gutter construction is used on public streets, wheelchair ramps shall be provided at intersections and other major points of pedestrian flow. Sidewalks, wheelchair ramps, and depressed curbs shall be constructed in accordance with the published standards of the North Carolina Building Code, Volume I-C, Accessibility.

D. In all multi-family residential development, sidewalks shall be provided linking dwelling units with other dwelling units, the public street, and on-site activity centers such as parking areas, laundry facilities, and recreational facilities.

23.08.04 Alternative Methods for Pedestrian Circulation:

A. When, with respect to a development parcel, a public greenway or other alternative walkway (for purposes of this section, "greenway") has been identified in a duly-adopted government alternative transportation plan or other duly-adopted plan, or where a proposed public greenway will connect to an existing greenway or to a planned greenway that is expected with reasonable certainty to be constructed within the next five years or that is approved and funded by the North Carolina Department of Transportation, the following shall be required as applicable:

1. The permit issuing authority may allow or require the installation of a public greenway instead of sidewalk. A request to install a public greenway shall be supported by a site plan depicting the location and dimensions of the greenway, a description of the method of construction, and any other information deemed necessary by the Administrator.

2. If a public greenway is to be constructed upon the development parcel at the expense of the town or another third party, instead of constructing the greenway the developer shall pay fee-in-lieu of construction as provided at 23.08.05(D).

3. If a public greenway is already in place on the development parcel, the developer shall not be required to install the section of sidewalk that otherwise would be required to be installed along the same boundary or boundaries of the parcel.

23.08.05 Fee-in-Lieu of Constructing Sidewalks

A. An applicant may seek approval to pay a fee in lieu of construction as specified herein.

B. Fee-in-lieu may never be permitted on a Primary Sidewalk Priority Route where there is contiguous sidewalk infrastructure in place.

C. Except as specified in the immediately preceding subsection (B), the applicant may in lieu of constructing a particular section of sidewalk deposit funds into a sidewalk fund maintained by the Town of Boone in any one of the following limited circumstances:

1. The Administrator finds, based upon clear and convincing evidence, that the building of a particular section of sidewalk is undesirable as the result of one or more of the following site-specific factors: (i) a steep slope or other site-specific factors making the use of that section of sidewalk is not reasonably possible or dangerous to the public; or (ii) the certainty or likelihood of damage resulting to sensitive habitat, natural watercourses, or mature or historic trees, where such damage cannot be mitigated by the use of an alternative path, which is not justified by a countervailing public interest in the addition of that particular area of sidewalk. In addition, the Administrator must find that there is no reasonable alternative manner of building that particular section of sidewalk (such as changing its location or using a different construction method) that would avoid the problems posed by the identified site-specific factors.
2. The applicant is unable to secure permission from NCDOT to install sidewalks in compliance with the Town's requirements.
3. The property being developed is a satellite parcel greater than one (1) mile from the Town's main corporate limits. However, this exemption shall not apply if any contiguous sidewalk infrastructure exists along the public street.

D. Payment:

1. The applicant shall pay the fee-in-lieu prior to the issuance of a Certificate of Occupancy. The fee shall be a fixed amount per linear foot as per the Town's currently adopted fee schedule. The applicable fee shall be determined by the rate in effect on the date the fee is paid.
2. All funds collected in lieu of construction shall be in addition to all other sidewalk funding and shall be placed in a separate account to be used only for costs associated with new sidewalk construction by the Town.

