

**MINUTES - REGULAR MEETING
BOONE TOWN COUNCIL
AUGUST 18, 2005**

A regular meeting of the Boone Town Council was called to order at 6:33 p.m., Thursday, August 18, 2005 in the Council Chambers, 1500 Blowing Rock Road. Mayor Velma C. Burnley presided. Council members present were Mayor Pro-Tem Loretta Clawson, Graydon Eggers, Lynne Mason, Bunk Spann, and Dempsey Wilcox. Town Attorney Sam Furgiuele was also present. Staff present were Town Manager Greg Young, Deputy Town Clerk Kim Tester, Special Assistant to the Town Manager Jim Byrne, Fire Chief Reggie Hassler, Police Chief Bill Post, Public Services Director Blake Brown, Public Utilities Director Rick Miller, Finance Director Amy Davis, Development Services Director John Spear, and Human Resources Director Peri Moretz.

ANNOUNCEMENTS

Mayor Burnley announced that the Town of Boone will observe the national day of remembrance on September 10, 2005 at the Watauga County Library at 1:00 p.m. in observance of the events that occurred on September 11, 2001. She also noted that flags on all town properties will be at half mast.

Mayor Burnley observed a moment of silence for all law enforcement officers, first responders and U. S. troops during this time.

Mayor Burnley recognized Denise Bell, Finance Director for the City of Winston-Salem and also representing the Government Finance Officers Association, to present the Town of Boone with a Comprehensive Annual Finance Report Award (CAFR) for excellence in financial reporting. Finance Director, Amy Davis, accepted the award on behalf of the Town of Boone.

TENTATIVE AGENDA ADOPTION

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

Item 5.G. - Addition of a Discussion on Bear Trail Options.

Item 6.D. - Addition of a Requested Appearance – Heather Wrenn Whitner.

Closed Session: Addition of Phillips-Van Heusen Violation.
 Addition of Potential Litigation – Miller Property.
 Addition of Potential Litigation – Patel.

Upon a motion by Council member Wilcox, seconded by Council member Clawson, Council moved to adopt the agenda as amended.

VOTE: Aye - All
 Nay - None

CONSENT AGENDA ADOPTION

Upon a motion by Council member Mason, seconded by Council member Clawson, the Council moved to adopt the following consent agenda items:

Minutes: July 7, 2005 – Special Meeting
 July 11, 2005 – Special Meeting
 July 19, 2005 – Special Meeting
 July 19, 2005 – Special Meeting (as amended)
 July 21, 2005 – Regular Meeting
Tax Releases: July 2005

| TAXPAYER | YEAR | AMOUNT | DESCRIPTION |
|-----------------|-------------|---------------|--------------------|
|-----------------|-------------|---------------|--------------------|

| | | | |
|---|------|-----------------|-------------------------------|
| CANNON, MICHAEL WAYNE | 2005 | \$2.94 | ADJ FOR BILL OF SALE |
| WALL, REBECCA CHAVIS | 2005 | 6.13 | TURND IN TAG |
| VANDIFORD, BELINDA G. & GENE C. | 2005 | 8.10 | SOLD VEHICLE TURND IN THE TAG |
| HODGES, WILSON FRANKLIN III | 2005 | 17.20 | INCORRECT SITUS |
| STRICKLEN, WILLIAM SIMON | 2005 | 20.37 | TURND IN TAG |
| APPAL CART | 2005 | 89.89 | EXEMPT |
| PETSCHAUER, PETER & JONI W. | 2005 | 6.36 | ADJ FOR HIGH MILES |
| MENEES, ROBERT P. & MARY KAY L. | 2004 | 26.00 | INCORRECT BILLING |
| CAMPBELL, AMANDA DAWN | 2004 | 7.52 | MOVED VEHICLE TO TN |
| APPALACHIAN COMPONENTS / WILKINSON, LURAY | 2004 | 38.43 | MOVED VEHICLE TO TN |
| BOLICK, MARTIN & SUMA | 2004 | 20.75 | TURND IN TAG |
| HAWKINS, PATRICIA HILL | 2004 | 3.13 | TURND IN TAG |
| | | | |
| | | | |
| | | \$246.82 | |

**MSD TAX RELEASES
JULY, 2005**

| TAXPAYER | YEAR | AMOUNT | DESCRIPTION |
|-----------------------------|------|-------------|-----------------|
| HODGES, WILSON FRANKLIN III | 2005 | 9.03 | INCORRECT SITUS |
| | | 9.03 | |

Tax Refunds: July 2005

| TAXPAYER | YEAR | AMOUNT | DESCRIPTION |
|--|------|-----------------|----------------------|
| COOK, SUSAN KRAMER | 2005 | \$3.47 | TURND IN TAG |
| SOUTH, FRANKLIN EUGENE SOUTH, JUNE PHILLIPS | 2005 | 13.70 | ADJ FOR BILL OF SALE |
| US CHEMICAL STORAGE LLC | 2005 | 50.55 | TURND IN TAG |
| WILSON, CAROLYN ASHBURN | 2004 | 4.50 | MOVED TO ANOTHER SC |
| BENDER, MARIE T KROUSKOS, KATHRYN I | 2004 | 32.34 | TURND IN TAG |
| | | | |
| | | | |
| | | \$104.56 | |

VOTE: Aye - All
 Nay - None

ADOPTION OF ZONING TEXT AMENDMENT

Upon a motion by Council member Clawson, seconded by Council member Wilcox, Council moved to vote separately on each case.

