MINUTES – REGULAR MEETING
BOONE TOWN COUNCIL
DECEMBER 13, 2012

A regular meeting of the Boone Town Council was called to order at 6:30 p.m., Thursday, December 13, 2012, in the Council Chambers, 1500 Blowing Rock Road. Mayor Pro-Tem Jamie Leigh presided. Council members present were Lynne Mason, Rennie Brantz and Andy Ball. Town Attorney Sam Furgiuele was also present. Staff members present were Town Manager Greg Young, Finance Director Amy Davis, Police Chief Dana Crawford, Fire Chief Jimmy Isaacs, Public Utilities Director Rick Miller, Public Works Director Blake Brown, Planning Director Bill Bailey, Cultural Resources Director Pilar Fotta, Building Inspector Todd Miller and Administrative Support Specialist Christine Pope.

ANNOUNCEMENTS

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

TENTATIVE AGENDA ADOPTION

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

A. Addition of Item 4.D. – Annual Certification of Firefighters.
B. Deletion of Item 7.B. – Discussion of Equipment Removal/Relocation – Jones House Community Center.
C. Additional Information for Item 7.E. – Approval of Conditional District Map Amendment – Case 20120683 Watauga Green.
D. Addition of Item 7.H.a. – Cultural Resources Board Request – Publicly advertise for information regarding historical significance of property at 122 Moretz Street (White House on Rivers Property).
E. Additional Information for Item O.1. – Board Appointments – Affordable Housing Task Force.

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

VOTE: Aye – All
Nay – None

CONSENT AGENDA ADOPTION

Minutes: November 13/14, 2012 – Regular Meeting.

Approval of Tax Releases & Refunds – May & June 2012. **(Permanently on file in the December 2012 Town Council packet.)**

Deletion of Delinquent Accounts – 2005 & 2006 Parking Tickets. **(Permanently on file in the December 2012 Town Council packet.)**

Annual Certification of Firefighters **(Permanently on file in the December 2012 Town Council Packet.)**

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

VOTE: Aye – All
Nay – None

PUBLIC HEARING – ESTABLISHMENT OF A PRIMARY FIRE DISTRICT

Mayor Pro-Tem Leigh opened a public hearing at 6:32 p.m. to receive public comment on the establishment of a primary fire district. No one signed up to speak. Building Inspector Todd Miller reviewed the process for approving building permits. Town Attorney Sam Furgiuele stated the primary fire district map description has changed, and uses Straight and King streets as a reference point, but moves the King Street border to the private property line. Mr. Furgiuele indicated that the proposed ordinance defers the word description to the map itself, which has been revised. Mr. Miller added that the Planning and Inspections Department did a mass mailing for property holders by tax listings notifying them and did not receive resistance to it. The public hearing was closed at 6:35 p.m.

PUBLIC COMMENT

Ashok Patel, a local hotelier, presented background of his family's history in the hotel business in Boone. Mr. Patel asked when the Town expects to put in place a new UDO with a special overlay district, and if the Town will give him more time to permit the demolition of the Scottish Inns until after the new UDO is in place, or if not, how he can get the demolition permitted without changing flood maps for Boone. **(Information submitted by Ashok Patel permanently on file in the December 2012 meeting information file.)**

Marvin Mercer, an engineer representing United Developers, Inc. for the Watauga Green case, stated they have applied for water and sewer service, and asked that if the conditional district map amendment for the property is approved by Council, if the water and sewer request could be put on this meeting's agenda. Mayor Pro-Tem Leigh stated Council would wait until discussion of the scheduled agenda item for approval of the conditional district map amendment before deciding to add the water and sewer request to the agenda.

Angela Kelly, a downtown business owner, spoke on behalf of the mother of a customer. She stated the customer's vehicle was recently booted in the parking lot in front of Paolucci's, which is monitored by Lot Management Solutions (LMS). Ms. Kelly stated the customer was treated rudely by the LMS employee, was denied proper identification by the employee, and the mother called to voice her concern for her daughter's safety. Ms. Kelly feels that downtown business owners spend a lot of energy developing and maintaining relationships with their customers based on trust, and LMS derails this in how they do their business. She asked Council what steps downtown business owners can take to help the situation.

Council briefly discussed the several complaints recently received regarding towing and booting companies in Boone, and the confusion regarding what businesses can use the privately owned parking lot in question. Upon a motion by Council Member Mason, seconded by Council Member Ball, Council moved to amend the agenda to add Item 7.P to discuss the signage, booting and towing issues in Boone.

