

**MINUTES – REGULAR MEETING
BOONE TOWN COUNCIL
December 17, 2020**

CALL TO ORDER

A regular meeting of the Boone Town Council was called to order electronically at 6:00 p.m. on Thursday, December 17, 2020. Mayor Rennie Brantz presided. Council members present included Mayor Pro-Tem Loretta Clawson, Sam Furgiuele, Connie Ulmer, Nancy LaPlaca and Dustin Hicks. Staff members present included Town Manager John Ward, Town Clerk Nicole Harmon, Public Works Director Rick Miller, Finance Director Amy Davis, Deputy Public Works Director Todd Moody, DBDA Coordinator Lane Moody, Planning Director Jane Shook, Cultural Resources Director Mark Freed, Fire Chief Jimmy Isaacs, Police Chief Andy Le Beau and Human Resources Director Dale Presnell. Town Attorney Allison Meade was also in attendance.

ANNOUNCEMENTS

Mayor Brantz welcomed all in attendance and announced the following board vacancies:

BOARD OF ADJUSTMENT

Three alternate positions

COMMUNITY APPEARANCE COMMISSION

Four regular positions

HISTORIC PRESERVATION COMMISSION

One regular position

One student position

PLANNING COMMISSION

One position

TOURISM DEVELOPMENT AUTHORITY

One restaurant owner/operator position

TRANSPORTATION COMMITTEE

One position (Cooperative Extension)

One resident position (Alternative Transportation)

One student position

WATER ADVISORY COMMITTEE

Two regular positions

One student position

TENTATIVE AGENDA ADOPTION

Upon a motion by Mayor Pro-Tem Clawson, seconded by Ms. Ulmer, Council voted unanimously to approve the agenda as presented.

PUBLIC COMMENT

Mr. Ward noted that Lynne Mason had signed up to speak, but was not on the call.

Paul Davis of Boone spoke regarding the bicycle helmet law in the Town of Boone but that the state of North Carolina did not recognize. He noted that the state of North Carolina recommended helmets for people under 16 years of age, but that the Town of Boone required it for all adults, which he opposed. He did not believe that an eight ounce piece of styrofoam would do much good if someone were to hit a car at 60 miles an hour, 40 miles an hour or 35 miles an hour. Mr. Davis felt that it was none of the government's business whether or not a private individual wanted to wear a helmet or not. He believed that by lessening restrictions it would increase the amount of bikers on the road, which in turn would protect bikers, since drivers would get used to them.

REQUESTED APPEARANCES**JAY GIBSON - STUDENT ACCESS TO RECYCLING AT OFF-CAMPUS RESIDENCES**

Jay Gibson, leader of the ASU Student Government Senate, addressed Council regarding recycling at off-campus residences. Mr. Gibson stated that he had noticed that many students, including himself, lived in areas off-campus without access to recycling. He noted that the Town Boone had a fantastic deal negotiated with Republic Services for owners of multifamily dwellings, and in some preliminary research that student government had done, he believed that there were a lot of students who lived within town limits, and landlords who chose not to opt in to this recycling program, even though there was such a good option for them to do so. Mr. Gibson believed it may even be cheaper for them per square foot to pay for recycling disposal than to pay for waste disposal at the landfill. He found this to be indefensible, though he noted that in speaking with Town administrative staff, they believed that Chapter 91 made no requirements on property owners of multifamily dwellings to provide recycling. Mr. Gibson asked for clarification from Council as to the intent of that requirement, and stated that he was trying to design a tool that would determine which addresses or multi family dwellings this ordinance applied to. Mr. Furguele stated that he was unsure whether Ms. Meade had planned an analysis of this matter, but that he agreed with Mr. Gibson's statements. He believed the first step would be for Ms. Meade to give Council an analysis at the January meeting to see what areas needed to be strengthened or clarified, and then make recommendations. Ms. Meade answered that she had been discussing this matter with Planning and Public Works staff, so she could either address it during her update, or research it further and address it in January. Mr. Furguele then made a motion that Council task the Town Attorney with giving a presentation in January which gives her analysis of what the intersection was between the UDO and the municipal code as to recycling, both in multifamily situations and otherwise, and if she sees that it may be necessary, to clarify what these responsibilities are, or to strengthen the responsibilities with the notion that Council supports the idea of enabling universal recycling within the Town and make some recommendations back to Council. Mayor Pro-Tem Clawson seconded the motion, which carried unanimously.

