BOONE TOWN COUNCIL
MINUTES - SPECIAL MEETING
JUNE 13, 2006

A special meeting of the Boone Town Council was called to order at 6:30 p.m. Tuesday, June 13, 2006 in the Council Chambers, 1500 Blowing Rock Road. Mayor Loretta Clawson presided. Council members present were Mayor Pro-Tem Lynne Mason, Rennie Brantz, Bunk Spann and Dempsey Wilcox. Town Attorney Sam Furgiuele was also present. Staff present were Town Manager Greg Young; Town Clerk Freida Van Allen; Finance Director Amy Davis; Fire Chief Reggie Hassler; Public Utilities Director Rick Miller; Development Services Director John Spear and Police Captain Curtis Main.

Fiscal Year 2006/2007 Budget Public Hearing - Town Manager Greg Young presented the fund summaries and said the total budget for this fiscal year is $17,890,113. Mr. Young stated that the proposed tax rate is $.37 per hundred dollars valuation and that the MSD tax rate is $.145 per hundred dollars valuation. Mr. Young said that in the water and sewer fund minimum charges will increase by $1.20 for water and sewer service. Town Manager Young stated that the subcommittee charged with developing criteria for outside agency requests has formally decided to withdraw its recommendations regarding funding. Because of time constraints, the subcommittee was unable to develop new guidelines to be applied to this year's funding cycle. The subcommittee intends to continue developing new criteria for evaluating funding requests throughout the remainder of the calendar year. Town Manager Young said that requests for funding from outside agencies will require an entirely different process that has been used in the past in that applications will be scrutinized for compliance with new the guidelines and criteria. Town Manager Young also pointed out that receiving funding this fiscal year in no way guarantees future appropriations. Town Manager Young presented the following recommendations regarding outside agency funding for FY 06/07: **(EXHIBIT A)**

Mayor Clawson opened the budget public hearing at 6:37 p.m.

John Blake, Watauga County Librarian, appeared before Council to request additional funding for the library. Mr. Blake thanked Council for funding the $16,880 they will receive; however, he said the $22,00 request is needed to pay for children's books, materials and periodicals. Council members Brantz and Spann felt that Council should give serious thought to increasing the library funding. Council member Mason pointed out there are tremendous needs in our community, but felt that in order to be fair, most agencies will receive a 4% funding increase this fiscal year. Mayor Clawson pointed out that new criteria will be in place for next year's funding requests and that Council will closely scrutinize each individual request.

Dan Burke of Mountain Alliance asked when the new criteria will be available. Council member Mason hoped the new criteria will be ready in a couple of months and that everyone on the outside agency list will be notified when it is available. Mr. Burke asked if funding will be increased this year. Mayor Clawson again pointed out that, in order to be fair, most outside agency requests have received a 4% increase over last year's funding.

Virgina Watson said the Town will need additional personnel unless it deals with the problem of

uncontrolled growth.

Kent Tarbutton of Hospitality House thanked Council for its contribution and said the Hospitality House served over 40,000 meals this past year.

There being no further comments, the public hearing closed at 6:54 p.m.

Proposed Moratorium Ordinance Public Hearing - Steep Slope and Multi-Family Task force Chairman Harvard Ayers said the task force has met over 31 times over the past 18 months hearing various presentations regarding multi-family and steep-slope development. Mr. Ayers said the moratorium on multi-family housing of 24 or more units expired May 29th. Mr. Ayers stated that the task force has contracted to develop a geologic hazard map and that the map should be complete in a couple of weeks. Mr. Ayers asked that the Town Council consider adopting the new moratorium ordinance in order to allow the task force enough time to process and complete its objective.

Ms. Gayle Turner, a member of the Multi-Family and Steep-Slope Task force presented a power point presentation showing photographs of slope instability. Ms. Turner reiterated that Council consider adopting the new moratorium ordinance and summarized that it is critical that there be less dense development on steep slopes in the Town of Boone's jurisdiction.