VOTE: Aye – All
 Nay – None

Case No. RZ2005-11 – The Town of Boone has initiated a zoning text amendment to UDO Article XVIII *Signs*. The proposed amendment would provide for Agricultural Event signage, increase the sizes of Awning Signs, and revise the requirements for Community Event signs.

Development Services Director John Spear informed the Council of the Planning Commission’s recommendation. The Planning Commission recommended approval of the text amendment with the addition of the Sugar Grove Music Festival under Section C Community Event Signs. Council member Clawson asked where signage for the Watauga County Farmer’s Market could be included. Town Attorney Sam Furguele suggested this event does fit in any section since it is a summer long event, not a one-time annual event. Council member Spann also inquired as to

the Kraut Creek Festival and the Todd Music Festival. Mr. Spear noted that since the Kraut Creek Festival is sponsored by the DBDA it would be exempt from the regulations. Mr. Furgiuele suggested that the Council consider the language that has been advertised and presented at the public hearing. He suggested that signage for the Watauga County Farmer's Market should be further examined before it is acted on. Council member Eggers responded to comments that the section on awning signs was revised for a specific business by stating that the business was used as an example only. He stated that no particular business was considered in revising this text. Town Manager Greg Young pointed out that information on the Department of Transportation's regulations on signage has been provided for the Council's information. Upon a motion by Council member Clawson, seconded by Council member Mason, the Council moved to adopt the following zoning text amendment:

PROPOSED TEXT AMENDMENTS
Article XVIII

Section 322. Definitions

- [1a] **Agricultural Sign:** A temporary sign posted to direct the public to an agricultural exposition, festival or event as those terms are described, when an exposition, festival or event is taking place within the corporate or planning limits of the Town, or within Watauga County. An agricultural exposition, festival or event is an event which involves at least ten separate participants involved in the cultivation of land, who for a period of time not exceeding six weeks per year, provide tours and/or on-site sales or samples of agricultural products resulting from that cultivation to area tourists.

Section 324. Signs Which Do Not Require a Permit

- [8] Temporary Signs, **other than Agricultural Signs.**

Section 338. Temporary Sign Regulations

[a] Temporary signs must conform to all regulations of this section **not otherwise superceded by this section.** No type of temporary sign, **other than an agricultural sign whose placement is approved by the North Carolina Department of Transportation,** may be placed in the public right-of-way. ~~These signs~~ **Temporary signs, other than agricultural signs,** shall not be required to obtain a sign permit.

- [7] **Agricultural signs are subject to the following criteria:**

- **A permit must be applied for by delivery of a completed application and payment of such fee as have been established by the Boone Town Council, no less than forty-five (45) days prior to the first day of display. The application for a permit must state the dates of the exposition, festival or event in question. Only one fee shall be due for each separate exposition, festival or event in question.**
- **Signs must comply with all North Carolina Department of Transportation requirements, including those requirements as to location and placement, and the applicant is responsible for compliance with DOT requirements and with the requirements of this ordinance.**
- **Off-premise signs may only be placed with the permission of the person with the legal authority to grant such permission. There may be no more than fifteen off-premise agricultural signs within the planning jurisdiction of the Town of Boone for each exposition, festival or event.**
- **Signs may be permitted for a maximum of six (6) weeks, must be fixed in place for the duration of the exposition, festival or event, and must be removed by the applicant within forty-eight (48) hours of the conclusion of the exposition, festival, or event.**
- **All signs relating to a particular agricultural exposition, festival or event must be uniform in shape and color. Any designs must be complementary. Each sign must be stable and must be properly secured to its location.**
- **Signs may not exceed twenty-eight (28) square feet, but may be comprised of a large sign with smaller signs attached. The smaller signs direct the public to particular locations participating in the exposition, festival or event.**
- **Agricultural signs may not be illuminated.**

PROPOSED TEXT AMENDMENTS
Article XVIII

Section 328. Signs Permitted in the R-3 District

[a] The R-3 District is established to provide a medium density area consisting of three or more family dwelling units plus limited service use.

[1] Advertising Signs.

- Two signs allowed per premise that may be chosen from the following categories: attached, freestanding, canopy, or projecting. In no case may both signs be from the same category. Painted wall signs are prohibited.
- Attached and freestanding signs may not exceed sixteen (16) square feet in area per sign.
- Freestanding signs may not exceed ten (10) feet in height.
- Projecting ~~and awning~~ signs may not exceed eight (8) square feet in area per sign.
- **Awning signs may not exceed twenty-five (25%) of the area of the awning. The maximum allowable square footage is forty-eight (48) square feet regardless of the size of the awning.**
 1. Signs which are projecting or are suspended under an awning and/or cantilevered roof shall be at least eight (8) feet above the sidewalk at their lowest point.
 2. Signs which are attached to the face or side of an awning may not exceed twelve (12) inches in height and no support structures shall be visible.
- All signs shall meet the additional requirements of Section 323.