ADOPTION OF ITEMS ON CONSENT AGENDA

Upon a motion by Mayor Pro-Tem Clawson seconded by Ms. Ulmer, Council voted unanimously to approve the following items on the Consent Agenda:

1. Annual Meeting Notice
2. UDO Amendment Regarding Administrative Mechanisms

COUNCIL MATTERS**TOWN MANAGER UPDATE**

Mr. Ward updated Council on the following items:

1. Covid-19 update: 137 active cases in Watauga County, 19 of those associated with ASU. Vaccines expected to arrive in the area beginning Monday, which would be administered first to health care workers and those with two or more chronic conditions.
2. Staff has a meeting on January 7, to discuss the Boone Creek daylighting project with Appalachian State University.
3. Staff is in the final stages with the USDA funding process on the Howard Street project and anticipates going before the loan committee in January.

4. Staff will be bringing forward a mid-year budget informational session in January.
5. Queen Street Parking Deck/Turner House Update: Mr. Ward stated that he and two other individuals submitted written public comments against the demolition of the Turner House to be entered into the record at last week's County Commissioner's meeting. Mr. Ward indicated that thought the plan was to work with the County toward a joint parking deck on Queen Street as opposed to removing the Turner House, Commissioners had voted to tear down the structure. He added that in response to an email from the County Manager informing him of the Commission's decision, he had expressed his surprise at the change in direction. Mr. Ward noted the significance of the timing of the vote, since the Town was on the verge of adopting a historic district and the fact that Council was working hard to partner with County Commissioners. Mr. Furguele asked whether, aside from the fact that Commissioners made a verbal commitment that they would hold off on destroying the property while both parties explored the option of a parking deck, and aside from the fact that Commissioners apparently met about this matter in closed session, whether that meant that Commissioners were also withdrawing their interest in the joint venture of a parking deck on Queen Street. Mr. Ward answered that that was not communicated by the Commissioners, and that further clarification was needed before the Town continued to spend Town tax funds with the expectation that this was a joint venture. Mr. Furguele asked that a press release be crafted detailing what had transpired and distributed to all media outlets in an effort to ensure the Town was not blamed for the house being demolished.
6. Mr. Ward asked members for direction on how to move forward with the biofuel proposal from previous months. Mr. Furguele stated that his standpoint was to put the matter on hold until the new Sustainability Coordinator came on staff and had an opportunity to confer with consultant Stan Cross and the Sierra Club about funding options. Mayor Pro-Tem Clawson, Ms. LaPlaca and Ms. Ulmer agreed with this approach.
7. **CDBG-I - Deck Hill Water storage tank replacement:** The Preliminary Engineering report has been submitted to NCDEQ and our project engineer has addressed the review comments. Staff along with our project engineer and HCCOG are continuing to work through the site development and environmental review process.
8. Greenway Trail Section: The Public Works Department recently completed paving a new section of Greenway trail directly behind Rivers Walk Development running along Boone Creek. The new section of trail is 8' wide and located on an easement given to the town by Rivers Walk Associates LLC. This trail also aligns with and completes a small section of the "West Downtown Alive Plan" adopted by Town Council in July 2015.
9. Downtown Sidewalk: Downtown sidewalk replacement has now come to a close this year due to the weather. Approximately 5300 square feet of brick paver sidewalk was installed beginning in June and ending in early December.
10. Christmas Tree Pickup Notice: The Town of Boone Facilities Maintenance Division will pick up Christmas trees for Town of Boone residents beginning Monday, January 4, 2021 through Friday, January 15, 2021. Trees need to be placed curbside on your regular garbage collection day and be free of decorations, wire and nails.

TOWN ATTORNEY UPDATE

Ms. Meade updated members on the Bolick Farm conservation easement to let them know that surveys had been completed and the plat had been recorded. She stated that a draft easement had been sent to the granting organization and did not expect any issues. Mr. Furguele asked that a press release be issued once the easement was completed. Ms. Meade also indicated that Public Works had been doing some really good work to regularize its processes, and noted that Deputy Director Todd Moody was also spear heading standardized contracts that would then be used for all of the Town's on call engineering firms, rather than different contracts.

APPOINTMENT TO BOARD OF ADJUSTMENT

Mr. Furgiuele nominated Virginia Roseman to serve in a regular position on the Board of Adjustment. Hearing no further nominations, Mayor Brantz called for a vote.

VOTE: Aye: All
 Nay: None

Ms. Roseman's term will expire on June 30, 2023.