Mayor Clawson opened the public hearing at 7:03 p.m.

Greg Reck spoke in favor of the proposed moratorium ordinance. Mr. Reck said the Task force members have worked long hours and that they need more time to complete their work.

Jasmine Shoshanna thanked the task force for its work and spoke in favor of the moratorium ordinance.

Kathy Copley spoke in support of the moratorium ordinance.

Andy Mason said it was vital that Council receive the geologic hazard map and the committee's recommendations.

Julia Heinlein said she fully supports the moratorium ordinance and said that unless growth is controlled the Town will be know as "Boom."

Catherine Clinehoff said she supported the moratorium ordinance as it is a "no brainer." Ms. Clinehoff asked how the City of Asheville controls steep-slope development. Mr. Ayers responded that Asheville is in the process of developing regulations, just as Boone; however, he stated that Buncombe County requires lower density development on steep slopes.

Virgina Stokes said she has been here since 1969 and that she would hate to see this area become another New Orleans.

John Heinlein said he appreciated the task force and its work and that he is in favor of the moratorium ordinance.

Patrick Morgan asked what the urgency was about and why commercial and residential properties are excluded from the moratorium ordinance. Mr. Morgan felt that new Community Appearance regulations would regulate development on steep slopes.

Joe Potter congratulated the task force on its work so far and suggested that the Task force consider hydrology when looking at the steep slope issue. Mr. Potter suggested that a survey of water consumption be conducted.

Mary Rose Carroll thanked the task force and felt that the benefits of continued development are starting to pull down the quality of life for citizens presently here.

Pam Williamson thanked the task force and said she saw this issue as a "safety issue." Ms. Williamson said the County has been lucky that no one has lost a life. Ms. Williamson agreed with Mr. Morgan concerning his question about why residential and commercial development is being exempted. Ms. Williamson said it is still a matter of safety and that she supports the moratorium ordinance.

Matt Cooper thanked the task force and said he did not understand why anyone would construct a building on a steep slope in hopes that it will not fall down.

Jamie McGuinn said he strongly supports the moratorium ordinance and might possibly hope that it would be permanent.

Ralph Grosswald thanked the task force and said he supports the moratorium ordinance in order to allow the task force the time it needs. Mr. Grosswald suggested that Council not be swayed by economic impact versus safety.

Keith Seramur said he is a licensed geologist working for the Town of Banner Elk. Mr. Seramur said 80% of slope failures are because of man-made cuts.

Nancy Benson thanked the task force and spoke in support of the moratorium ordinance.

Tommy Burleson, Director of Planning in Avery County, spoke in favor of the moratorium ordinance and agreed that the task force should look at hydrology and deforestation of slopes.

Jim Hastings suggested that if, this moratorium had been in place when he moved here, there would be no student housing and that he could not have built a house in Blairmont. Mr. Hastings said Council should not run from the travesty behind Walmart and the White Laurel subdivision. Mr. Hastings pointed ut that ASU is the biggest violator in Town because the University is exempt from Town regulations.

Roger Wright said White Laurel was developed at its current location because people do not want low-income housing in their neighborhoods.

Gayle Turner then reviewed the specifics of the geologic hazard map citing two different zones, red and orange. She indicted that neither will prohibit development of property, but will help property owners and developers know how to develop the property safely.

Phil Templeton said that Town Council members need to avoid over-reacting to situations. Mr. Templeton gave an example: When he started his development at the intersection of Winkler's Creek and Meadowview, someone wrote to the *Watauga Democrat* about how this development was a good example of bad development. Mr. Templeton said he had just won the Chamber of Commerce Development Award. Mr. Templeton hoped for a reasonable solution.

There being no further comments, Mayor Clawson closed the public hearing at 7:52 p.m.