VOTE: Aye – All
Nay – None

PRIORITIZATION OF TASKS AND ACTIVITIES FOR THE CULTURAL RESOURCES ADVISORY BOARD

Mayor Pro-Tem Leigh stated the Cultural Resources Advisory Board is very energetic and dedicated, but fears they did not get a clear direction from Council on priorities, and may be overwhelmed and attempting to get everything done right now. Cultural Resources Director Pilar Fotta presented a list of what information the board could use from Council to steer them in the right direction as well as a proposed process for creating and establishing facility policies with the board's feedback. **(Information submitted by Pilar Fotta permanently on file in the December 2012 meeting information file.)**

Lengthy discussion ensued regarding what the board's focus should be at this time. Council Member Mason indicated it may be helpful for the board to look at immediate needs for each property, which may require interdepartmental feedback, but that Council cannot address the department budget until they know what the issues are. She added that safety should be a top

priority for all facilities. Council Member Brantz felt that policy development is a top priority as well. Council members Ball and Brantz agreed that this first year of the board's creation would be trial-and-error, and they would provide direction to the board as the months go on, with the flexibility to try things differently than what has been done in the past. Council came to the consensus that Ms. Fotta would direct the board to come up with short- and long-term goals for each property to present to Council.

ADOPTION OF ORDINANCE – ESTABLISHING A PRIMARY FIRE DISTRICT

Upon a motion by Council Member Mason, seconded by Mayor Pro-Tem Leigh, Council moved to adopt the ordinance establishing a primary fire district, as presented by Town staff.

RESOLUTION

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

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

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

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

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

WHEREAS, the owners of the properties which would be included in the recommended primary fire district have been notified of the intention of the Boone Town Council to adopt a

primary fire district and a public hearing has been conducted to give those property owners and other interested members of the public an opportunity to comment on the proposed boundaries of a primary fire district;

NOW, THEREFORE, PURSUANT TO N.C. GEN. STAT. ' '160A-435, THE TOWN COUNCIL OF THE TOWN OF BOONE, NORTH CAROLINA, ADOPTS THE FOLLOWING ORDINANCE:

ORDINANCE 12-06

BY ACTION OF THE BOONE TOWN COUNCIL, THE TOWN OF BOONE ESTABLISHES A PRIMARY FIRE DISTRICT WITH THE FOLLOWING BORDERS, AS SHOWN ON THE ATTACHED MAP, INCORPORATED BY REFERENCE HEREIN, THE BOUNDARIES SHOWN ON THE MAP TAKING PRECEDENCE OVER THE WRITTEN DESCRIPTION WHICH FOLLOWS, WITH ALL PROPERTIES CONTAINED WITHIN SAID DESCRIBED BORDERS COMPRISING AND CONSTITUTING THE PRIMARY FIRE DISTRICT OF THE TOWN OF BOONE, NORTH CAROLINA:

Beginning at the intersection of King Street and Straight Street, then proceeding in a southeasterly direction along King Street to the northwestern property line of the property lying northwest of the front portion of the Watauga County Courthouse property, then following that property line and the northwestern property line of the property lying northwest of the rear portion of the Watauga County property line until it intersects with Queen Street, then proceeding along Queen Street in a southeasterly direction until Queen Street intersects with Grand Boulevard, then proceeding along Grand Boulevard in a southwesterly direction until Grand Boulevard intersects with Orchard Street, then proceeding along Orchard Street in an easterly direction until Orchard Street intersects with Wallace Circle, then proceeding along the southerly portion of Wallace Circle to the eastern boundary of a tract of property that is just outside the course of College Street if College Street crossed and continued north of King Street, then proceeding along that boundary until its intersection with King Street, then proceeding along King Street in a northwesterly direction until its intersection with College Street, then proceeding along College Street to a point approximately halfway between Hamby Alley and Howard Street, then proceeding along the southernmost property lines of all the properties which front on King Street between College Street or Appalachian Street to the intersection of Appalachian Street and Howard Street, then proceeding northwesterly along Howard Street past that certain property utilized as a parking lot by Appalachian State University next to Walker School of Business, then following the property boundaries of the properties which front on the south side of Howard Street and at the westerly border of the Appalachian State University parking lot next to Walker School of Business, following the line until it intersects with Rivers

Street, then following Rivers Street until it becomes Poplar Grove Road and following Poplar Grove Road approximately five hundred feet, then following the western boundaries of several tracts to the north to the intersection with King Street, as depicted on the attached map, and then proceeding easterly on King Street to the point of beginning, as shown on the attached map, which is incorporated by reference and designated herein as the Town of Boone Primary Fire District.

Adopted and effective this 13th day of December, 2012.