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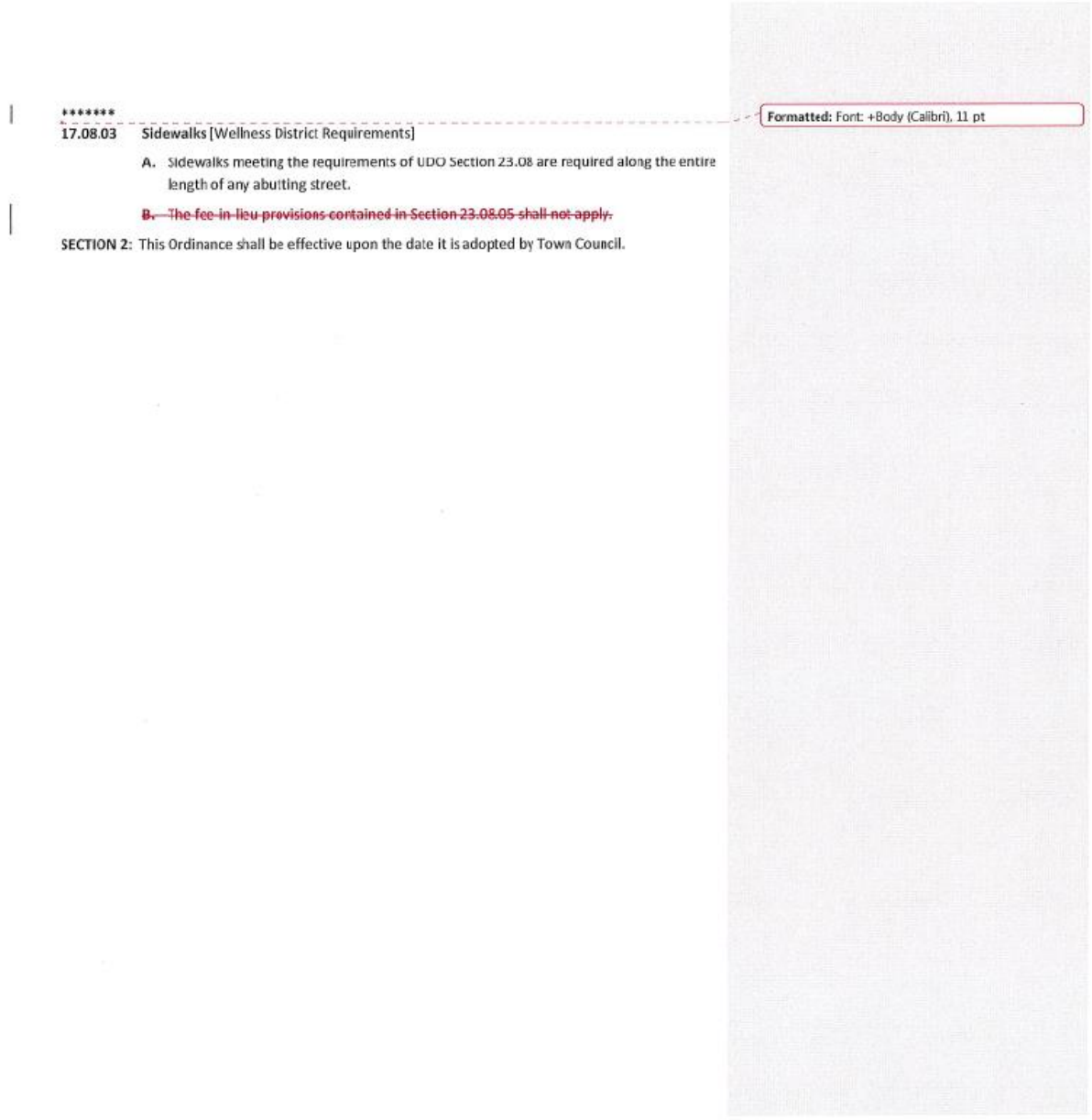
15.10.03 Each new multi-family development shall meet the following standards:

**** ~~C. The fee-in-lieu provisions contained in Section 23.08.05 shall not apply. All required sidewalks shall be installed.~~



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17.08.03 Sidewalks [Wellness District Requirements]

A. Sidewalks meeting the requirements of UDO Section 23.08 are required along the entire length of any abutting street.

~~B. The fee-in-lieu provisions contained in Section 23.08.05 shall not apply.~~

SECTION 2: This Ordinance shall be effective upon the date it is adopted by Town Council.

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BOARD LIAISON REPORT

Mayor Pro-Tem Clawson reported that the indoor concerts at the Jones House were going well and that new Cultural Resources Director Mark Freed was doing a great job in his new position. Mayor Brantz stated that the Historic Preservation Commission was moving forward with downtown design guidelines and hoped to have them completed soon. Ms. Ulmer reported that Boone BOO! went well despite bad weather. Ms. Mason indicated that the DBDA was entertaining different proposals for social media marketing that would be forthcoming, and announced the upcoming Festive First Friday on December 6th. Ms. Ulmer announced that AppalCart recently reached 2 million riders. Mr. Ashcraft stated that the community solar issue had caused some confusion amongst the Sustainability Committee but that the committee was excited about the potential to

make progress in reducing the Town's carbon footprint after getting reports from all departments. He added that the committee was working to prioritize tool kit items and that they planned to come back to Council on how to reduce greenhouse gas emissions and efficiency. Mr. Furgiuele added that the process of meeting with different Town departments has produced important benefits such as the conversion to LED street lights.

