**MINUTES – REGULAR MEETING**
**BOONE TOWN COUNCIL**
**NOVEMBER 17, 2014**

A regular meeting of the Boone Town Council was called to order at 5:30 p.m., Monday, Nov. 17, 2014, in the Council Chambers, 1500 Blowing Rock Road. Mayor Pro-Tem Rennie Brantz presided. Council members present were Lynne Mason, Fred Hay and Quint David. Town Attorney Sam Furgiuele was also present. Staff members present were Town Manager John Ward, Greg Young, Town Clerk Christine Pope, Assistant to the Manager Jim Byrne, Human Resources Director Peri Moretz, Police Chief Dana Crawford, Fire Chief Jimmy Isaacs, Finance Director Amy Davis, Planning Director Bill Bailey, Public Utilities Director Rick Miller, Interim Public Works Director Eric Gustaveson and Cultural Resources Director Pilar Fotta.

## CALL TO ORDER

Mayor Pro-Tem Rennie Brantz called the meeting to order and welcomed all in attendance.

## TENTATIVE AGENDA ADOPTION

Town Manager John Ward stated there were no changes to the agenda. Upon a motion by Council Member Mason, seconded by Council Member Hay, Council moved to approve the agenda as presented.

VOTE: Aye – All
Nay – None

## PUBLIC COMMENT

William Reece of Grand Boulevard appeared before Council to express his concern with the property tax increase made by the Town. He stated his property taxes went from $940 to $1,257, and felt that this was a rough time to raise taxes on citizens. Mr. Reece stated this was a sinful act, and wanted to know the reason it has been raised. Council Member Mason stated that due to the change in the sales tax distribution method, which resulted in a $2 million loss to the Town's budget, the tax increase was adopted in order to continue to provide the current services offered to the citizens of Boone.

## SCHEDULING OF SPECIAL MEETING – WORKSHOP WITH PLANNING COMMISSION AND COMMUNITY APPEARANCE COMMISSION TO DISCUSS THE WELLNESS DISTRICT PLAN

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to schedule a special meeting of the Town Council with the Planning Commission and the Community Appearance Commission in order to discuss the Wellness District Plan for Monday, Dec. 1, 2014, at 5:30 p.m. in the Council Chambers at 1500 Blowing Rock Road with an alternate date of Wednesday, Dec. 3, 2014, for the same time and location, if needed.

VOTE: Aye – All
Nay – None

**APPROVAL OF EXTENSION OF BOND ORDER**

It was the consensus of Council to keep this item under Council Matters following the public hearing.

**HISTORIC PRESERVATION COMMISSION REQUEST – MEETING WITH "BOONE CEMETERY" STAKEHOLDERS**

Town Attorney Sam Furgiuele advised that this request is to allow the town manager to call a meeting with the stakeholders of the "Boone Cemetery" and for the town attorney to be present. It was agreed by the Council to put this item under Consent Agenda.

**CONSIDERATION OF DECEMBER COUNCIL MEETING DATE**

It was the consensus of Council to keep this item under Council Matters for further discussion.

**REQUEST FOR FUNDING TO EXPAND PROJECT – US ARMY CORPS GREENWAY PROJECT**

Assistant to the Manager Jim Byrne advised that by funding $100,000 for a grant match, the streambank restoration project along the Greenway could be expanded and become a $4 million project overall and could bring the project to a level worthy of national recognition and exposure. He added that these funds are available in the Greenway budget line. It was agreed by the Council to put this item under Consent Agenda.

**APPROVAL OF RULES OF PROCEDURE – BOARD OF ADJUSTMENT**

Town Attorney Sam Furgiuele advised that these updated Rules of Procedures are meant to help guide board members as well as to give those who appear before the Board of Adjustment a better understanding of the process. Discussion ensued regarding the mention of appropriate attire and decorum at these meetings. It was agreed by the Council to put this item under Consent Agenda.

**CONSIDERATION OF CODE AMENDMENT – CHAPTER 73: TOWING**

Town Attorney Sam Furgiuele noted these revisions come from Council's direction at the last regular meeting to incorporate the changes discussed with Jon Tate and Harold Tilley regarding temporary badges and a delay in paying for a privilege license as well as a shorter timeframe for towing upon the owner's acknowledgement of a wheel lock on a vehicle. It was the consensus to keep this item under Council Matters for further discussion.

**APPROVAL OF RESOLUTION – AMENDMENT TO TOWN'S CODE OF ETHICS**

Town Attorney Sam Furgiuele advised that the language prohibits Council members to have a representative on boards of directors for organizations with either a contractual or financial relationship with the Town. Council Member Brantz felt that this amendment could discourage others from running for Town Council if they can't serve on other boards in the community. It was the consensus to keep this item under Council Matters for further discussion.

**SUSTAINABILITY TASK FORCE RECOMMENDATIONS – SHORT AND MEDIUM-TERM GOALS**

Council Member David advised that he will be preparing a draft report for Council's review in the supplemental packet for Thursday night with the hope to receive some feedback, then to bring it back to Council in the future. It was the consensus to keep this item under Council Matters for further discussion.

**CONSIDERATION OF ZONING CASE – 20140636 BUFFER ZONE TEXT AMENDMENT**

It was the consensus to keep this item under Council Matters for further discussion.

**HISTORIC PRESERVATION COMMISSION REQUEST FOR PAID INTERNSHIP**

It was agreed by Council to place this item under Consent Agenda.