Proposed Comprehensive Plan Public Hearing - Development Services Director John Spear said the comprehensive plan is a long-range planning tool that provides Council with policies to guide decisions. Development Services Director Spear indicated that in 2003 the Planning Commission began evaluation of the 1993 Comprehensive Plan and in 2005 decided to update the plan and growth strategy map. In January, 2006, the Town Council held a meeting to gather public input on the update. Development Services Director Spear said the Planning Commission sought input from Town staff, county agencies, the Downtown Boone Development Association, and others. Mr. Spear thought the update represents a current community snapshot of Boone. Development Services Director Spear said plan adoption will be at the June 15, 2005 Town Council meeting. Mayor Clawson thanked John, his staff and the Planning Commission on all their hard work on updating the plan.

Mayor Clawson opened and closed the public hearing at 7:57 p.m. since there was no public comment.

Adoption of Ordinance # 06-06 - Ordinance Providing for a One Hundred and Twenty Day Moratorium on the Issuance of Building, Zoning and/or Special Use Permit(s) for Certain Slope Development - On a motion by Council member Mason, seconded by Council member Brantz, Council moved to adopt the following ordinance. Before voting, Council member Spann questioned how this ordinance would affect commercial and residential development. Gayle Turner responded that it will not affect those types of development. Town Attorney Sam Furgiuele explained that Council can not expand the ordinance to make it more restrictive at this point. Council member Wilcox felt the ordinance is too restrictive as it is now written in that 65-75% of the Town of Boone's jurisdiction falls in an area of 20% or greater slopes. Council member Wilcox suggested regulating development on slopes 25 to 30% or greater.

ORDINANCE # 2006-06

ORDINANCE PROVIDING FOR A ONE HUNDRED AND TWENTY DAY MORATORIUM ON THE ISSUANCE OF BUILDING, ZONING, AND/OR SPECIAL USE PERMIT(S) FOR CERTAIN SLOPE DEVELOPMENT

WHEREAS, the Town of Boone (hereafter "the Town") is a municipal corporation organized under the laws of North Carolina, invested with the powers enumerated in Chapter 160A of the North Carolina General Statutes; and

WHEREAS, pursuant to N.C. Gen. Stat. Chapter160A, Article 19, the Town is given the authority to plan and regulate development within its corporate limits and its extra-territorial jurisdiction ("ETJ"), and pursuant to N.C. Gen. Stat. Chapter160A-381(e), the Town is specifically given the right, under certain circumstances, to impose a development moratorium; and

WHEREAS, pursuant to N.C. Gen. Stat. Chapter 160A, Article 8, the Town is given authority to prohibit, regulate and abate acts, omissions, or conditions detrimental to the health, safety or welfare of its citizens; and

WHEREAS, in 2004, a slope failure occurred in the planning jurisdiction of the Town of Boone, in a development known as "White Laurel," as the result of the steep slope upon which the development was constructed and apparent inadequate investigation of slope conditions upon which the development was designed and constructed; and

WHEREAS, the slope failure at White Laurel resulted in six homes being partially or totally destroyed, which further required their condemnation; and

WHEREAS, at approximately the same time the Town observed that new developments on steep slopes in the Town's jurisdiction included the construction of high retaining walls which had developed cracks within a very short time, raising concerns regarding their safety and possible slope failure; and

WHEREAS, the Town Council of the Town of Boone was also concerned about the aesthetics of the steep slopes within the Town's jurisdiction, which directly contribute to the economic vitality of the Town, and the negative environmental effects on the sensitive biological resources of hillsides within the Town's planning jurisdiction caused by large steep slope developments; and

WHEREAS, on or about February 18, 2005, the Boone Town Council adopted a moratorium within the planning jurisdiction of the Town which prohibited for a twelve month period the issuance of any zoning, building and/or special use permit for the construction of multi-family housing projects of twenty-four or more units; and

WHEREAS, thereafter, the Boone Town Council appointed a task force, named "the Boone Steep Slope Development and Multi-Family Housing Task Force," which it charged with studying the impact of multi-family and steep slope development within the Town, and with recommending concrete courses of action to address any conclusions reached by the task force relating to the health, safety, aesthetics and environmental vitality of development within the Town's planning jurisdiction; and