APPOINTMENT TO DOWNTOWN BOONE DEVELOPMENT ASSOCIATION

Mr. Furgiuele nominated Jim Marsh to serve on the Downtown Boone Development association. Hearing no further nominations, Mayor Brantz called for a vote.

VOTE:	Aye:	All
	Nay:	None

Mr. Marsh's term will expire on November 30, 2022.

APPOINTMENT TO TOURISM DEVELOPEMENT AUTHORITY

Ms. Mason nominated Mark Brumfield to serve on the Tourism Development Authority. Mr. Furgiuele asked whether the applicant supported the Howard Street project. Mr. Ward answered that the applicant had not been asked this question directly, but that he would be surprised if he did not support it. Ms. Mason indicated that Mr. Brumfield was very involved with the Chamber of Commerce. Mr. Furgiuele felt that staff and/or Council may want to ask this question of TDA applicants in the future. He went on to ask what Mr. Brumfield's position was at the Hampton Inn. Ms. Mason responded that he was a manager at the hotel. Mr. Furgiuele felt that the TDA bylaws needed clarification, since the position Mr. Brumfield was applying for was a business that collects tax, and it was unclear as the bylaws were currently written whether or not his position at the hotel would qualify him to serve in this position. Hearing no further nominations, Mayor Brantz called for a vote.

VOTE:	Aye:	All
	Nay:	None

Mr. Brumfield's term will expire on November 30, 2022.

REQUEST FOR APPROVAL OF AMENDMENT TO AGREEMENT FOR ADDITIONAL PROFESSIONAL SERVICES

Mr. Ward presented a request for approval of an amendment to the agreement with Withers Ravenel for additional professional services for a Capital Improvement Plan, a Financial Plan and an Operations Plan. He added that there had been discussions regarding an option for a second ABC store at the Bolick Farm site, additional grant revenue for water and E911 funding and that the end result of this amendment would bring everything together into a financial analysis and would help to identify additional grant sources. Ms. Meade clarified that this amendment was only a non-substantive change order and that all other contract terms would still apply. Mr. Furgiuele asked whether there was expertise in the past that would have allowed this work to have been done in-house. Mr. Ward could not answer with 100% certainty, but stated that he needed assistance beyond what he and the Finance Director were able to do. Mr. Furgiuele asked whether the Town should have a permanent position geared toward tasks such as this, even if outside assistance was needed from time to time. Mr. Ward was unsure if the Town would have the capacity to take on another project like this in the near future and was unsure if a position was needed. Mayor Pro-Tem Clawson made a motion to approve the request as presented. Ms. Mason seconded the motion. Mr. Furgiuele asked whether Mr. Ward anticipated having a department leadership group for this project, to which Mr. Ward responded that department heads would serve in this capacity.

Mayor Brantz declared a break at 7:59 p.m. Council reconvened at 8:12 p.m.

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

CONSIDERATION OF FURTHER REVISIONS OF PROPOSED NEW CHAPTER 89 ("MISCELLANEOUS OFFENSES")

Ms. Meade presented further revisions of her draft text to a proposed new Chapter 89 Miscellaneous Offenses and noted that Public Works should reassess their signage about guns on Town buildings to better adhere to code requirements. Mr. Furgiuele stated that he believed there was something in the Town Code regarding this issue, to which Ms. Meade responded that she would research the issue for further clarification. Mr. Furgiuele suggested a number of revisions, including the removal of pronouns in second 89.02(b), and striking "by the elements" in section 89.03. He asked for uniformity throughout the text in using the term "public place" versus "public property", and asked that a definition for the word garbage be included. Mr. Furgiuele expressed concern with the penalty section of the chapter in that a violator would potentially be given a misdemeanor for a firearms violation, which he believed to be worthy of the penalty, to littering, to possession of bb guns and open containers, and he was unsure if they were all worthy of a misdemeanor. He felt that some violations, such as littering, should be assessed only fines. Mr. Ashcraft agreed that firearms violations should be the only violation that carried a misdemeanor penalty, and others a fine. Mr. Furgiuele felt that burning, dumping and burying solid waste seemed more serious and should carry a more serious fine, but Mr. Ward indicated that the frequency of these violations was not an issue. Ms. Meade stated that she would make the necessary changes and come back to Council at a later date.