It was agreed that the P&I Monthly Report, Monthly Water Use Status Report, Approval of Budget Amendments, Board Appointments, Requested Appearances, Water and Sewer Requests, and Closed Session items will be heard by the Council as is done each month at the regular meetings.

Upon a motion by Council Member Mason, seconded by Council Member David, Council moved to add an item to the agenda following Board Appointments for the purpose of scheduling a special meeting of the Town Council with the Cultural Resources board and staff.

VOTE: Aye – All
Nay – None

**ADJOURNMENT**

Upon a motion by Council Member David, seconded by Council Member Mason, Council moved to adjourn the agenda-setting meeting of the Town Council at 6:11 p.m.

VOTE: Aye – All
Nay – None

**CALL TO ORDER**

A meeting of the Boone Town Council was called to order at 5:30 p.m., Thursday, Nov. 20, 2014, in the Council Chambers, 1500 Blowing Rock Road. Mayor Andy Ball presided. Council members present were Mayor Pro-Tem Rennie Brantz, Lynne Mason, Quint David and Fred Hay. Town Attorney Sam Furgiuele was also present. Staff members present were Town Manager John Ward, Greg Young, Town Clerk Christine Pope, Finance Director Amy Davis, Assistant to the Manager Jim Byrne, Police Chief Dana Crawford, Fire Chief Jimmy Isaacs, Public Utilities Director Rick Miller, Interim Public Works Director Eric Gustaveson, Planning Director Bill Bailey and Human Resources Director Peri Moretz.

**ANNOUNCEMENTS**

Mayor Ball called the meeting to order and welcomed all in attendance. He noted that anyone wanting to sign up to speak during the public hearing or public comment sessions would need to sign the sign-up sheets.

Police Chief Dana Crawford presented to Sergeant Matt Stevens with gratitude and thanks from the Town of Boone the North Carolina Department of Justice award for completing the Criminal Investigations Certificate Program. Chief Crawford stated that this training required a minimum of 500 hours of criminal investigations training in the areas of forensic science, death investigation, sexual assaults, fraud, property crimes, and burglary and robbery. Sergeant Matt Stevens thanked Chief Crawford and the Council for this award, adding that he hopes his certification reflects the leadership that the former town manager, Greg Young, has provided for many years.

Mayor Ball presented former town manager Greg Young with a plaque of recognition and a resolution, expressing his appreciation for Mr. Young's talents, integrity and service he brought to work with the Town for the past 23 years. Council Member Brantz thanked Mr. Young for his expertise and attention to detail, and his welcoming spirit to everyone on Council. Council Member Hay thanked Mr. Young for his support in helping the neighborhoods. Council Member Mason thanked Mr. Young for his many years of service, mentorship and advisement. Council Member David thanked Mr. Young for helping him through issues as a new councilman.

Mr. Young stated it has been an honor and privilege to work for all the mayors and Council members to serve the citizens of Boone, and wanted to give credit to his hardworking and dedicated staff.

Town Attorney Sam Furgiuele thanked Mr. Young for his support and help over the years. Town Manager John Ward thanked Mr. Young for the smooth transition and all the help he has provided in moving into his new role.

Mayor Ball announced the annual Solar Christmas Tree Lighting, which is to be held Friday, Dec. 5, 2014, beginning at 5:30 p.m.

## **TENTATIVE AGENDA ADOPTION**

Town Manager John Ward presented the following changes to the agenda:

1. Addition of Item 2.D. – Announcement of Annual Solar Christmas Tree Lighting.
2. Addition of Item 4.I. – Designation of Speed Limit on Portion of State Highway System.
3. Additional Information for Item. 7.E. – Sustainability Task Force Recommendations: Short- and Medium-Term Goals.
4. Additional Information for Item. 7.K. – Scheduling of Special Meeting with Cultural Resources Staff and Board.
5. Deletion of Item. 8.A. – Bailey Winecoff – Review of a Human-Powered Transportation Policy for Town and University.
6. Addition of Items to Closed Session:

    G. Pursuant to N.C. Gen. Stat. § 143-318.11 (a)(5), to establish, or to instruct the Town's staff or negotiating agents concerning the position to be taken by or on behalf of the Town in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property on Highway 105.

H. Pursuant to N.C. Gen. Stat. § 143-318.11 (a)(5), to establish, or to instruct the Town's staff or negotiating agents concerning the position to be taken by or on behalf of the Town in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property on Howard's Knob.

I. Pursuant to N.C. Gen. Stat. § 143-318.11 (6), to consider the qualifications and conditions of appointment, or conditions of initial employment of a prospective public officer.

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

VOTE: Aye – All Nay –
None Absent – 1
(Peña)

**<u>CONSENT AGENDA ADOPTION</u>**

A. Minutes: Oct. 9, 2014 – Special Meeting.
Oct. 9/20, 2014 – Special Public Hearing.
Oct. 20/23, 2014 – Regular Meeting.

B. Adoption of Resolution of Appreciation – Greg Young.

**RESOLUTION OF APPRECIATION**

WHEREAS, Gregory E. Young will retire from the town of Boone, North Carolina as of Dec. 31, 2014; and,

WHEREAS, he has served the citizens of Boone as the town manager with great distinction for the past 23 years; and,

WHEREAS, he has always shown a genuine concern for the well-being of the town, employees and Council; and,

WHEREAS, he has been an honest, loyal and committed public servant to the town.