APPOINTMENT TO PLANNING COMMISSION

Ms. Shook explained that Council's recent action to amend Planning Commission terms caused Mr. Tippet, who was completing the term of a former member, and Dr. Plaag's terms to expire earlier in the year and that they had both applied to be renominated. Mr. Furgiuele nominated Mr. Tippet and Dr. Plaag to serve on the Planning Commission. Hearing no further nominations, Mayor Brantz called for a vote.

VOTE: Aye: All
 Nay: None

Mr. Tippet and Dr. Plaag's terms will expire on June 30, 2023.

APPOINTMENT TO TOURISM DEVELOPMENT AUTHORITY

Mr. Furgiuele asked whether the position held by Mr. Cottom, who was finishing out his second term, would be a position that members could consider at the night's meeting since there were more applications than available spots. Ms. Brown then thanked members for considering her application. Ms. Meade noted that Mr. Cottom's position was a Boone Area Chamber of Commerce position, which Mr. Furgiuele discerned would not be an available slot unless one of the night's applicants was also a member of the Chamber of Commerce. He added that he would hate to discourage anyone who stepped forward to serve on a Town committee, and asked if staff would confer with the Chamber of Commerce and TDA to see what their pleasure might be and whether there might be a way that these two positions could be filled by the people that had stepped forward. Mr. Ward indicated that staff could do so, and indicated that Mr. Cottom was very active on the TDA and would be surprised if he did not reapply. Ms. LaPlaca made a motion to direct staff to work with the Boone Area Chamber of Commerce and the TDA to see whether there was a way that these positions could be filled by the people that had stepped forward and bring the applications back with the additional information. Mr. Furgiuele seconded the motion. Ms. Meade noted that she was unsure whether the Town had any power to change the membership of this board, but would research the matter and come back in January with additional information. Mayor Pro-Tem Clawson then nominated Brian Crutchfield for the resident position and Danny Wilcox for reappointment to the position that promoted tourism. Hearing no further nominations, Mayor Brantz called for a vote.

VOTE: Aye: All
 Nay: None

Mr. Crutchfield and Mr. Wilcox's terms will expire on December 31, 2023.

CONSIDERATION OF CASES HEARD AT THE NOVEMBER 23, 2020 PUBLIC HEARING**Case PL04269-100820 Pegasus Capital Partners, LLC General Use Zoning Map Amendment**

Ms. Shook presented this case and noted that the Planning Commission recommended approval. Mr. Furgiuele noted that when this case was first presented at the Public Hearing, it made him think that at some point in the

future, the Town needed to consider the idea of transitional zones for multifamily or more dense residential districts. He added that he supported the request and believed it made since in this tricky area.

He then made a motion that the proposed amendment to the Town's zoning map was consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that were applicable because it complied with Comprehensive Plan Policy 2.1.1 Economic Development

B. New and expanding industries and businesses shall be encouraged which: 1) diversity the local economy, 2) train and use a skilled labor force and 3) increase area residents' incomes. D. Economic development efforts shall encourage the revitalization and reuse of currently unused or underutilized structures, sites and infrastructure in appropriately located areas. Ms. Ulmer seconded the motion which carried unanimously. Mr. Furgiuele then made a second motion to approve the amendment to the Town's zoning map and believed approval was reasonable and in the public interest because the property in its current state could not be utilized noting that the existing home on the parcel had been damaged due to flooding to such an extent as to be unusable, according to the applicant. Mayor Pro-Tem Clawson seconded the motion which carried unanimously.

Case PL04175-083120 JAH, LLC-General Use Zoning Map Amendment

Ms. Shook presented this case and noted that the Planning Commission recommended approval. Mr. Furgiuele made a motion that the amendment to the Town's zoning map was consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that were applicable because it complied with Comprehensive Plan Policy 2.1.1 Economic Development D. Economic development efforts shall encourage the revitalization and reuse of currently unused or underutilized structures, sites and infrastructure in appropriately located areas. Comprehensive Plan Policy 2.2.2 Utilities E. The Town shall employ incentives to encourage a concentration of intense urban type development within the Urban Growth Area. Comprehensive Plan Policy 2.3.2 Community Character E. New development, redevelopment and rehabilitation of structures and sites shall occur in a manner which is consistent with the neighborhood and architectural context of the immediate area, and supportive, whenever possible, of Boone's original community character as a High Country small town.

Comprehensive Plan Policy 2.3.3 Housing & Neighborhoods A. The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community. F. The affordable housing needs of area residents, particularly elderly and low to moderate income residents, shall be recognized in Town policies and actions regarding residential development. Mayor Pro-Tem Clawson seconded the motion which carried unanimously.