_____
Mayor

Attest:

_____
Town Clerk

(ORDINANCE TO BE TYPED IN BOOK 3 PAGE(S) 34-36)

VOTE: Aye – All
Nay – None

APPROVAL OF LEASE AGREEMENT – AMERICAN LEGION PROPERTY

Town Manager Greg Young presented a proposed lease agreement for the use of the American Legion-owned property that encompasses Junaluska Park. He stated that this lease, like the current one about to expire, is for 15 years with the same conditions, but includes an increase in the upfront cost (from $8,295 to $14,000) and the annual rent (from $4,400 to $6,000).

Council members Brantz and Mason were concerned with the wording in Section 16 stating, "the premises shall be available to all citizens of Watauga County." Council Member Mason suggested rewording the phrase to indicate the park is available to the general public. Town Attorney Sam Furgiuele indicated wording later in the agreement clarifies that the park's use is for the public at-large. Mr. Furgiuele also pointed out that in Section 7 the term "lessee" should be "lessor."

Upon a motion by Council Member Ball, seconded by Council Member Brantz, Council moved to approve the American Legion lease agreement with the amended text in Section 7.

STATE OF NORTH CAROLINA

LEASE AGREEMENT

COUNTY OF WATAUGA

THIS LEASE AGREEMENT, made and entered into this **13th** day of **December**, 20**12**, by and between the TOWN OF BOONE, hereinafter called LESSEE; and WATAUGA POST (130) OF THE AMERICAN LEGION, hereinafter called LESSOR:

WITNESSETH:

1. Leased Premises. The Lessor does hereby let, lease and demise unto the Lessee the following real property located in Watauga County, North Carolina:

TRACT ONE

BEGINNING on a stake, Ben Councill=s corner and runs thence North 80 degrees West 406 feet to a stake, corner to the .66 of an acre lot; thence with the line of said lot South 13 degrees West 248 feet to a stake; thence South 75 degrees East 118 feet to a stake; thence South 06 degrees West 167 feet to a stake; thence South 36 degrees 30 minutes East 594 feet to a stake; near the spring; then with the back line of lots #34, 35, 36, 37, 38, and 39 to Ben Councill=s line; then with his line North 24 degrees West 813 feet to the beginning, and containing 8 1/4 acres, more or less.

TRACT TWO

BEGINNING at a stake a corner of June Horton=s lot and runs thence with his line South 13 degrees West 248 feet to a stake; thence South 80 degrees East 108 feet to a stake, corner of the 8 1/4 acre tract; thence North 13 degrees East 248 feet to a corner of Ben Councill=s line; thence North 80 degrees West 108 feet to the beginning, containing .66 acre more or less.

EXCEPTED from the above described TRACT ONE and TRACT TWO is

(a) the building located on the property known as the "Legion Hut;"

(b) a fifty (50) foot wide strip of land along the back of the building to extend parallel to said Hut, so as to include the southern portion of the above premises. The approximate boundaries of said area are shown in red on Exhibit "A" attached hereto and incorporated herein by reference. This area is retained as a buffer zone for the Legion Hut.

The Lessor agrees that the Lessee shall and may peacefully and quietly have, hold and enjoy the premises for the term of this Lease.

2. Term. The term of this Lease shall be fifteen (15) years, beginning on the 13th day of December, 2012, and ending on the 13th day of December 2027.

3. Rent. The Lessee shall pay front the sum of Fourteen Thousand and no/100 dollars ($14,000.00), and, in addition, agrees to pay the Lessor rent in the amount of Six Thousand and no/100 dollars ($6,000.00) per year, due and payable on the 15th day of December of each year.

4. Water Service. The Lessee shall pay for all water service to the premises.

5. Improvements. The Lessee shall be allowed to make any alterations, additions, changes and improvements on the demised premises without the prior consent of the Lessor, and all alterations, additions, changes and improvements made on the demised premises shall be made at the Lessee=s expense. The Lessor specifically approves alterations and improvements to the demised premises for a town park for the use and enjoyment of the public at large.

6. Repairs. The Lessee shall be responsible for all maintenance and repairs necessary to keep the premises in good condition. The Lessee agrees to surrender the demised premises at the expiration of this Lease in as good condition as it was received.

7. Legion Hut. The Lessee agrees to make repairs as needed to the Legion Hut for ordinary wear and tear so that is it in good repair. The Lessor shall be responsible for all reasonable maintenance of the surrounding grounds during the term of this Lease, including but limited to the mowing of grass and maintenance of parking area next to the Hut.