NOW, THEREFORE, BE IT RESOLVED, that the Town Council of the town of Boone, North Carolina, hereby expresses their sincere appreciation and gratitude to Gregory E. Young for his contribution to the growth and performance of the town during his tenure.

BE IT FURTHER RESOLVED, that the Town Council extends to Gregory E. Young and his family blessings for good health and best wishes for the future.

Adopted this 20th day of November, 2014.

**(RESOLUTION TO BE TYPED IN __3__, PAGE(S) __226__)**

C. Approval of Encroachment Agreement – Lililu on King. **(Encroachment agreement permanently on file in Town Hall.)**
D. Approval of Easement Agreement – Riverstone Condominiums. **(Easement agreement permanently on file in Town Hall.)**
E. Historic Preservation Commission Request to Hold Meeting with "Boone Cemetery" Stakeholders.
F. Approval for Funding to Expand Project – US Army Corps Greenway Project.
G. Approval of Rules of Procedure – Board of Adjustment.
H. Historic Preservation Commission Request for Paid Internship.
I. Designation of Speed Limit on Portion of State Highway System.

Town Manager John Ward noted that the speed limit that is to be approved already has the appropriate signage by NCDOT, and this is to provide them with an official designation by the Town of the speed limit already enforced.

Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to adopt the Consent Agenda.

VOTE: Aye – All Nay – None Absent – 1 (Peña)

**PUBLIC HEARING – EXTENSION OF BOND ORDER AUTHORIZING THE ISSUANCE OF $25,000,000 GENERAL OBLIGATION WATER SYSTEMS BONDS**

Town Manager John Ward provided a brief overview of the purpose for the extension of bond order, which will extend it an additional three years. Mayor Ball called the public hearing to order at 5:46 p.m., stating that Council will allow for two-minute comments, and should it need to go over the allotted 15 minutes, the hearing will continue following the regular session of the Council meeting.

Karen Carter stated she believed it was ironic and hypocritical of the Town Council to be upset over losing its extraterritorial jurisdiction (ETJ) powers, but want to go outside of the Town limits to get water. She stated this will increase taxes and water fees for Boone residents and leave the area with more restrictive watersheds for many years, adding that the situation is selfish and expensive.

Marie Nelson, of Fleetwood, N.C. in Ashe County, asked for Council and the citizens of Boone to ask themselves what difference would it make. She stated that the Town has secured a 40-year loan at a 3.25 interest rate, with a debt service repayment of $1 million per year which the citizens of Boone will be responsible for paying. She stated the average household water bill per month will increase by $32, and this only covers Phase 1 of the project. She stated that Phase 2 of the project will cost an additional $21 million. Ms. Nelson added that the New River Advocates group has submitted over 20 record requests to the Town and that the Town had a 2010 environmental assessment that included concerns regarding the project, which was not put on the Web site, unlike the 2009 version.

Donald Nelson, of Fleetwood, N.C., stated he was concerned with the project, and felt that the Town should have evaluated the possible cooperation with Appalachian State University for a few years, then phase into a second water use plan. He noted there was no mention of a water recycling technology program as an option, and provided a brief description of the water recycling program that Maricopa, Ariz. utilizes. He suggested that the Town re-evaluate this project.

Deborah Greene, of the Meat Camp area with property bordering the New River, stated she enjoys the river and wants to see it protected. She stated that she understands the desire to control growth not just in the town but in the county as well, however, she questions the requirement that the Town has to do something if they reach 80 percent capacity. She stated that in 2007 and 2008 the Town was at 62 percent due to water leaks, but otherwise it stays around 53 percent. Ms. Greene added that the Town tried to get Ashe County to sign a CLOMR letter, but when they would not, the Town got a no-rise certification. She stated that the congressional waiver the Town received has expired and wondered if the Local Government Commission was aware of this.

Frank Packard spoke about his concern regarding a lack of openness and transparency from the Town during this project. He added that the Top 10 list of questions and answers posted to the Town's Web site does not allow for discussion. Mr. Packard stated that the Town addresses the question of condemnation in Ashe County, which is not authorized, but stated the Town did not address the question of condemnation in Watauga County.

Sandy Ford, of Fleetwood, N.C., presented a picture from *Time Magazine* of the New River and an act signed by the congressman during the time of the cover picture to keep the New River as it is. She asked Council how much water will be taken out of the New River, stating she felt like no one has given a definitive answer.

Patrick Beville, of 111 Brookside Drive, stated that as someone familiar with the project in question, he encourages the Council to proceed on with the project. He stated that as a professional engineer and avid environmentalist, nothing presented indicates there to be an environmental concern. He added that the Town's engineers have done a good job addressing the environmental concerns in the initial assessment by proposing the least environmental impact to be taken even though it is more costly. He felt that the Town is doing the right thing in proceeding, since the current intakes are less than environmentally healthy due to being under old regulations, and believed this project is a good thing for the town.

With no further comments, Mayor Ball closed the hearing at 6:05 p.m.

**PUBLIC COMMENT**

Chelsea Garrett of the di Santi Watson law firm and Susan Fowler, whom Ms. Garrett is representing, asked Council for guidance or to direct staff to give guidance regarding the Town's occupancy ordinance. Ms. Garrett stated that they realize this usually comes before the Town as a violation/appeal process, but the issue has been resolved in that sense. Ms. Fowler stated that they have no intention to lodge a complaint or dissatisfaction with the Planning and Inspections Department, but that staff does not feel empowered to interpret the occupancy ordinance in this matter and would like to better understand the regulations under this ordinance so that they are complying moving forward. Upon a motion by Council Member Mason, seconded by Council Member David, Council moved to amend the agenda to add this item under Requested Appearances as Item B for further discussion.