CONSIDERATION OF REVISIONS & REORGANIZATION OF TOWN CODE RELATING TO PUBLIC NUISANCES & OFFENSES

Ms. Meade presented revisions regarding public nuisances. Mr. Moody clarified that staff was unable to accept large tree trunks due to size, which is why the word was removed in section 91.06 and replaced with shrubbery. Ms. Meade indicated that the chapter only provided for civil penalties, but that they increased for repeat violators. Mr. Furgiuele suggested that singular tense be used in section 91.04 instead of plural, the word premises be struck in section 90.5(a), strike the word "to" in section 91.06(b). He also clarified with Ms. Meade that a property owner has the right to reclaim their own trash, since the owner has its own consent to remove it. Mr. Furgiuele asked why the abandoned vehicle and nuisance ordinances allowed a vehicle to be parked in a residential area for two hours longer than the towing ordinance before being deemed abandoned. Ms. Meade felt that this was because the towing ordinance was directed at parking lots instead of residential areas. Mr. Furgiuele believed that if there was no signage, a vehicle could be towed after four hours and asked for clarification. Ms. Meade reiterated that the more restrictive ordinance would apply, and that she did not believe the towing ordinance would apply to residential homes, but that she would research the matter further. Mr. Furgiuele noted that the numbering changed throughout the ordinance and suggested that it should be specified in section 81.04 that the towing is requested by the Town. He further added that in section 81.05(c) the term "made" be replaced with "received" and the term "making of the appeal" should be replaced with "at the receipt of the appeal". Mr. Ashcraft suggested that in section 81.01(3)(1) the term "as evidenced by odor" be stricken. Mr. Furgiuele also noted that there were many references to code chapters that had been repealed. Ms. Meade stated that she would bring these revisions back for Council's consideration at the December 16 special meeting.

FURTHER CONSIDERATION OF REVISED PUBLIC NUISANCE ORDINANCE (CHAPTER 80)

Mayor Brantz asked if the Town had authority to address a nuisance outside the Town limits, to which Ms. Meade responded that the Town had summary abatement authority if a nuisance was causing imminent danger. Mr. Furguiele noted that this came up in the past when someone outside Town limits was dumping stormwater and mud. Minor typographical errors were pointed out, and Mr. Furgiuele suggested revisions including the addition of an exception in section (f); 80.03, responsible persons should include guests or invitees; time limit

of one year on planned improvement projects (Mayor Brantz suggested five years, Mr. Ashcraft suggested six months). Ms. Meade stated that she would make the necessary changes and bring back to Council in December.

PROPOSED REVISIONS TO THE TOWN'S NOISE ORDINANCE (CURRENT CHAPTER 93; NEW CHAPTER 82)

Mr. Furgiuele began by noting that the things Ms. Meade had cited in her attachment were part of negotiations during a campaign that suggested the Town was trying to eliminate all live music. The Council at the time responded by holding public meetings which garnered a larger turn-out, and the end product was the result of Council yielding to dialogue between business owners and Council. He added that he would not be willing to open that can of worms again without a public hearing process with the Downtown Boone Development Association being involved because there was an expectation that the current ordinance was going to stand. Mr. Ashcraft asked what the reason was behind the requirement for four warnings. Mr. Furgiuele responded that it was because venues were alleging that complaints were coming from a single person, and asked whether there had been any problems recently. Chief Crawford answered that there had not been many complaints recently, only from neighborhoods where college parties where held. Ms. Mason stated that she had a call from a business owner who had crews using a leaf blower before opening at 8:00 a.m. and someone called to complain about this. Mr. Ward noted that Public Works had the same practice. Ms. Meade noted that dawn-dusk restrictions could cause this issue during winter hours, and suggested that the ordinance may have to be changed to be time-specific. Ms. Meade indicated that other ordinances she researched named specific times such as 7 a.m. - 9 p.m. during the weekend and 7 a.m. - 7 p.m. during the week. She noted that exceptions could be made for Town vehicles such as from 6 a.m.- 10 p.m. and expanding the term to "Town work" in an effort to include trash pick-up. Mr. Furgiuele noted that there was concern at the time about contractors causing noise, with Ms. Meade suggesting limiting the provisions to just Town employees and Town-arranged work. It was the consensus of Council to have Ms. Meade make the suggested changes and come back to Council in December with the revised text.