8. Assignment or Subletting. The Lessee shall not transfer or assign this Lease nor sublet the premises to any person, partnership or corporation, without the Lessor=s prior written consent. If the Lessor agrees to any transfer, assignment, or subletting, this shall not relieve the Lessee from the Lessee=s obligations, liabilities and duties created under this Lease.

9. Timber. Any trees or timber removed from the premises are to be property of the Lessor.

10. Insurance. The Lessee shall carry an insurance policy in the amount of $1,000,000.00 that covers any damages that may arise out of accidents that occur on the premises that involve employees, agents, or invitees of the Lessee.

11. Indemnity. The Lessee shall indemnify and hold harmless the Lessor from any and all claims, actions, damages, and liability associated with personal injury and/or damage to property arising out of any occurrence in, upon or at the leased premises, or associated with any act or omission of the Lessee, its agents, employees, or invitees. In the event that the Lessor is made a party to any litigation brought against the Lessee or by reason of the Lessee=s use or occupancy of the leased premises, the Lessee shall protect and hold harmless the Lessor from any and all liability that may result therefrom.

12. Violations. The Lessor shall give the Lessee written notice of any violation of this Lease. The Lessee agrees to give the Lessor a written response within two (weeks) after the receipt of said notice indicating the steps that have been taken to correct the violation, or explaining why no violation exists.

13. Parking. The Legion Hut parking lot will not be available to the public during any regular or special meeting of the Legion. The Lessee will provide the Lessor with the necessary "No Parking" type of signs and shall enforce this provision with Town police.

14. Access. The Lessee shall have access to the premises from Church Street and Bear Trail. The Lessee may build a road from Bear Trail to the main portion of the premises, said road to begin at the southern corner of the Legion parking area.

15. Inspection of Premises. The Lessor may enter the premises at any reasonable time for the purpose of inspecting said premises.

16. Invitees. The premises shall be available to all citizens of Watauga County, North Carolina, for use as a park.

17. Governing Law. This Lease shall be governed by and construed in accordance with the laws of the State of North Carolina.

IN WITNESS WHEREOF, the Lessor has hereunto set its hand and seal, and the Lessee has hereunto set its hand and seal, in duplicate originals, a copy of which is retained by each party, the day and year first above written.

VOTE: Aye – All
Nay – None

CONSIDERATION OF CONDITIONAL DISTRICT MAP AMENDMENT – CASE 20120683 WATAUGA GREEN

Case 20120683 – United Developers, Inc. has filed a Conditional District Map Amendment for property located at and near 170 Clawson Street, further identified as Watauga County PINs 2911-61-0160-000, 2911-60-3647-000 and 2911-60-2100-0000. The request is to rezone all/portions of the properties owned by Wayne & Dana Clawson from R-3 Multiple Family Residential & MH Manufacture Home Park to Conditional District R-3 Multiple Family, for 72 apartments. Applicants are requesting a three-year vesting.

Planning Director Bill Bailey indicated that United Developers, Inc. is willing to bring sidewalks down to Clawson Street, but could not go beyond due to restrictions by the state. He added that safety is a top priority in ensuring those who walk to the nearby shopping area are out of harm's way doing so. Mr. Bailey also stated that the applicant provided satisfactory responses to the concerns Town staff presented, any changes planned will only be on their property, and the applicant is in agreement with the conditions outlined by the Planning Commission. Upon a motion by Council Member Ball, seconded by Council Member Mason, Council moved to reopen the public hearing at 7:30 p.m. to hear further testimony regarding this request.

VOTE: Aye – All
Nay – None

Marvin Mercer, PE, indicated the applicant's plan does show Clawson Street being combined with the apartment drive, lining up better with the cross-street. He stated one problem with this, however, is that it is someone's property, but would agree to follow this condition if the property

owner agrees to it. Mr. Mercer proposed an amicable solution to leave Clawson Street as is, but widen it, and let it meet up with the access street at another point. Public Works Director Blake Brown suggested Council approve the Planning Commission's recommendation as is, and if the applicant is unable to work with Meadow Hill, to then come back to Council to ask for conditional use.

Franklin Yates, a representative of United Developers, Inc. stated a traffic study was completed, and if Meadow Hill does not work with them, an engineering design and professional measuring should be reviewed with Town staff before implementation.

Council questioned the applicant regarding preventing the apartments from becoming student housing. Mr. Mercer stated that it would be against IRS regulations to allow full-time students from living in the apartment complex unless they had a family. Council Member Mason added that there are very specific guidelines by the North Carolina Housing Agency for this type of project. Mayor Pro-Tem Leigh closed the public hearing at 7:43 p.m.