VOTE: Aye – All Nay –
None Absent – 1
(Peña)

Deborah Greene stated she'd like to add some further comments regarding the intake project, since her time was limited during the hearing. She provided statements from the USDA engineers' report, including reference to the Town's maximum intake capacity, stating that it could be 9 or 12 million gallons per day depending on what may happen with the US Army Corps' take on the withdraw. Ms. Greene added that the drawings show a seven-foot depth, however, a photo shows engineers in the water up to their knees—not seven feet of water.

Mayor Ball took a moment to note that Council Member Jennifer Peña is in a conference out of state and, therefore, could not attend the meeting.

**APPROVAL OF EXTENSION OF BOND ORDER AUTHORIZING THE ISSUANCE OF $25,000,000 GENERAL OBLIGATION WATER SYSTEMS BONDS**

Town Manager John Ward advised Council that this decision focuses on the protection of the Town's ability to borrow funds. He stated that without approving this extension, the ability to borrow funds will end, but by approving this extension, it will provide staff with direction to continue on the path to create the water intake project. He added that a lack of adequate water will greatly inhibit the ability to bring growth and money to the area. Council Member David stated it is hard to determine what impacts are on the New River, and the Town needs to ensure they are providing water to people in the most environmentally friendly way. He stated the Town needs to make sure there is enough water to supply Boone and the surrounding areas for 50-plus years. Council Member David added that nothing indicates this water intake would change the way the New River looks, but if the Town waits 10 years to do this, it could cost taxpayers twice as much. Council Member Mason stated the need for water has been well-studied and documented, and still believes this is the best thing to work toward and they need to secure the funding already obtained. Council Member Brantz stated there is a need for water in the future and he supports the continuation of the project.

Upon a motion by Council Member Brantz, seconded by Council Member David, Council moved to adopt the following extension of bond order:

**EXTENSION OF BOND ORDER AUTHORIZING THE ISSUANCE OF $25,000,000 GENERAL OBLIGATION WATER SYSTEMS BONDS OF THE TOWN OF BOONE, NORTH CAROLINA**

***WHEREAS,*** the Town Council of the Town of Boone, North Carolina (the "*Town Council*") has ascertained and hereby determines that it is necessary to pay the capital costs of acquiring, constructing and equipping facilities for a new water source along the South Fork of the New River, including the costs of related studies, plans and design; acquiring land and rights-of-way in land and installing water transmission lines related to the acquisition of the new water source; renovating the Town of Boone Water Treatment Plant in order to increase its daily capacity, including improvements to and the acquisition and installation of plant equipment; and

***WHEREAS,*** the Town Council adopted a bond order on August 21, 2008 (the "*Bond Order*") which took effect on its approval by the voters of the Town at a referendum on November 4, 2008, authorizing the issuance of $25,000,000 general obligation water system bonds of the Town to provide for such costs; and

***WHEREAS,*** the Local Government Commission formally approved the Town's request for a three-year extension for the remaining $25,000,000 of such authorization on October 7, 2014; and

***WHEREAS,*** the Town Council held a public hearing on November 20, 2014 on the question of whether the maximum time period for issuing bonds under the Bond Order should be extended from seven to ten years after November 4, 2008;

***NOW, THEREFORE, BE IT ORDERED*** by the Town Council as follows:

Section 1. The maximum time period for issuing bonds under the Bond Order has been extended from seven to ten years after November 4, 2008.

Section 2. This order will take effect 30 days after its publication.

____________________________________

Christine Pope
Town Clerk
Town of Boone, North Carolina

**(RESOLUTION TO BE TYPED IN __3__, PAGE(S) __227__)**

VOTE: Aye – All Nay –
None Absent – 1
(Peña)

**CONSIDERATION OF DECEMBER TOWN COUNCIL MEETING DATE**

Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to hold the December Council meeting on one night only, to be scheduled for Monday, Dec. 15, 2014, beginning at 5:30 p.m. in the Council Chambers, 1500 Blowing Rock Road.

VOTE: Aye – All Nay –
None Absent – 1
(Peña)

**CONSIDERATION OF CODE AMENDMENT – CHAPTER 73: TOWING**

Town Attorney Sam Furgiuele presented drafted changes to the Towing Ordinance as directed by Council at the October meeting. He stated that it will be the towing companies' responsibility to demonstrate to the police department, if necessary, how they are in compliance in regard to determining whether or not they have justification to tow the vehicle just two hours after having wheel-locked a vehicle versus the standard eight-hour time frame in the instance that the vehicle owner has acknowledged it was wheel-locked. He stated as an example that Jon Tate's company keeps record of each call with the time shown so police would be able to examine the call or voicemail acknowledging they had been contacted.

Discussion ensued regarding instances in which someone is wheel-locked and has acknowledged it, but was not able to get the money necessary to have it removed, and whether or not two hours would be sufficient time to do so. Council Member Mason, seconded by Council Member Hay moved to approve the proposed amendments to Chapter 73: Towing of the Town's Code with the additional amendment that the two-hour timeframe be made four hours as a compromise to allow people who have acknowledged that they are in violation be given a reasonable time period to get their car.

**CHAPTER 73: TOWING**

. . .