WHEREAS, upon its study and investigation, the Boone Steep Slope Development and

Multi-Family Housing Task Force discovered that it needed to acquire expert analysis and advice in the fields of geology, economics, geotechnical engineering and other disciplines in order to fully evaluate the Town's approach to planning in these areas and to develop recommendations; and

WHEREAS, the task force concluded that in order to most closely tailor its analysis to the problems under consideration, it needed to employ an individual or firm with expertise in geology to evaluate the geological conditions throughout the planning jurisdiction of the Town; and

WHEREAS, upon the task force's recommendation, in February 2006, the Boone Town Council authorized the Town of Boone to enter into a contract with Trigon Engineering to conduct such a study, and to report its findings within sixty days of the execution of a contract, June 10, 2006; and

WHEREAS, despite a rigorous schedule of meetings and expeditious pursuit of its investigation, the task force has not yet received the report of the engineering firm, and has thus been unable to complete its development of its recommendations; and

WHEREAS, the task force has expressed its concern that if multi-family development occurs on potentially hazardous slopes prior to the presentation of its final recommendations and Town implementation of modifications to the Unified Development Ordinance, there may be further catastrophic events which threaten the safety of the members of the community; and

WHEREAS, the current multi-family development moratorium expires on May 29, 2006, but the task force does not believe that it is necessary to continue the moratorium on land that is not potentially geologically hazardous, and

WHEREAS, the task force believes that within one hundred and twenty days, assuming timely receipt of the geological hazard maps which are being prepared, it will be able to make its final recommendations and afford the Town adequate time to adopt modifications to the UDO which will safeguard citizens from improper development; and

WHEREAS, absent a moratorium on development of multi-family projects, there are no alternative ways to prevent hazardous development since large sections of the Town's planning jurisdiction include geological hazard zones and are zoned for multi-family development, thus allowing such development despite the potential for catastrophic slope failure resulting in damage to property and potential loss of life.

NOW, THEREFORE, BE IT RESOLVED THAT THE TOWN OF BOONE, NORTH CAROLINA HEREBY ADOPTS A ONE-HUNDRED-AND-TWENTY DAY MORATORIUM ON THE CONSTRUCTION OF MULTI-FAMILY DEVELOPMENTS INVOLVING LAND DISTURBANCE OF SLOPES GREATER THAN TWENTY PERCENT, ACCORDING TO THE FOLLOWING SPECIFICATIONS:

1. Other than those development rights which are vested as the result of statutory vesting

prior to the effective date of this ordinance, during a one-hundred-and-twenty day period beginning with the effective date of this ordinance, no building, zoning or special use permit(s) shall be issued for new construction, or the addition to or expansion of an existing structure(s), which will result in the disturbance of any slope of twenty percent or greater for the purpose of the construction of a multi-family development. This moratorium shall not be interpreted to prevent the issuance of such permits for a mixed use development, even if such development includes a multi-family housing component.

2. During the term of this moratorium, the Boone Steep Slope Development and Multi-Family Housing Task Force shall complete its study of the issue of geological hazard zones, present its recommendations to the Boone Town Council, and the Boone Town Council will determine what changes and amendments should be considered by the Town, and following a public hearing and the recommendations of the Boone Planning Commission, what changes and amendments to the Town's Unified Development Ordinance should be made.

This Ordinance is effective the 13th day of June, 2006.

Adopted this 13th day of June, 2006.

_____
Mayor

Attest:

_____
Town Clerk

(ORDINANCE TO BE TYPED IN BOOK 3, PAGES 291-293)

VOTE: Aye-3 (Brantz, Mason, Spann)
Nay-1 (Wilcox)
Absent-1 (Pepin)

The meeting adjourned at 8:02 p.m.

_____ _____
Town Clerk Mayor