Vote #1: Upon a motion by Council Member Mason, seconded by Council Member Ball, 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 it addresses a critical affordable housing need; the proposed project is primarily in the G-2 Sector, which supports a mixture of higher—not high—density residential uses, including apartments, as a transition between higher-density commercial uses and existing lower-density neighborhoods; it is compatible with current adjacent nearby uses, which include medium-density multi-family to the west and north, single-family residential to the west, and single-family to the south; and, it takes advantage of the proximity to existing centers of commerce and education.

VOTE: Aye – All
Nay – None

Vote #2: Upon a motion by Council Member Mason, seconded by Council Member Ball, Council moved to approve the proposed amendment to the Town's zoning map with the conditions as specified by the Planning Commission's recommendation, and believe the approval is reasonable and in the public interest, because the proposed development addresses a critical need of the community, which is to address affordable housing needs of area residents, particularly elderly and low- to moderate-income residents, and which shall be recognized in Town policies and actions regarding residential development; it is an appropriate density for the parcel of land and area of town; it is compatible with current adjacent nearby uses and does not compromise the viability of adjacent residential areas; and, it takes advantage of the proximity to existing centers of commerce and education.

Upon a motion by Council Member Mason, seconded by Council Member Ball, Council moved to amend the motion to include approval of the three-year vesting period due to the request by United Developers, Inc. in order to receive the housing funding grant. Mayor Pro-Tem Leigh added that extending sidewalks along Perkinsville should be made a priority. Council members Brantz and Ball supported this idea.

VOTE: Aye – All
Nay – None

Planning Director Bill Bailey and Public Utilities Director Rick Miller advised Council that they had sufficient information to proceed with the applicant's water and sewer request if Council wished to do so. Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to amend the agenda to include United Developers, Inc.'s water and sewer request following the scheduled request by Mountaineer Village, LLC.

VOTE: Aye – All
Nay – None

AFFORDABLE HOUSING TASK FORCE - SCHEDULE PUBLIC HEARING FOR PROPOSED TEXT AMENDMENT – UDO SECTION 175 AND "TOWNHOUSE" DEFINITION

Affordable Housing Task Force Committee Member Lynnwood Brown presented a recommended text amendment to UDO Section 175 and a definition of "townhouse" for Council's consideration. Council Member Mason identified one correction under UDO Section 175.c.2, which should state, "*If freestanding*, garages and carports shall be architecturally integrated with the development and be approved by the Community Appearance Commission." Town Attorney Sam Furgiuele noted that the word "townhouse" is used in the proposed definition of "townhouse," and should be correctly worded "row house."

Upon a motion by Council Member Ball, seconded by Council Member Brantz, Council moved to send the proposed draft text amendment and definition of "townhouse" with the amended text to the February regular quarterly public hearing.

VOTE: Aye – All
Nay – None

P & I MONTHLY REPORT

Planning Director Bill Bailey presented the P&I monthly report. **(Permanently on file in the December 2012 Town Council packet.)** Mr. Bailey added that he will schedule the planning retreat at the January Town Council meeting, and will have a draft for Council's consideration to set up public meetings and recommended workshops during that time as well.

CULTURAL RESOURCES ADVISORY BOARD – PROPOSED RESOURCES AND PROGRAMS RELATED TO TOWN'S CULTURAL RESOURCES

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

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

- In addition, the Appalachian Theatre should be considered a cultural resources and its success encouraged by the CRAB, although not Town-owned, operated, maintained, or otherwise financially supported.

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

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

Council Member Brantz, seconded by Council Member Mason, moved to approve the list of Town-supported resources and programs in relationship to the mission statement for the Cultural Resources Advisory Board.

Town Attorney Sam Furgiuele stated the United States Post Office has a lease agreement with the Town and part of their lease relates to use of the lobby, which may indicate limitations of use of that area. Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to amend the motion to include mention of the post office lease under Town-supported resources.

VOTE: Aye – All
Nay – None

CULTURAL RESOURCES ADVISORY BOARD – NOTIFICATION TO PUBLICLY ADVERTISE FOR INFORMATION REGARDING HISTORICAL SIGNIFICANCE OF PROPERTY LOCATED AT 122 MORETZ STREET (WHITE HOUSE ON RIVERS PROPERTY)

Cultural Resources Director Pilar Fotta indicated that she has been unable to find anything to support that a Daniel Boone ancestor once lived in the home, but will advertise for more information through media outlets. Planning Director Bill Bailey added that, from what he has found, the woman is a Boone by marriage from Florida, but his staff is still searching records. Mr. Bailey also stated the house would require large amounts of work to repair.