Section 329. Signs Permitted in the B-1 District

[a] The B-1 (downtown) district has diverse shops in close proximity to one another, and is oriented primarily to daytime pedestrian use. Flower boxes, benches, shake shingle roofs and natural plantings lend the area a distinctive mountain village appearance. Leisurely shopping is encouraged. The intent of this section is therefore, to promote the downtown as a shopping and gathering place and to enhance the village atmosphere. The use of wooden signs is encouraged, so as to contribute to the warmth, friendliness and natural beauty of the area.

[1] Advertising Signs.

- Each business is permitted two (2) signs chosen from the following categories: attached, canopy, or projecting. In no case may both signs be in the same category. Painted wall signs are prohibited in the B-1 zone. Signs may be illuminated. Businesses are also allowed one sign from the following:
 1. A projecting sign which may contain the name of the business and any logo which the business chooses to adopt. The sign may not exceed four (4) square feet in size, and the bottom of the sign shall be no more and no less than eight (8) feet above the sidewalk. It shall display only the name of the business and/or buildings which it is attached to and the building and/or business logo or logos and no more than one (1) per building.
 2. A freestanding sign which may be a maximum size of two (2) feet by two (2) feet, and the bottom of said sign shall display only the name of the business and/or building which it is located in front of, and the building and/or business logo or logos and no more than one (1) sign per building.
- b. Attached signs shall not exceed an area equal to the greater of sixteen (16) square feet or one half (1/2) square foot of sign area per linear foot of building frontage. For example, buildings which are thirty-two (32) feet across the front or less may have a sixteen (16) square feet attached sign. If the building is larger than thirty-two (32) feet across the front the permitted size would be determined by the formula, one half (1/2) square feet per linear foot of building. The maximum allowable square footage is forty-eight (48) square feet regardless of building size.
- c. Projecting signs may not exceed sixteen (16) square feet in area.
- d. **Awning signs shall not exceed ~~eight (8) square feet~~ twenty-five (25%) of the area of the awning. The maximum allowable square footage is forty-eight (48) square feet regardless of the size of the awning.** Signs which are suspended under the awning and/or cantilevered roof shall be at least eight (8) feet above the sidewalk at their lowest point. Signs which are attached to the face or side of an awning may not exceed twelve (12) inches in height and no support structures shall be visible.
- e. All signs shall meet the additional requirements of Section 323.

- f. Businesses who choose to use a ground mounted sign instead of a freestanding sign may increase the maximum square footage in accordance with the provisions of Section 337.

Section 330. Signs Permitted in the B-2 District

[a] The neighborhood business district provides a variety of commercial services. It is oriented to vehicular traffic as well as pedestrian traffic. The signs allowed in this area permit an efficient means of information transfer consistent with the size of the streets and speed of the traffic.

[1] Advertising Signs

- a. Signs may be illuminated.
- b. Each business is permitted two signs. They may be chosen from the following categories: attached, freestanding, canopy, projecting. In no case may the signs be of the same category except that a business may have two (2) attached signs.
- c. Attached signs shall not exceed an area equal to one (1) square foot of sign area per linear foot of building frontage. For example, a building which is fifty (50) feet across the front may have a fifty (50) square foot attached sign. The maximum allowable square footage of attached sign is eighty (80) square feet, regardless of building size.
- d. Freestanding signs shall not exceed thirty (30) square feet in area and twenty (20) feet in height.
- e. Projecting signs may not exceed sixteen (16) square feet in area.
- f. Awning signs shall not exceed ~~sixteen (16) square feet in area~~ **twenty-five (25%) of the area of the awning. The maximum allowable square footage is forty-eight (48) square feet regardless of the size of the awning.** Awning signs may be attached to the face of, side of, or under the awning. Signs which are projecting or are suspended under an awning and/or cantilevered roof shall be at least eight (8) feet above the sidewalk at their lowest point. Signs which are attached to the face or side of awning may not exceed twelve (12) inches in height.
- g. All signs shall meet the general requirements of Section 323.
- h. Businesses who choose to use a ground mounted sign instead of a freestanding sign may increase the maximum square footage in accordance with the provisions of Section 337.

Section 331. Signs Permitted in the B-3 District

[a] The B 3 districts are located on all major access roads to Boone. It is on these roads that the visitor receives a first impression of the town. It is the intent of this ordinance to allow the visitor to locate business establishments easily and quickly and yet not to allow signs which might interfere with views of the scenic mountains. The B-3 districts provide a variety of services primarily oriented toward vehicular traffic. Because vehicles in this area travel at speeds up to 45 m.p.h., it is important to insure that signs are clear, distinct and readable in a brief space of time. The requirements identify establishments quickly and easily.