**§73.08 USE OF PARKING CONTROL DEVICES OR METHODS IN PARKING LOTS AND SPACES AUTHORIZED.**

**. . .**

(B) **Except as explicitly authorized by §73.10(B) n**~~N~~o **company or individual** which maintains a fixed business situs within the corporate limits may direct or be involved in any activities related to the use of parking control devices or methods in parking lots or spaces within the town unless it first obtains and has in effect a current privilege license issued by the town in accordance with §112.35. A "fixed business situs," for purposes of this section includes an office, storage facility and any other fixed location relating to the conduct of the operation. The physical location of a person who functions as an "independent contractor" for purposes of federal tax law shall be the parking lot or parking spaces within which the person is engaged in the activities controlled by this chapter, and any such person involved in any activities related to the use of parking control devices or methods in parking lots or spaces within the town must obtain a privilege license from the town to direct or be involved in any activities related to the use of parking control devices or methods in parking lots or spaces within the town.

. . .

**§73.10. OPERATIONAL REQUIREMENTS FOR PERSONS INVOLVED IN THE USE OF PARKING CONTROL DEVICES OR METHODS IN PARKING LOTS AND SPACES.**

(A) ***Identification Badges for Parking Lot Attendants***. No person (hereafter referred to as "parking lot attendant") may implement or apply a parking control device or method to a vehicle nor demand or accept payment for the removal or discontinuance of any parking control device or method until he has obtained an identification badge from the town. **Except as authorized by §73.10(B), i**~~I~~dentification badges shall be issued for a single calendar year and must be renewed annually.

(1) In order to obtain an identification badge from the town, the applicant must:

(a) Provide a certified copy of the applicant's criminal record in North Carolina from the Watauga County Clerk of Superior Court;

(b) Fully complete an application on a form provided by the town, disclosing his name, address, telephone number, date of birth, gender, company affiliation, if any, physical location of affiliated company, and status as an employee or independent contractor of the company, by stating whether and by whom income taxes and FICA taxes are withheld from his pay; and

(c) Disclose and certify, under oath, all criminal convictions within the prior ten (10) years in any jurisdiction for assaults or threats; homicide; sexual assault; crimes against nature, incest, indecent exposure and related offenses; kidnaping, larceny, possession of stolen goods, embezzlement and related offenses; robbery, extortion, and related offenses; burglary and breaking and entering; felony fraud, false pretenses and related offenses involving financial transactions; and weapons offenses. No person convicted of any of the foregoing within the prior ten (10) years shall be issued an identification badge.

(**2**) ***Identification Badge must be on Display*.** A parking lot attendant must display on his or her person at all times during which the person is present on the parking lot or on duty, the picture identification badge issued by the town. Such identification must be attached to the exterior clothing to an area plainly visible to a person addressing the parking lot attendant, or it must be attached to a lanyard hanging around the neck of the attendant and plainly visible to a person addressing the parking lot attendant. Upon request, the parking lot attendant must allow the operator or owner of the vehicle which has been immobilized to examine and copy any information from the identification badge.

**(B) *Temporary Identification Badge for Parking Lot Attendant*. A parking lot attendant who is employed by another person or company which is itself fully authorized to use parking control devices or methods in parking lots and spaces within the town, may obtain a temporary identification badge without first obtaining a privilege license, subject to the following conditions.**

**(1) The parking lot attendant must otherwise comply with all provisions of this chapter, including those regarding the acquisition and display of identification badges;**

**(2) The temporary identification badge may be used for a maximum of thirty days from its issuance, but use thereafter is strictly prohibited and an annual identification badge must be subsequently be obtained and the privilege tax, if required, paid; and**

**(3) No individual may obtain more than one temporary identification badge.**

**(C) ~~(B)~~ *When a Parking Lot Attendant must warn an Unauthorized Individual*.**

. . .

**(D) ~~(C)~~ *Parking Lot Attendants may not Hide.***

. . .

**(E) ~~(D)~~ *Procedures After Parking Control Devices or Methods Utilized*.**

. . .

(4) After a parking control device or method is applied to a vehicle in any parking lot or space, it shall be unlawful for any person to authorize, direct or contract for the non-consensual towing of the vehicle from the parking lot or space for a period of at least eight hours following such application, **or four hours from the time the owner or operator of the vehicle establishes contact with the contact person, whichever is earlier, provided that contact by the owner or operator can be proven.**

(5) ~~Except as authorized by 73.10(C)(4),~~ ~~**A**~~after one parking control device or method is applied to a vehicle in any parking lot or space, it shall be unlawful for any person to authorize, direct or contract for a second parking control device or method to be applied to the vehicle **for a period of at least eight hours following such application, or four hours from the time the owner or operator of the vehicle establishes contact with the contact person, whichever is earlier, provided that contact by the owner or operator can be proven.** ~~and then to charge or attempt to charge an additional fee beyond the fee for removal of a single parking control device or method, or to refuse to remove all parking control devices or methods once the fee for removal of the initial parking control device is paid.~~

(6) Any time a parking control device is applied to a vehicle, when the penalty has been paid, the vehicle must be immediately released, and the vehicle operator must be provided with a receipt which discloses the correct contact information and appeal process, if any, for challenging the action of the person applying the parking control device or method.