GREENWAY, PARKS AND GARDENS COMMITTEE – GREENWAY TRAIL EXPANSION PRIORITIES

Upon a motion by Council Member Ball, seconded by Council Member Brantz, Council moved to approve the committee's list of Greenway Trail Expansion Priorities in the following order:

1. Wilson Drive starting at Hwy 105 ending at Winklers Creek Road
2. Winklers Creek Road starting at Wilson Drive ending at Deck Hill Road
3. Greenway Road starting at Deck Hill Road ending at Meadowview Drive
4. Leola Street starting at Meadowview Drive ending at Pride Drive
5. ASU Cross Country Trails pending recreational easements from property owners

Also, including the following two special projects:

1. Junaluska Park Loop Trail
2. Rivers Park Trail

VOTE: Aye – All
Nay – None

Mayor Pro-Tem Leigh declared a break at 8:20 p.m. Council reconvened at 8:31 p.m.

TRANSPORATION COMMITTEE – COMPLETE STREETS DESIGNATION AND SCHEDULING OF PUBLIC HEARING ON SAFETY CONCERNS FOR NEW MARKET BOULEVARD

Due to safety concerns regarding pedestrian and bicycle travel along New Market Boulevard, and to encourage and conform to Council's adoption of the "Complete Streets" concept, the Transportation Committee asked for Council's consideration to:

1. Obtain engineering of a "Complete Streets" plan for New Market Boulevard.
2. Send a letter to residents and commercial stakeholders in the area explaining the current concerns and the "Complete Streets" concept.
3. Hold a public input session to allow interested/affected parties an opportunity to contribute input and discuss options.

Public Works Director Blake Brown indicated that, as part of the "Complete Streets" plan, they would pull the school zone down to a lower area closer to the intersection with Hwy 194, lower the speed limit, and take the three-lane areas down to two lanes, increasing the road size to include a bicycle lane.

Council Member Brantz, seconded by Council Member Mason, moved to approve the Transportation Committee's request for support.

Mayor Pro-Tem Leigh felt that those who live in the county who commute along this street should be able to provide input as well. Council came to the consensus that the survey should be available online with a newspaper advertisement for the survey so everyone who utilizes the street is able to provide input.

Council Member Ball stated he was concerned with removing the turn lane into New Market Estates, due to people possibly driving into the bicycle lane to get around those turning left. Mayor Pro-Tem Leigh voiced her disagreement with focusing on New Market Boulevard rather than one of the other roads in town that have a critical need, adding that New Market Boulevard is one of the nicest looking streets in town. Council Member Ball agreed that there are other connector roads and streets that need this rehabilitation more than New Market Boulevard. Mr. Brown indicated that this street was chosen because of the church and school among other things.

VOTE: Aye – 3 (Ball, Mason, Brantz)

Nay – 1 (Leigh)

MONTHLY NOISE ORDINANCE REPORT

Police Chief Dana Crawford presented the monthly noise ordinance report. **(Permanently on file in the December 2012 Town Council packet.)**

CONSIDERATION OF TOWN CODE AMENDMENTS – GREASE TRAPS, PRETREATMENT STANDARDS & SEWER USE REQUIREMENTS

Upon a motion by Council Member Ball, seconded by Council Member Brantz, Council moved to approve text amendments regarding grease traps, pretreatment standards and sewer use requirements. **(Copy of amendment permanently on file in the December 2012 Town Council meeting packet.)**

VOTE: Aye – All
Nay – None

MONTHLY WATER USE STATUS REPORT

Public Utilities Director Rick Miller presented the monthly water status report. **(Permanently on file in the December 2012 Town Council packet.)**

APPROVAL OF BUDGET AMENDMENTS

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

Description	**Account#**	**To:**	**From:**
UNIFORM EQUIPMENT– POLICE DEPARTMENT	010-500-300-11220	$10,500	
FEMA REIMBURSEMENT – GENERAL FUND	010-000-000-448030		($10,500)
MAINTENANCE – VEHICLES	010-500-300-525301	$2,621	
MISCELLANEOUS REVENUE	010-000-000-489900		($2,621)
MAINTENANCE – VEHICLES	010-500-300-525301	$1,744	
MISCELLANEOUS REVENUE	010-000-000-489900		($1,744)

VOTE: Aye – All
Nay – None

BOARD APPOINTMENTS

Affordable Housing Task Force – Mayor Pro-Tem Leigh noted that the Planning Commission appointed Phoenikx Bauthier to the task force. Council Member Ball nominated Phoenikx Bauthier for appointment to the Affordable Housing Task Force as a member of the Planning Commission. With no other nominations, Mayor Pro-Tem Leigh called for a vote.