[1] Advertising Signs

- a. Signs may be illuminated.
- b. Each business is permitted two (2) signs which may be of any type, however, no more than one canopy sign per business.
- c. Freestanding signs shall not exceed fifty (50) square feet in area and twenty (20) feet in height.
- d. No freestanding sign shall be placed less than forty (40) feet from another freestanding sign.
- e. Projecting signs may not exceed sixteen (16) square feet.
- f. Awning signs shall not exceed ~~sixteen (16) square feet in area~~ **twenty-five (25%) of the area of the awning. The maximum allowable square footage is forty-eight (48) square feet regardless of the size of the awning.** Awning signs may be attached to the awning at the face of, side of, or under the awning. Signs which are projecting or are suspended under an awning and/or cantilevered roof shall be at least eight (8) feet above the sidewalk at their lowest point. Signs which are attached to the face or side of the awning may not exceed twelve (12) inches in height and no support structures shall be visible.
- g. Attached signs and painted wall signs may not exceed an area equal to one (1) square foot of sign area per linear foot of the building frontage. For example, a building which is

fifty (50) feet across the front may have a fifty (50) square foot attached or painted wall sign. The maximum square footage of attached or painted wall sign is one hundred twenty (120) square feet, regardless of building size.

- h. All signs shall meet the general requirements in Section 323.
- i. Businesses who choose to use a ground mounted sign instead of a freestanding sign may increase the maximum square footage in accordance with the provisions of Section 337.

Section 333. Signs Permitted in the O/I District

[a] The Office/Institutional district provides a variety of office, institutional and commercial services. The signs allowed in this area permit an efficient means of information transfer consistent with the size of the streets and speed of the traffic.

[1] Advertising Signs

- a. Signs may be illuminated.
- b. Each office/institution/business is permitted two signs. They may be chosen from the following categories: attached, freestanding, canopy, or projecting. In no case may the signs be of the same category except that an office/institution/ business may have two (2) attached signs. Painted wall signs are not permitted in the O/I district.
- c. Attached signs shall not exceed an area equal to one (1) square foot of sign area per linear foot of building frontage. For example, a building which is fifty (50) feet across the front may have a fifty (50) square foot attached sign. The maximum allowable square footage of an attached sign is sixty four (64) square feet, regardless of building size.
- d. Freestanding signs shall not exceed thirty (30) square feet in area and ten (10) feet in height.
- e. Projecting signs may not exceed sixteen (16) square feet in area.
- f. Awning signs shall not exceed ~~sixteen (16) square feet in area~~ **twenty-five (25%) of the area of the awning. The maximum allowable square footage is forty-eight (48) square feet regardless of the size of the awning.** No signs may be attached to the awning support structures. Signs which are projecting or are suspended under an awning and/or cantilevered roof shall be at least eight (8) feet above the sidewalk at their lowest point. Signs which are attached to the face or side of an awning may not exceed twelve (12) inches in height.
- All signs shall meet the general requirements of Section 323.
- Businesses who choose to use a ground mounted sign instead of a freestanding sign may increase the maximum square footage in accordance with the provisions of Section 337.

**PROPOSED TEXT AMENDMENTS
Article XVIII**

Section 322. Definitions

[9] Community **Event** Signs: A temporary sign, other than a commercial sign, posted to ~~advertise a civic event sponsored by a public agency, school, church, civic fraternal organization, or noncommercial event.~~ **direct patrons to a community event for public agencies, schools, churches, civic-fraternal organizations or similar non-commercial organizations.**

Section 338. Temporary Sign Regulations

[a] Temporary signs must conform to all regulations of this section not otherwise superceded by this section. No type of temporary sign, other than an agricultural sign whose placement is approved by the North Carolina Department of Transportation, shall be placed in the public right-of-way. Temporary signs, other than agricultural signs **and community event signs**, shall not be required to obtain a sign permit.

[1] Community event signs are permitted for ~~civic events sponsored by a public agencies~~, schools, churches, civic-fraternal organizations or similar non-commercial organizations. These signs may be erected provided that:

- ~~The organization sponsoring the event may display one (1) off premise banner and the size of any such sign shall not exceed twenty four (24) square feet in area.~~ **Such groups shall be non-profit corporations or associations organized and operated for charitable purposes that are licensed as non-profit groups with the North Carolina Secretary of State.**
- ~~Off premise community event signs are allowed. Only one sign per lot is allowed with permission of the property owner or registered agent. Off premise signs may not exceed four (4) square feet in area and four (4) feet in height. Any funds being raised by the community event must be used for charitable or non-profit purposes.~~
- ~~Each community event is allowed to display no more than twelve (12) off premise signs in the Town of Boone and the ETJ.~~ **All community events must occur within Watauga County. A community event that does not occur within Watauga County may receive permission to display signs with the approval of the Boone Town Council.**
- ~~The signs are not illuminated.~~ **A no fee Community Event Sign Permit Application must be completed by the sponsor of the event and approved by the Development Services Department. The sponsor must organize all aspects of a community event. A representative of the organization must sign the permit application and will be jointly responsible with the organization for insuring that the regulations are followed.**
- ~~The signs may not be displayed earlier than seven (7) days prior to the event to which they pertain and must be removed within forty eight (48) hours after the event.~~ **Each community event is allowed to display no more than twelve (12) off-premise signs that do not exceed four (4) square feet in area and four (4) feet in height. Only one sign per lot is allowed with the permission of the property owner or registered agent. One (1) off-premise banner and one (1) banner at the event site are allowed. Each banner may not exceed twenty-four (24) square feet.**
- **A community event may display allowable signage annually.**
- **The signs are not illuminated.**
- **The signs may not be displayed earlier than seven (7) days prior to the event and must be removed within forty-eight (48) hours after the event.**
- **A community event that does not meet the above criteria may receive approval from the Boone Town Council to display community event signs subject to the Community Event Sign Regulations. The Boone Town Council recognizes the following as community events:**

**The Highland Games
The Blowing Rock Celtic Festival
Trade Days
Watauga High School Project Graduation
Boone Bluegrass Festival
Gospel Singing Jubilee
Sugar Grove Music Festival**

VOTE: Aye – All
 Nay – None

Case No. RZ2005-12 – The Town of Boone attorney has initiated a zoning text amendment to UDO Article II, Part IV *Board of Adjustment*. The proposed amendment would increase the number of alternate members appointed to serve on the Board of Adjustment in order to ensure a full quorum of (8) members is available.

Upon a motion by Council member Eggers, seconded by Council member Mason, Council

moved to adopt the following zoning text amendment:

Part IV Board of Adjustment

Section 43. Appointment and Terms of Board of Adjustment

[a] There shall be a Board of Adjustment consisting of eight (8) regular members, and ~~five (5)~~ **eight (8)** alternates. Five (5) regular members, and ~~three (3)~~ **five (5)** alternates, appointed by the council, shall reside within the town. Three (3) regular members, and ~~two (2)~~ **three (3)** alternates, appointed by the County Board of Commissioners, shall reside within the Town's extraterritorial planning area. (In accordance with N. C. G. S. 160A-362, the town must provide a means of proportional representation based on population for residents of the extraterritorial area being regulated. There shall be at all times at least one representative of the extraterritorial planning area on the Board of Adjustment. An additional member must be appointed to the Board of Adjustment to achieve proportional representation where the population of the entire extraterritorial planning area constitutes a full fraction of the town's population divided by the total membership of the Board of Adjustment). If, despite good faith efforts, enough residents of the extraterritorial planning area cannot be found to fill the seats reserved for residents of such area, then the County Board of Commissioners may appoint other residents of the county (including residents of the town) to fill these seats. If the County Board of Commissioners fails to make these appointments within ninety (90) days after receiving a resolution from the council requesting that they be made, the council may make them. (When selecting a new representative to the Board of Adjustment as a result of an extension of the extraterritorial jurisdiction, the Board of County Commissioners shall hold a public hearing on the selection. A notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The County Board shall select appointees only from those who apply at or before the public hearing. The county shall make the appointments within forty-five days following the public hearing). **In making appointments to the Board of Adjustment, both the Town Council and the County Board of Commissioners shall consider the employment of current board members and alternates, and their spouses, and shall strive to create such employment diversity upon the board so as to minimize the likelihood that a conflict of interest with regard to a particular case will prevent the Board of Adjustment from assembling a full board of eight (8) members to hear the case. Therefore, in order to be considered for appointment to the Board, an applicant must provide the Town with information concerning his or her employment and that of his or her spouse, if any.**

VOTE: Aye – All
 Nay – None

Case No. RZ2005-13 – Rita Franklin has filed a general use district map amendment request for two lots located on Gilbert Barnes Road. The request is to reclassify .78 acres from R-1, Single-Family Residential, to R/A, Residential Agriculture.

Upon a motion by Council member Clawson, seconded by Council member Spann, Council moved to grant the request.

VOTE: Aye – All
 Nay – None

Case No. RZ2005-14 - The Town of Boone has initiated map amendment proceedings to rezone the old Glenstone Healthcare property from the current Conditional Use Office/Institutional (CUO/I) zoning district to its previous Single-Family Residential (R-1) zoning district classification.

Upon a motion by Council member Eggers, seconded by Council member Mason, Council moved to grant the request.

VOTE: Aye – All
 Nay – None

Case No. RZ2005-15 – The Town of Boone has initiated a zoning text amendment to UDO Article XX *Landscape Standards*. The proposed amendment would reduce tree survey requirements for residential subdivision development. Upon a motion by Council member Spann, seconded by Council member Eggers, Council moved to adopt the following text amendment:

PROPOSED TEXT AMENDMENTS

Article XX – Landscape Standards

Section 365 -- Subdivisions

Proposed Text: Section 365[b]

[b] It shall be the responsibility of all new subdivision applicants to submit a tree survey in areas of land disturbance associated with construction of streets, drainage, utilities, and storm water management areas. The tree survey shall be drawn to engineers scale and accurately designate the species, location and diameter of all trees eight (8) inches in diameter and greater.