Mr. Furgiuele then made a second motion to approve the amendment to the Town's zoning map and believed approval was reasonable and in the public interest because the zoning classification would establish on the ground the first example of Boone's small home initiative and would hopefully begin to create a market for more affordable housing. Ms. Ulmer seconded the motion which carried unanimously.

Case PL07303-102920 McLaughlin, Tom and Joan General Use Zoning Map Amendment

Ms. Shook presented this request and noted that the Planning Commission recommended approval. Mayor Pro-Tem Clawson made a motion that the amendment to the Town's zoning map was consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town that were applicable because it complied with Comprehensive Plan Policy 2.3.2 Community Character E. New development, redevelopment and rehabilitation of structures and sites shall occur in a manner which is consistent with the neighborhood and architectural context of the immediate area, and supportive, whenever possible, of Boone's original community character as a High Country small town. Comprehensive Plan Policy 2.3.3 Housing & Neighborhoods A. The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community. F. The affordable housing needs of area residents, particularly elderly and low to moderate income residents, shall be recognized in Town policies and actions regarding residential development. H. The overall housing unit density

for proposed infill residential development or redevelopment should be compatible with the average density of existing areas and to designate the zoning as R1. Mr. Furguele seconded the motion which carried unanimously. Mr. Furguele felt that Council was correct in zoning this property as R1 in an attempt to protect this neighborhood from development. Mayor Pro-Tem Clawson made a second motion to approve the amendment to the Town's zoning map and believed approval was reasonable and in the public interest because zoning the property R1 maintained consistency with the area and protected the neighborhood. Ms. LaPlaca seconded the motion.

Mayor Brantz declared a break at 7:52 p.m. Council reconvened at 8:04 p.m.

CONSIDERATION OF ORDINANCE TO EXTEND CORPORATE LIMITS – THOMAS AND JOAN MCLAUGHLIN (VFW DRIVE)

Upon a motion by Mr. Furguele, seconded by , Mayor Pro-Tem Clawson, Council voted unanimously to adopt the Ordinance to Extend Corporate Limits as presented and effective December 17, 2020.

SUSTAINABILITY COMMITTEE UPDATE ON COMPOSTING & REQUEST FOR EDUCATIONAL MATERIALS

Ms. Shook presented Council with an update regarding Town-wide composting, and stated that the County was also exploring the creation and implementation of a County-wide composting program. She noted that, if approved by the County, this program was expected to start at the beginning of the next fiscal year, and that the committee thought it would be beneficial for the Town to post educational materials online on composting for interested citizens. Mr. Ward stated that the County had authorized their staff to apply for grants to assist with recycling programs, and noted the Dinner to Dirt program offered by the Food Hub, as well as the backyard compost bins available for residents from the Public Works department. Ms. LaPlaca made a motion to endorse the idea as presented, which Mr. Furguele seconded. The motion passed unanimously.

CONSIDERATION OF SUSTAINABILITY COMMITTEE RECOMMENDATION REGARDING NRLP

Mr. Ward indicated that questions to NRLP from members of Council regarding retail net metering needed to be submitted as soon as possible since they were already working on their presentation for next month's meeting.

REQUEST TO SCHEDULE A DATE FOR THE 2021 PLANNING RETREAT

Upon a motion by Ms. Ulmer, seconded by Ms. LaPlaca, Council voted unanimously to schedule the annual Planning retreat, to be held virtually, on January 11, 2021 beginning at 9:00 a.m.

REQUEST FOR SCHEDULING AN EVENT FOR UNVEILING OF JUNALUSKA LOCAL HISTORIC MARKER FOR JUNE 19, 2021

Upon a motion by Mr. Furguele, seconded by Ms. Ulmer, Council voted unanimously to endorse the event as submitted.

TO AMEND THE MUNICIPAL CODE TO MAKE HELMETS FOR BICYCLISTS 21 AND OVER OPTIONAL

Mr. Furguele read the following agenda item:

"All members of the Town Council recently received a request from Paul Davis that we amend our ordinances to allow bicyclists to ride without helmets. Mr. Davis argued that among other things, someone his age, which was unstated, could do such things as enlist in the military, vote, enter into contracts and have consensual personal relationships with whomever he pleased, etc., and that he should be able to decide himself whether he wishes to assume the risk of riding a bicycle in town without a helmet. He noted that North Carolina law only requires helmets for bicyclists and passengers under 16, and he asked that we repeal our requirement that all riders wear helmets. Although I am persuaded that helmets enhance safety, and I support the efforts of the town and the Boone Police Department to encourage helmet wearing, I agree with Mr. Davis that for a person who has reached an age to appreciate the risk of riding without a helmet, the decision whether to assume that risk should be the person's. Although the idea that a person can join the military and go to war without permission, but is required to wear a bicycle helmet seems odd, I believe that we should only remove the restriction for people who are 21 and over. North Carolina deems 21 an appropriate age to discern the negative impacts of smoking, and this seems more similar to me to the decision to ride without a helmet. Unlike smoking, a person's decision to not wear a helmet does not have a discernable negative impact on strangers, but in terms of personal safety the evidence of the harmful effects of smoking are similar to the evidence of the harmful potential of riding without a helmet. I do not think we should be in the business of telling people how to live their lives in areas in which their decisions have no significant effect on others, and I therefore propose that we amend our requirements to remove the helmet mandate for people 21 and older."

Mr. Furgiuele agreed with public speaker Davis that Council should not be policing personal behavior, and stated that he often saw people riding bikes while not wearing a helmet. He added that Council removed the helmet mandate for skateboarders within certain parameters, and believed that a similar approach should be taken with bicycle helmets. Mr. Furgiuele also believed that anything Council could do that encouraged people to ride bikes was a good thing. He suggested a modification of the ordinance so that people 21 and older could make their own decisions while the Town continued its programs directed toward educating youth to the benefits of helmet wearing. Ms. LaPlaca stated that she had relied on a bicycle as her main transportation for many years and had fallen off her bike many times and had a very dear friend who was saved by his helmet. She stated that she could not in clear conscience vote for this because the consequences were just too awful. Ms. Ulmer added that she was unsure of placing a limit on the age of responsibility at 21. Mr. Furgiuele clarified that he was not advocating that people not wear helmets. He agreed that helmets enhanced safety, but questioned whose decision it should be whether or not a person was required to wear a helmet. Mr. Furgiuele added that his view on smoking was different since it involved the wellbeing of others around the smoker. Ms. Meade suggested members hear from Chief Le Beau and noted that health care costs posed by people who had accidents while not wearing helmets actually did get imposed upon the entire society. Chief Le Beau indicated that the department wrote an average of 20 bicycle helmet citations per year, but noted that if a person was written a citation, the first citation could be dismissed if they showed proof that they obtained a helmet. He stated that though it would have an impact on the department if Council changed the regulations, it would not create a huge burden. Mr. Hicks stated that he was torn and that he saw validity in both frameworks of thinking. He suggested holding a community meeting or sending out a poll to get public input on the topic. Mr. Davis stated that he understood that it was a necessary function of a Town Council to decide what was safe and not safe inside the community, but believed it was his body and his choice whether or not to wear a helmet when bicycling. Mr. Furgiuele then made a motion to amend the Town's ordinance to reduce the mandate for bicycle helmets for people who were under 21 years of age while continuing to encourage the activities currently being undertaken by the Police department to encourage people to wear helmets. Mayor Pro-Tem Clawson seconded the motion.

VOTE: Aye: Furgiuele, Clawson, Ulmer

Nay: LaPlaca
Abstain: Hicks

CONSIDERATION OF APPROVAL OF PROPOSAL TO CONVERT RIVER'S HOUSE PROPERTY INTO OFFICES FOR TDA

Mr. Ward presented a request for approval of a proposal in the amount of \$10,750 from Appalachian Architecture to convert the Rivers' House Property into offices for use by the TDA. He indicated that the space could also be used for additional music lessons and program space, and stated that he had also reached out to Digital Watauga regarding a rotating photo display. Mr. Ward envisioned the house would be operated by the TDA as a walk-in visitor center with public restrooms, and space on the front lawn for public events. He noted that if the proposal was approved, the property would need to be rezoned since it was currently in the MSD. Mr. Furgiuele asked whether Mr. Dixon and staff planned to work with the Historic Preservation Commission when rehabilitating the property, to which Mr. Ward answered that they would do so. He added that Mr. Dixon was looking at energy efficient replacement windows that would also meet National Historic Preservation standards. After further brief discussion, Mr. Furgiuele made a motion to approve the proposal as presented. Mayor Pro-Tem Clawson seconded the motion which carried unanimously.

Ms. Meade clarified that since the Town code required that an ordinance or amendment had to be reduced to writing before being approved, she would bring text on bicycle helmets back in January for approval.

ADJOURNMENT

Upon a motion by Mayor Pro-Tem Clawson, seconded by Ms. LaPlaca, Council voted unanimously to adjourn the meeting at 9:08 p.m.

Nicole Harmon, Town Clerk

Rennie Brantz, Mayor