(7) Should the Town Manager receive three or more unrelated and credible complaints within any three-month period asserting the failure of the contact person for the person authorizing, directing, contracting for, implementing or applying parking control devices or other methods to vehicles to respond within fifteen minutes to telephone contact by the owners or operators of vehicles which have been immobilized, it shall be presumptively concluded that the person authorizing, directing, contracting for, implementing or applying a parking control device or method to a vehicle in any parking lot or space in the town does not have the capacity to respond within fifteen minutes. Thereafter, a duly authorized person must be on duty and present in the parking lot or space at all times when any vehicle is subjected to a parking control device or method, and the person must remain on the property until the owner or operator of the vehicle returns, with the ability to remove the parking control device or method upon payment of the posted charges.

. . .

VOTE: Aye – All Nay –
None Absent – 1
(Peña)

**APPROVAL OF RESOLUTION – AMENDMENT TO TOWN'S CODE OF ETHICS**

Town Attorney Sam Furgiuele presented drafted changes to the Town's Code of Ethics in the form of a resolution as directed by Council. He stated these changes prohibit Council members from serving on boards of directors of organizations which have either a contractual relationship with the Town or which requested financial or similar support from the Town. He noted this is specific to serving on the boards of directors, not regular membership, and felt that this gives protection to the Council members so people won't perceive the Council members are advocating for a group because of their involvement on the board.

Upon a motion by Council Member Hay, seconded by Council Member David, Council moved to adopt the resolution and changes to the Town's Code of Ethics. Mr. Furgiuele recommended that this not be immediately in effect to allow time for Council members to leave boards and explain, if necessary. Council Member Brantz felt that each individual Council member should be responsible for deciding whether it is a conflict of interest. Mayor Ball stated that he did not want people in the future to question the relationship between a board and a Council member. Council Member Hay, seconded by Council Member David, amended their original motion to include a Jan. 1, 2015, effective date:

**RESOLUTION AMENDING CODE OF ETHICS FOR THE TOWN COUNCIL AND BOARDS, COMMITTEES AND TASK FORCES OF BOONE, NORTH CAROLINA**

WHEREAS, the adopted Code of Ethics contained in Code §30.52 strives not only to avoid specified conduct, but even the appearance of such conduct; and

WHEREAS, although no actual impropriety is involved, the service by members of the Town Council on boards of directors of organizations which have contracts with the Town or which seek funding or similar support from the Town can create the appearance that the members are advocates for such groups instead of their actions being motivated the common good; and

WHEREAS, service on such boards may cause the organizations themselves to view the role of the Council member as one entailing loyalty to the organization above the member's obligations to the town, thus placing the Council member in difficult personal positions in situations in which the Council member's best independent judgment is inconsistent with the goals of the organization; and

WHEREAS, statements made by individual Council members to the boards of organizations on which they serve have been perceived at times as reflecting the view of the full Town Council rather than the personal views of the individual Council member, even when the Council member has attempted to make clear that he or she is speaking only for him or herself, leading to unwarranted expectations by the organizations; and

WHEREAS, Town Council members are expected to seek full accountability from those over whom the Town Council has authority, particularly with regard to the expenditure of public funds; and

WHEREAS, the Code of Ethics currently recognizes that Town Council members may have to subordinate their personal endeavors to discharge their official responsibilities;

NOW, THEREFORE, BE IT RESOLVED that Section 30.52(B)(8) of the Town Code, entitled "Code of Ethics," is amended to add the following:

(8) **Mandates:**

. . .

(b) Unless such service has been authorized by action of a super majority of the Town Council, four-fifths of the members in attendance, upon a finding that such individual service is in the interests of the town as a whole and that an exception should therefore be made, members of the Town Council shall not serve on the boards of directors of organizations which have contracts with the Town or which seek funding or similar support from the Town.

Adopted by the Town Council of the Town of Boone, North Carolina, this ___day of

____________________, 2014.

______________________________________
Andy Ball, Mayor

Attest: _________________________________(Seal)
Christine Pope
Town Clerk, Town of Boone

**(RESOLUTION TO BE TYPED IN __3__, PAGE(S) __228__)**

VOTE: Aye – 3 (Hay, David, Mason)
Nay – 1 (Brantz)
Absent – 1 (Peña)

**SUSTAINABILITY TASK FORCE RECOMMENDATIONS – SHORT- AND MEDIUM-TERM GOALS**

Council Member David provided some background of the recommendations submitted. **(Copy of recommendations and goals in the 2014 November Town Council Meeting Supplemental Packet.)** He stated the community survey received over 300 responses—half from town citizens and the other half from ETJ and Watauga County residents. He stated the task force's recommendation to Council is to direct Town staff to prepare a basic report investigating the costs and feasibility of integrating the short- and medium-term goals established by the task force as well as include additional items they feel may be easily and cost-effectively achievable; to extend the term of the task force to allow them to work with Town staff to finalize and schedule public input on the specific subject of sustainability; to finalize how that input may integrate with the Town's budget and planning workshops of 2015; and, to connect with community leaders and stakeholders to ensure their involvement during this on-going process of community sustainability is well-define and documented. Several Council members advised that they would like more time to review the goals presented.

Upon a motion by Council Member Mason, seconded by Council Member Hay, Council moved to approve the request to extend the Sustainability Task Force for an additional six months for the purpose of working with Town staff in order to provide input and to put this item on the December meeting's agenda in order to provide the task force with additional feedback following further review of the information.

VOTE: Aye – All Nay –
None Absent – 1
(Peña)

Mayor Ball declared a break at 7:34 p.m. Council reconvened at 7:46 p.m.