[1] Every subdivision shall retain all existing healthy Historic trees with drip lines outside the land disturbing limits associated with proposed streets, drainage, utilities and storm water management areas. A developer may be required to modify his/her design in order to preserve healthy Historic trees, provided the redesign can be accommodated without reducing the intensity of the development on the site or increasing the area of land disturbance.

[2] Every subdivision shall retain all existing healthy Significant trees with drip lines outside the land disturbing limits associated with proposed streets, drainage, utilities and storm water management areas.

Section 370. Preservation of Existing Trees and Vegetation

Proposed Text: Section 370 [b] [3]

Every development shall retain all existing healthy Historic tree with drip lines outside the building footprint **except new subdivisions. New subdivisions shall refer to Section 365 [b] [1].** A developer will be required to modify his/her design in order to preserve healthy Historic trees, provided the redesign can be accommodated without reducing the intensity of the site.

Proposed Text: Section 370 [b] [4]

It shall be the responsibility of all site plans, ~~subdivision plan~~, and zoning applicants for new construction to submit a tree survey of the site proposed for development **except for new subdivisions. New subdivisions shall submit a tree survey in accordance with Section 370 [b].** The tree survey shall be drawn to engineers scale and accurately designate the species, location and diameter of all trees eight (8) inches in diameter or greater on the site, and all trees proposed for credit as provided in Section 370 [b]

VOTE: Aye – All
 Nay – None

BOARD OF ADJUSTMENT APPOINTMENTS

Upon a motion by Council member Mason, seconded by Council member Clawson, Council moved to appoint Ron Darbo and Daniel Collins as resident alternates to the Board of Adjustment. All terms will expire 6/30/08.

VOTE: Aye – All
 Nay – None

TDA APPOINTMENTS

Upon a motion by Council member Wilcox, seconded by Council member Eggers, Council moved to reappoint Brian Newell and Diana Perry and to appoint Jeannine Underdown-Collins to the TDA Board. All terms will expire 8/31/08.

VOTE: Aye – All
 Nay – None

APPROVAL OF PARK BUDGET CHANGES

Special Assistant to the Town Manager Jim Byrne stated that there has been a reduction in funds available for this project. He noted that a service vehicle is needed for maintenance to areas where a pick-up truck is unable to access. Council member Mason pointed out that Watauga County has offered to assist the town with this project. Mr. Byrne stated the county may be able to help with the grading costs. Council member Eggers asked about the amount of money needed for survey and design of the project. Mr. Byrne explained these funds will cover the cost of rezoning the property and obtaining a special-use permit and a no-rise certification. Upon a motion by Council member Mason, seconded by Council member Clawson, Council moved to revise the \$200,000 park budget.

VOTE: Aye – All
 Nay – None

Town Manager Greg Young reminded the Council that a lease agreement with the county has not been reached. He asked if the Council wished to proceed without the lease or to empower the Mayor to negotiate a lease agreement with the county. Upon a motion by Council member Mason, seconded by Council member Eggers, Council moved to empower Mayor Burnley with the negotiation of a lease agreement with the county.

VOTE: Aye – All
 Nay – None

MONTHLY WATER USE STATUS REPORT

Public Utilities Director Rick Miller presented the following status report:

As requested by Town Council, staff and I have compiled the following information concerning water use for the month of July. The Water Treatment Plant recorded a maximum daily demand of 2.251 million gallons on Wednesday, July 20, 2005, and the average daily demand was 1.755 million gallons for the entire month.

As adopted in Ordinance 05-01, the Town of Boone Council has appropriated for 25,000 gallons per day usage for year 2004 and 25,000 gallons per day usage for year 2005 to be combined for a total of 50,000 gallons per day for allocation to customers. The total water allotment remaining for the year 2005 has now broken the sixty percent threshold. All future water service requests in excess of 500 gallons per day usage will be forwarded to Town Council as required in Ordinance 05-01. Since the last Town Council Meeting the Utilities Department approved one project with predicted usage below 500 gallons per day.

As you can see in the attached chart, once that approval is removed as projected usage from our yearly allotment, the Public Utilities Department has 755 gallons per day remaining for allotment in 2005. Also, be reminded that Council chose to allocate 15,334 gallons from 2006 leaving a balance of 9,666 gallons remaining for that year. All calculations are based on 60% of the North Carolina Discharge Rate Schedule.