VOTE: Aye – All
Nay – None

Board of Adjustment – Mayor Pro-Tem Leigh noted that an application had been received from Richard Woods for consideration. Town Attorney Sam Furgiuele indicated that UDO language states two applicants must be submitted to the County, but there is currently only one application for consideration. Mayor Pro-Tem Leigh stated Council would wait for more applications before appointing anyone to the board.

Bicycle Plan Steering Committee – Mayor Pro-Tem Leigh noted that an application had been received from Randall McDonough for consideration. Council Member Brantz nominated Randall McDonough for appointment to the Bicycle Plan Steering Committee as a representative of the local school system. With no other nominations, Mayor Pro-Tem Leigh called for a vote.

VOTE: Aye – All
Nay – None

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

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

Planning Commission – There were no applications received for this vacancy. Planning Director Bill Bailey stated Bunk Spann will be retiring soon, and an ETJ member will also be resigning, but the latter is currently unofficial. Mr. Bailey also stated that Candace Brown has only attended one meeting, and no one has been able to contact her since, although a letter from the committee has been sent to her. Mr. Bailey plans to put on the January meeting agenda a request to terminate her from her position on the Planning Commission.

Tourism Development Authority – There were no applications received for this vacancy.

Tree Board – Mayor Pro-Tem Leigh noted that an application had been received from Jim Hamilton for consideration as a re-applicant. Council Member Ball nominated Jim Hamilton for re-appointment to the Tree Board. With no other nominations, Mayor Pro-Tem called for a vote.

VOTE: Aye – All
Nay – None

DISCUSSION OF SIGNAGE, TOWING AND BOOTING ISSUES

A lengthy discussion ensued regarding recent complaints pertaining to the privately owned parking lot in front of Paolucci's, which is monitored by LMS. Planning Director Bill Bailey presented his personal experiences with the gentleman who monitors the lot from a gold, dark-tinted camaro to boot cars, and another man who sat on the sidewalk watching for people who are not permitted to park in the lot, both without any visible identification and were employed by LMS. Town Attorney Sam Furgiuele pointed out several violations by LMS from Mr. Bailey's recollection of events. Mr. Bailey also stated there is not a sign at the entrance from Water Street and that there is a permit for Mellow Mushroom customers to park in the lot from 5 p.m. to 6 a.m., although LMS employees are booting these customers. Council Member Brantz, seconded by Council Member Mason, moved to authorize Town Attorney Sam Furgiuele, Police Chief Dana Crawford, Planning Director Bill Bailey and any others needed to develop language that addresses these issues and tightens the Town Code of Ordinances in a way that clarifies it for everyone. Council also advised staff to revise the language to consider all violations a Class 3 misdemeanor with a higher level of penalty.

VOTE: Aye – All
Nay – None

Before deliberating on the quasi-judicial requests, Town Attorney Sam Furgiuele questioned the members of Council on whether or not they had contact with Mountaineer Village, LLC regarding their request. All Council members stated that they had not had any significant contact with the applicant.

Town Attorney Sam Furgiuele questioned the members of Council on whether or not they had any contact with United Developers, Inc., outside of the conditional district map amendment request, that would affect their request for water and sewer service. Mr. Furgiuele added that, if so, it would be up to the applicant to determine whether or not the Council member(s) should participate at that point. Council members Ball, Brantz and Leigh stated that they had not had any significant contact with the applicant outside of the conditional district map amendment request. Council Member Mason stated she spoke frequently with the North Carolina Housing Agency, but does not feel this will affect the applicant's request.

WATER & SEWER REQUEST – MOUNTAINEER VILLAGE, LLC

Town Attorney Sam Furgiuele opened a public hearing at 9:51 p.m. to hear sworn testimony on a request for water and sewer service to property located on Yosef Drive. Frank Ford, an agent for Mountaineer Village, LLC, pointed out that on page 219, it states the property is located within Town of Boone corporate limits and zoned R-3 Multi-Family Residential with a portion of the property located in viewshed. Mr. Ford stated that Town of Boone staff has determined Mountaineer Village, LLC is 42 feet below the viewshed. Mr. Ford stated the request is for water and sewer service for the expansion of Mountaineer Village, which will include two 24-bedroom apartment complexes with the requested water allocation totaling 10,800 gallons per day. Mr. Ford believed that with the additional 48 units, the property will have moderate—not high—density, being virtually unrecognizable, but will take students out of traditional housing; the property will still hold over 100 extra parking spaces; and, landscaping will be added to the site. Mr. Ford stated the request is in accordance with conditions outlined in Section 11.01 of the Town Code, complies with the water and sewer ordinance, and believes the expansion represents the type of development supported by the Town. Mayor Pro-Tem Leigh wondered if a traffic study had been completed for the additional cars on the road. Mr. Ford indicated the traffic impact study completed when Mountaineer Village was initially developed left a considerable amount of room for the expansion they are requesting. Public Utilities Director Rick Miller stated the current sewer pipes are adequate to handle this expansion. With no other public testimony, Mr. Furgiuele closed the public hearing at 10:08 p.m. Mayor Pro-Tem Leigh stated that, although she was concerned with the traffic impact, Mr. Ford made a good point that this location is for student housing, a good place for the density, and the request is a minimal addition. **(Information submitted by Frank Ford permanently on file in the December 2012 meeting information file.)**