**CONSIDERATION OF ZONING CASE – 20140636 BUFFER ZONE TEXT AMENDMENT**

- **CASE 20140636** Approval of a text amendment to Section 20.04.03 of the Unified Development Ordinance to change the buffer zone from 50 feet to 100 feet.

Planning Director Bill Bailey advised that this text amendment to Section 20.04.03 would make the Town's Unified Development Ordinance consistent with State General Statute regarding the buffer zone. He added that the Planning Commission unanimously recommended Council's approval of this text amendment.

**Vote #1**

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved that the proposed amendment to the Town's zoning ordinance is consistent with the Town's comprehensive plan and other applicable adopted plans of the Town which relate to this application because it makes the Town's Unified Development Ordinance consistent with state general statutes and it addresses Comprehensive Plan Policies 1.1 and 2.2.5 related to environmental quality.

VOTE: Aye – All

Nay – None
Absent – 1 (Peña)

**Vote #2**

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to approve the proposed text amendment to the Town's zoning ordinance, and believe approval is reasonable and in the public interest because the amendment makes the UDO consistent with state general statutes and makes efforts for streambank restoration easier with less need for variances; though 50 feet is adequate for the protection of resources, 100 feet would allow redevelopment in promising areas targeting for small area plans especially those areas containing water resources.

VOTE: Aye – All Nay –
None Absent – 1
(Peña)

**<u>P&I MONTHLY REPORT</u>**

Planning Director Bill Bailey presented the P & I Monthly report. **(Permanently on file in the November 2014 Town Council meeting packet.)**

**<u>MONTHLY WATER USE STATUS REPORT</u>**

Public Utilities Director Rick Miller presented the monthly water status report. **(Permanently on file in the November 2014 Town Council meeting packet.)**

**<u>APPROVAL OF BUDGET AMENDMENTS</u>**

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

| **Description:** | **Account Number:** | **To:** | **From:** |
|---|---|---|---|
| PROFESSIONAL STUDIES – GOVERNING BODY | 010-400-000-509100 | $20,200 | |
| APPROPRIATED FUND BALANCE - GENERAL FUND | 010-000-000-499900 | | ($20,200) |
| TRANSFER TO LAW ENFORCEMENT SEPARATION | 010-500-300-598042 | $23,863 | |

| | | | |
|---|---|---|---|
| ALLOWANCE TRUST | | | |
| APPROPRIATED FUND BALANCE – GENERAL FUND | 010-000-000-499900 | | ($23,863) |

VOTE: Aye – All Nay – None Absent – 1 (Peña)

## BOARD APPOINTMENTS

**Board of Adjustment**

There were no applications submitted for consideration for this board.

**Community Appearance Commission**

There were no applications submitted for consideration for this committee.

**Greenway, Parks and Gardens Committee**

There were no applications submitted for consideration for this committee.

**Outside Agency Funding Committee**

There were no applications submitted for consideration for this committee.

**Planning Commission**

There were no applications submitted for consideration for this committee.

**Tree Board**

There were no applications submitted for consideration for this board.

**Tourism Development Authority**

There were no applications submitted for consideration for this board.

## SCHEDULING OF SPECIAL MEETING – CULTURAL RESOURCES STAFF AND BOARD

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to schedule a special meeting of the Town Council with the Cultural Resources staff and board for Tuesday, Dec. 9, 2014, from 5:30 to 7:30 p.m. at the Jones House Cultural and Community Center located at 604 W. King Street.

VOTE: Aye – All Nay – None Absent – 1 (Peña)

**BILL'S GARAGE, KATI COX – REQUEST FOR AMENDMENT TO SECTION 73.04 OF TOWING ORDINANCE**

Kati Cox, representing Bill's Garage, appeared before Council to request that an amendment to Section 73.04 of the Town's Towing Ordinance be made pertaining to the requirement of red text on white backgrounds for signage. She stated that they have spent over $7,000 on signs in the past three years, and this new signage requirement will cost them approximately $6,000 to implement. Planning Director Bill Bailey indicated he recommended the white background with red lettering for booting/towing signage since it is uniform and universally means "warning." Ms. Cox stated she felt that the coloring of signs and whether or not signs were clear to patrons is not one of the complaints they typically receive. Lengthy discussion ensued regarding the possibility of allowing companies to gradually come into compliance for this signage requirement as long as they are in full compliance in all other aspects of the ordinance.

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to schedule a public hearing at the regular meeting of the Town Council in December in order to consider the phasing-in of signage with white background and red lettering by allowing single-purpose signage to be given an additional two years and multi-purpose signage an additional one year to come into compliance as long as all other aspects are in full compliance, and to direct the town attorney to draft language for consideration.

VOTE: Aye – All Nay – None Absent – 1 (Peña)

**SUSAN FOWLER/CHELSEA GARRETT – REQUEST FOR DIRECTION REGARDING OCCUPANCY ORDINANCE**

Chelsea Garrett of di Santi Watson, representing Ms. Susan Fowler, requested that Council direct Town staff to consider how it may provide interpretation or potentially adopt a policy for the monitoring and enforcement of the occupancy ordinance based on concerns earlier described. Town Attorney Sam Furgiuele stated there is a mechanism by which an interpretation can be made, but it is through the Board of Adjustment. Ms. Garrett advised that their case what taken to the Board of Adjustment and subsequently dismissed, and they are now hoping for clarification so that this does not happen again moving forward. Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to instruct the Planning and Inspections Department in consultation with the town attorney to create a mechanism for making interpretations concerning the occupancy determination process.