| | | | Approved Water Connections | | | |
|-------------------|--------|-----------------|----------------------------|--------|-----------------|-------------------|
| | | | 2005 | | | |
| Staff Approved | Date | Projected Usage | Council Approved | Date | Projected Usage | Remaining Gallons |
| | | | | | | 50000 |
| Cookout Grill | Jan-05 | 1500 | | | | 50000 |
| | | | Tom Adams | Feb-05 | 270 | 49730 |
| Doug Hanks | Feb-05 | 600 | | | | 49130 |
| John Roberts | Feb-05 | 360 | | | | 48770 |
| David Styron | Feb-05 | 270 | | | | 48500 |
| | | | WMC Wellness Center | Mar-05 | 17250 | 31250 |
| | | | Dan Minton | Mar-05 | 7200 | 24050 |
| | | | David Blust | Mar-05 | 165 | 23885 |
| David Blust | Mar-05 | 360 | | | | 23525 |
| Eddie Greene | Mar-05 | 270 | | | | 23255 |
| David Nicklaw | Mar-05 | 270 | | | | 22985 |
| | | | Hunter Nichols | Apr-05 | 360 | 22625 |
| | | | VIA LLC/Ed Street Co. | Apr-05 | 5000 | 17625 |
| | | | Watauga County Detention | Apr-05 | 3728 | 13897 |
| Baxters Sport Bar | Apr-05 | 330 | | | | 13567 |

| | | | | | | |
|-----------------------|-------------|------------------------|----------------------------|-------------|------------------------|--------------------------|
| Watauga Courthouse | Apr-05 | 1214 | | | | 12353 |
| | | | John Cook | May-05 | 5000 | 7353 |
| | | | Hester Office Bldg | May-05 | 450 | 6903 |
| | | | Americas Home Place | May-05 | 60 | 6843 |
| Molecular Toxicology | Jun-05 | 60 | | | | 6783 |
| Dana Willet | Jun-05 | 450 | | | | 6333 |
| Watauga Arts Council | Jun-05 | 23 | | | | 6310 |
| | | | Glenwilde | Jun-05 | 900 | 5410 |
| | | | James West | Jun-05 | 1440 | 3970 |
| | | | Cathy Kosterman | Jun-05 | 1110 | 2860 |
| | | | Blue Ridge Electric | Jun-05 | 30 | 2830 |
| William Jackson | Jun-05 | 90 | | | | 2740 |
| Family One Inc | Jun-05 | 394 | | | | 2346 |
| Dana Willet | Jul-05 | 150 | | | | 2196 |
| Watauga Insurance | Jul-05 | 15 | | | | 2181 |
| Boone Dermatology | Jul-05 | 330 | | | | 1851 |
| | | | David Thompson | Jul-05 | 600 | 1251 |
| Advance Auto | Aug-05 | 496 | | | | 755 |
| | | | | | | |
| | | | Approved Water Connections | | | |
| | | | 2006 | | | |
| Staff Approved | Date | Projected Usage | Council Approved | Date | Projected Usage | Remaining Gallons |
| | | | | | | 25000 |
| | | 4165 | John Cook | May-05 | 8038 | 16962 |
| | | | CataCorner Investments | Jul-05 | 7296 | 9666 |

ADOPTION OF BUDGET AMENDMENTS

Upon a motion by Council member Eggers, seconded by Council member Clawson, Council adopted the following budget amendments:

DESCRIPTION ACCOUNT # TO: FROM:

| | | | |
|-----------------------------------|--------------------|-----------|-----------|
| Transfer to Law Enforcement Trust | 010-500-300-598042 | \$3242.00 | |
| Appropriated Fund Balance | 010-000-000-499900 | | \$3242.00 |
| Maintenance & Repair-Vehicles | 010-500-300-525301 | \$9001.00 | |
| Insurance | 010-500-300-535101 | \$500.00 | |
| Maintenance & Repair-Vehicles | 030-700-802-525301 | \$1812.00 | |
| Miscellaneous Revenue | 030-000-000-489900 | | \$1812.00 |
| Miscellaneous Supplies (Sewer) | 030-700-803-519900 | \$2345.00 | |
| Appropriated Fund Balance | 030-000-000-499900 | | \$2345.00 |

VOTE: Aye – All
 Nay – None

DECISION ON BEAR TRAIL OPTION

Public Works Director Blake Brown presented the options determined by HSMM Transportation for Bear Trail. Those options are:

Alternative A - Widening the roadway to the east.

Alternative B - Widening the roadway to the west.

Alternative C - Installing a signal to direct two-way traffic along the one lane roadway.

Alternative D - Bear Trail remaining one-way as currently configured.

After a discussion of each option, the consensus of the Council was that leaving Bear Trail a one-way street was the safest option. Upon a motion by Council member Mason, seconded by Council member Spann, Council moved to leave Bear Trail as a one-way street. Council member Spann asked for a friendly amendment that includes the implementation of other safety measures. Council member Mason accepted the amendment; Council member Spann seconded the amendment.