Upon a motion by Mayor Pro-Tem Leigh, seconded by Council Member Ball, Council moved to approve the request for 10,800 gallons per day made by Mountaineer Village, LLC.

VOTE: Aye – All
Nay – None

WATER & SEWER REQUEST – UNITED DEVELOPERS, INCORPORATED

Town Attorney Sam Furgiuele opened a public hearing at 10:14 p.m. to hear sworn testimony on a request for water and sewer service to property located at and near 170 Clawson Street. Marvin Mercer, an engineer speaking on behalf of United Developers, Inc., did not believe Council Member Mason's contact with the North Carolina Housing Agency should prevent her from participating in the discussion, and thanked Council for allowing him to present the request

during this meeting. Mr. Mercer stated the applicant is requesting 20,414 gallons per day for 164 bedrooms in 72 units, and the current pipeline does not have enough capacity for the requested amount. He added that the water main would need to be extended from Perkinsville to the property, there is no "Phase 2" to this project, so no additional requests for water will come in the future, and there is a sewer line on Clawson Street, but the applicant will make whatever improvements are needed through the Public Works and Public Utilities departments to bring sewer lines onto the site to serve the entire property. Public Utilities Director Rick Miller stated he has calculated the water allotment for the property to include the laundromat and kitchenette on site, which comes to a total of 21,119 gallons per day. A brief discussion ensued regarding vesting options. With no other public testimony, Mr. Furgiuele closed the public hearing at 10:25 p.m. Council Member Brantz voiced his support for this project. Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to approve the request for 21,119 gallons per day made by United Developers, Inc.

VOTE: Aye – All
Nay – None

CLOSED SESSION

Upon a motion by Council Member Brantz, seconded by Council Member Ball, Council moved to enter Closed Session at 10:28 p.m. pursuant to NCGS 143-318-11a(3)(5) to hear the following items:

A. Legal Advice – To consult with the Town Attorney in order to preserve the attorney/client privilege between the attorney and the Town Council to consider and give instruction regarding a potential claim against Bank of America.
B. Legal Advice – To consult with the Town Attorney in order to preserve the attorney/client privilege between the attorney and the Town Council to consider and give instruction regarding contract terms with the Coffey Estate.
C. Property Acquisition and Legal Advice – To consult with the Town Attorney in order to preserve the attorney/client privilege between the attorney and the Town Council and to instruct Town staff and the Town Attorney concerning the positions to be taken by or on behalf of the Town in negotiating the price and other material terms of proposed contracts for the acquisition of easements in real property related to the proposed raw water intake, and to consult with an attorney employed or retained by the public body, which privilege is hereby acknowledged, to consider and give instructions to the attorney concerning the handling or settlement of a judicial action.
D. Legal Advice – To consult with the Town Attorney in order to preserve the attorney/client privilege between the attorney and the Town Council to consider and give instruction concerning the enforcement of the fire code.

E. Legal Advice - To consult with the Town Attorney in order to preserve the attorney/client privilege between the attorney and the Town Council to consider and give instruction to staff concerning the position to be taken on behalf of the public body in negotiating the amount of compensation and other material terms of an employment contract with CompassNC, LLC.

F. Property Acquisition – To instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease for property located off Bamboo Road.

VOTE: Aye – All
Nay – None

Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to exit Closed Session at 11:58 p.m.

VOTE: Aye – All
Nay – None

POSSIBLE ACTION FOLLOWING CLOSED SESSION

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to approve an agreement for legislative services from CompassNC, LLC. **(Permanently on file in the December 2012 Town Council packet.)**

VOTE: Aye – All
Nay - None

ADJOURNMENT

Upon a motion by Council Member Mason, seconded by Mayor Pro-Tem Leigh, Council moved to adjourn at 11:59 p.m.

VOTE: Aye – All
Nay – None

Christine Pope, Administrative Support Specialist

Jamie Leigh, Mayor Pro-Tem