VOTE: Aye – All Nay – None Absent – 1 (Peña)

Planning Director Bill Bailey noted that Ms. Garrett also represents Mountaineer Crossing related to the sale of that development, and that they need a conditional district zoning change, which would need to go before a special public hearing to meet the time frame. Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to amend the agenda to hear Ms. Garrett's request.

VOTE: Aye – All Nay – None Absent – 1 (Peña)

Ms. Garrett stated she is representing Mountaineer Crossing, and requested that Town Council hold a special public hearing before the next Planning Commission meeting on Monday, Dec. 8, 2014, in order to hear their request for a minor modification. She stated the parcel to be developed by Goodwill needs approval by Town Council of a slight site plan change. Public Utilities Director Rick Miller cautioned the Council that the water allocation for this property was based on the site specific plan and may need to be discussed as well.

Upon a motion by Council Member Brantz, seconded by Council Member David, Council moved to hold a special public hearing on Monday, Dec. 8, 2014, beginning at 5:30 p.m. in the Council Chambers, 1500 Blowing Rock Road, to hear the request for a conditional district zoning change by Mountaineer Crossing.

VOTE: Aye – All Nay – None Absent – 1 (Peña)

**CLOSED SESSION**

Upon a motion by Council Member Brantz, seconded by Council Member David, Council moved to enter Closed Session at 8:53 p.m. pursuant to NCGS 143-318-11(a)(3)(5)(6) to hear the following items:

A. Pursuant to N.C. Gen. Stat. § 143-318.11 (a)(5), to establish, or to instruct Town staff and negotiating agents concerning the position to be taken by or on behalf of the Town in negotiating with Appalachian Theatre of the High Country, Inc., the price and other material terms of a proposed contract for the acquisition of real property involving a portion of the Town Hall parking lot.

B. Pursuant to N.C. Gen. Stat. § 143-318.11 (a)(3), to consult with the Town Attorney in order to preserve the attorney-client privilege between the attorney and the Town Council, which privilege is hereby acknowledged, and to consider and give instructions to the attorney concerning the handling or settlement of a claim against the Town.

C. Pursuant to N.C. Gen. Stat. § 143-318.11 (a)(3), to consult with the Town Attorney in order to preserve the attorney-client privilege between the attorney and the Town Council, which privilege is hereby acknowledged, and to consider and give instructions to the attorney concerning the handling or settlement of a claim by the Town.

D. Pursuant to N.C. Gen. Stat. § 143-318.11 (a)(3), to consult with the Town Attorney in order to preserve the attorney-client privilege between the attorney and the Town Council, which privilege is hereby acknowledged, and to consider and give instructions to the attorney concerning the handling or settlement of the claim by the Town against the State of North Carolina.

E. Pursuant to N.C. Gen. Stat. § 143-318.11 (a)(3), to consult with the Town Attorney in order to preserve the attorney-client privilege between the attorney and the Town Council, which privilege is hereby acknowledged, for legal advice.

F. Pursuant to N.C. Gen. Stat. § 143-318.11 (a)(3), to consult with the Town Attorney in order to preserve the attorney-client privilege between the attorney and the Town Council, which privilege is hereby acknowledged, and to consider and give instructions to the attorney concerning the handling of a claim against the Town in Mountaineer Towing & Recovery LLC v. Town of Boone.

G. Pursuant to N.C. Gen. Stat. § 143-318.11 (a)(5), to establish, or to instruct the Town’s staff or negotiating agents concerning the position to be taken by or on behalf of the Town in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property on Highway 105.

H. Pursuant to N.C. Gen. Stat. § 143-318.11 (a)(5), to establish, or to instruct the Town's staff or negotiating agents concerning the position to be taken by or on behalf of the Town in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property on Howard's Knob.

I. Pursuant to N.C. Gen. Stat. § 143-318.11 (6), to consider the qualifications and conditions of appointment, or conditions of initial employment of a prospective public officer.

VOTE: Aye – All Nay –
None Absent – 1
(Peña)

Upon a motion by Council Member Brantz, seconded by Council Member David, Council moved to recess Closed Session at 9:55 p.m. and to amend the agenda to include a discussion with the Appalachian Theatre of the High Country, Inc.

VOTE: Aye – All Nay –
None Absent – 1
(Peña)

Discussion ensued with questions and answers provided between the Town Council and Appalachian Theatre of the High Country, Inc., regarding the possible acquisition of property involving a portion of the Town Hall parking lot.

Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to resume Closed Session at 10:21 p.m.

VOTE: Aye – All Nay –
None Absent – 1
(Peña)

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to exit Closed Session at 12:22 a.m.

VOTE: Aye – All Nay –
None Absent – 1
(Peña)

**POSSIBLE ACTION FOLLOWING CLOSED SESSION**

Upon a motion by Council Member Brantz, seconded by Council Member Hay, Council moved to accept a dedication of property by Mountaineer Crossing.

VOTE: Aye – All Nay –
None Absent – 1
(Peña)

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to reschedule the December regular meeting to be held on one day only for Thursday, Dec. 18, 2014, beginning at 5:30 p.m. in the Council Chambers, 1500 Blowing Rock Road.

VOTE: Aye – All Nay –
None Absent – 1
(Peña)

**ADJOURNMENT**

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to adjourn at 12:35 a.m.

VOTE: Aye – All
Nay – None
Absent – 1 (Peña)

Christine Pope, Town Clerk

Andy Ball, Mayor

Rennie Brantz, Mayor Pro-Tem