VOTE: Aye – All
 Nay – None

REQUESTED APPEARANCE – MR. BRAD EDWARDS

Special Assistant to the Town Manager Jim Byrne stated at the direction of the Council, he investigated several firms to serve as a lobbyist for the town. He stated that the Jenkins-Hill Group was highly recommended. Mr. Byrne recommended that the Council hire the firm. He introduced Mr. Brad Edwards of the Jenkins-Hill Group to answer any questions the Council may have. Mr. Edwards explained his background including the fact that he is an alumnus of Appalachian State University and has spent over fourteen years in business in Washington, D. C. Council member Mason asked if a contract with this firm would have a specific time period. Mr. Byrne stated that it would be an annual contract. Mr. Edwards added that a client can request termination of a contract with thirty days' notice. Upon a motion by Council member Clawson, seconded by Council member Spann, Council moved that the town may proceed with contract negotiation with the Jenkins-Hill Group.

VOTE: Aye – All
 Nay – None

REQUESTED APPEARANCE – MR. CHARLES ULERY

Town Attorney Sam Furgiuele reconvened the public hearing at 7:53 p.m. to hear sworn testimony regarding a request for water and sewer service to property located 1474 Highway 105. Mr. Furgiuele reminded Mr. Franklin and Public Utilities Director Rick Miller that they were still under oath. Mr. Miller presented Council with a memorandum from his office along with information that was submitted by Mr. Franklin on August 15, 2005. According to the information supplied by Mr. Franklin (**Exhibit A**), Mr. Miller calculated the following numbers:

- The paint ball area with fourteen participants and two employees would use approximately 576 gallons of water per day.
- The second floor gun range would use 583 gallons per day.

Since no additional information was presented for the first floor which includes three garage bays and eleven car wash bays, Mr. Miller calculated the use at 450 gallons per day based on three toilets on the floor. The applicant is proposing to use recycled water for the car wash bays. The total amount of usage calculated by Mr. Miller for the project is 1609 gallons per day. Development Services Director John Spear, being duly sworn, answered a question posed by Council member Mason as to this type of use and if is a permissible use. He stated the use would probably be categorized as an indoor recreational facility. In response to a question concerning the town code, Town Manager Greg Young was sworn to testify. He stated that the town code does not allow for the discharge of a fire arm within the city limits. Council members Eggers and Spann expressed concern with the idea of citizens bringing their own weapons to the gun range and with no limit on the caliber of gun permitted at the gun range. With no further testimony, Mr. Furgiuele closed the public hearing at 8:18 p.m. Council member Spann

referenced Section E of the Water Use Ordinance and stated he was uncomfortable with the location of the facility beside a residential neighborhood. Council member Mason voiced concern with the location of the facility across the road from Watauga High School and with the amount of water that is needed for the facility. Council member Clawson stated that with the remaining allotment of water for the 2005 year, she would be uncomfortable in granting this request. Council member Wilcox stated the application appears to be incomplete. He further noted that the use of guns at the firing range is illegal and that there had not been enough reliable information presented. Council member Eggers stated that the recycled-water car wash and garage might work but that the other uses are questionable. Upon a motion by Council member Mason, seconded by Council member Spann, Council moved to deny the request.

VOTE: Aye – All
 Nay – None

Mayor Burnley declared a 10- minute break at 8:25 p.m. Council reconvened at 8:36 p.m.

REQUESTED APPEARANCE – MS. TUESDAE RICE

Ms. Tuesdae Rice of the Downtown Boone Development Association explained her request for the closure of Howard Street during the 2005 Kraut Creek Festival. Ms. Rice described events scheduled for that day and asked for two additional items:

- ! For the street to be cleaned prior to the event;
- ! For help with electrical hook-ups and meters for two stages located at each end of Howard Street.

Council member Wilcox encouraged support of this event by Council members and participation by the community. Upon a motion by Council member Wilcox, seconded by Council member Eggers, Council moved to grant the request for the closure of Howard Street for the 2005 Kraut Creek Festival on Saturday, September 24, 2005 from 6:00 a.m. to 6:00 p.m. and agreed to waive the \$1,500 fee required for a Special Events Permit.

VOTE: Aye – All
 Nay – None

REQUESTED APPEARANCE – MS. HEATHER WRENN WHITNER

Ms. Whitner stated her request for approval to start a new taxi service in Boone. Upon a motion by Council member Wilcox, seconded by Council member Spann, Council moved to grant approval for Ms. Whitner to start a new taxi business in Boone. The name of the company will be Appalachian Cab and Airport Service.

VOTE: Aye – All
 Nay – None

CLOSED SESSION

Upon a motion by Council member Wilcox, seconded by Council member Clawson, Council moved to enter Closed Session at 8:46 p.m. pursuant to NCGS 143-318.11a)3 in order to discuss the following matters:

- ! ASU Violations
- ! Phillips-Van Heusen Violation
- ! Potential Litigation – Miller Property
- ! Potential Litigation - Patel

VOTE: Aye - All
 Nay - None

Upon a motion by Council member Clawson, seconded by Council member Mason, Council moved to exit Closed Session at 10:37 p.m.

VOTE: Aye - All
 Nay - None

ADJOURNMENT

On a motion by Council member Clawson, seconded by Council member Mason, Council moved to adjourn at 10:38 p.m.

VOTE: Aye - All
 Nay - None

Deputy Town Clerk

Mayor