CONSIDERATION OF PROPOSED REVISIONS OF TITLE VII OF THE TOWN CODE OF ORDINANCES

Ms. Meade presented revisions to Town Code Chapter 70 Traffic Code. Mr. Furgiuele suggested that the term "booting" be replaced with "wheel-locking". Ms. Mason asked that Junaluska Drive be corrected to Junaluska Road in the appeals section. Mr. Ward noted that language should be changed to reflect the fact that the Town took over parking at the Greenway lot off of Deerfield Road. Discussion ensued regarding the way Police Department parking citations were written, with Ms. Meade stating that whoever issued the citation would have to hear the appeal. Mr. Furgiuele questioned Ms. Meade's report that the Town had no authority to mandate weight limits in Town, noting that Eastbrook and Westbrook both had weight limitations after numerous complaints about thru-trucks. Mr. Moody confirmed that staff was instructed by the State what to set the weight limit at. Ms. Meade stated that she would look further into the matter. Members suggested that several changes needed to be made to the table located in section 74.01 before bringing the text back in December.

CONSIDERATION OF PROPOSED REVISIONS TO CODE §10.99 REGARDING PENALTIES FOR VIOLATION OF TOWN CODE

After Ms. Meade presented changes made to Town Code Chapter 10.99, members felt that 72 hours was too short a time period to pay a penalty and believed that 30 days was more appropriate. Upon a motion by Mr. Furgiuele, seconded by Ms. Mason, Council voted to approve the text as amended.

ORDINANCE #_____
AN ORDINANCE TO REVISE SECTION 10.99 OF CHAPTER 10
OF THE TOWN OF BOONE CODE OF ORDINANCES

WHEREAS, the Boone Town Council finds that it is appropriate and in the public interest to revise the Town of Boone's default penalty ordinance in order to further clarify the ordinance; and

WHEREAS, the Boone Town Council is authorized to enact this Ordinance pursuant to its general police powers pursuant to Chapter 160Aof the North Carolina General Statutes;

NOW THEREFORE, BE IT ORDAINED BY THE BOONE TOWN COUNCIL THAT:

SECTION 1. Section 10.99 of the Town of Boone Code of Ordinances ("Code") is hereby amended and shall hereafter provide as follows:

§ 10.99 GENERAL ENFORCEMENT AND PENALTY PROVISIONS

Except to the extent specifically provided otherwise in another chapter of this code of ordinances, the following shall apply with respect to any violation of this code of ordinance:

(A) In the event of a violation of this ordinance, the violator shall be issued a citation or other written notice of the violation.

(B) A violation of a provision of this code shall not constitute a criminal infraction or misdemeanor as provided at G.S. 14-4 and shall not be subject to criminal prosecution.

(C) A violation of a town ordinance regulating the operation or parking of vehicles shall subject the violator to a civil penalty of $50. Violation of any other provision of this code shall subject the violator to a civil penalty in the amount of $100.

(D) Civil penalties must be paid within 30 calendar days after receipt of the notice. If the violator does not pay the penalty within 30 calendar days after receipt of the notice, a late-payment penalty of $20 shall accrue. The town may recover the penalty and any subsequently accruing penalties in a civil action.

(E) Each day's continuing violation of any ordinance provision shall be a separate and distinct violation subject to a separate civil penalty and separate late-payment penalty.

(F) All ordinances also may be enforced by appropriate equitable remedies issuing from a court of competent jurisdiction, including but not limited to orders of abatement and/or injunction, and by any other remedy authorized pursuant to G.S. 160A-175 or other law.

(G) In the event it is necessary for the town to institute a civil action to collect a civil penalty for the violation of any provision of any town ordinance, the offender shall pay all court costs, including filing fees, fees for service of process, and other expenses incurred in the litigation, such as costs of depositions, copying expenses and charges, and reasonable attorney's fees incurred by the town.

SECTION 2: This Ordinance shall be effective on the date it is adopted.

Adopted this 21st day of November, 2019.

_____ ATTEST: _____

Rennie Brantz, Mayor

Mr. Ward noted that demolition applications for the Turner House had been picked up by the County. Mr. Furgiuele stated that he was under the impression that the house was going to be auctioned, with Mr. Ward indicating that he did not have any further information.

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

ADJOURNMENT

Upon a motion by Mayor Pro-Tem Clawson, seconded by Ms. Mason, Council voted to adjourn the meeting at 10:28 p.m.

VOTE: Aye: All
Nay: None

Nicole Harmon, Town Clerk

Rennie Brantz, Mayor