

**MINUTES - REGULAR MEETING
BOONE TOWN COUNCIL
AUGUST 16, 2007**

The regular meeting of the Boone Town Council was called to order at 6:30 p.m., Thursday, August 20, 2007, in the Council Chambers, 1500 Blowing Rock Road. Mayor Loretta Clawson presided. Council members present were Mayor Pro-Tem Lynne Mason, Rennie Brantz, Janet Pepin, and Bunk Spann. Council member Dempsey Wilcox joined the meeting at 7:30 p.m. Town Attorney Sam Furguele was also present. Staff present were Town Manager Greg Young; Town Clerk Freida Van Allen; Human Resources Director Peri Moretz; Assistant to the Manager Jim Byrne; Finance Director Amy Davis; Public Utilities Director Rick Miller; Public Services Director Blake Brown; Police Chief Bill Post; Fire Chief Reggie Hassler and Development Services Director John Spear.

TENTATIVE AGENDA ADOPTION

Town Manager Greg Young presented the following additions/deletions to the agenda:

- Adoption of Agreement with Watauga County to Consent Agenda.
- Deletion of Item 6.A. - Requested Appearance - Nancy Reigel.
- Deletion of ASU Agreements from Closed Session.

On a motion by Council member Brantz, seconded by Council member Mason, Council moved to adopt the agenda as amended.

VOTE: Aye-All
Nay-None

CONSENT AGENDA ADOPTION

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

Minutes: July 17, 2007, Special Meeting
July 19, 2007, Regular Meeting
Tax Releases: June, 2007

TAX RELEASES

	Year	Amount	Description
MILLER, TERI LYNN MILLER, TODD ALLEN	2006	49.95	INCORRECT SITUS, TIE TO INCORRECT ACCT NUMBER
LATENDRESSE, JAMES J	2006	31.55	TURN IN TAG
GOMEZ, RICARDO SALVADOR	2006	20.47	SOLD VEHICLE
EICHNER, JUDITH PATRICIA	2006	79.35	TURN IN TAG
GRIMES, WILLIAM THOMAS	2006	66.22	INCORRECT FIRE DISTRICT
GRIMES, WILLIAM THOMAS	2005	160.23	INCORRECT FIRE DISTRICT
GRIMES, WILLIAM THOMAS	2004	19.50	INCORRECT FIRE DISTRICT
DOUGLAS, RAYMOND EUGENE CRITCHER, PHIL WARREN	2005	2.43	TURN IN TAG
TOTAL		429.70	

TAX REFUNDS

Taxpayer	Year	Amount	Description
BROWN, JANE B	2006	9.06	TURN IN TAG
VANACORE, JEFFREY J	2006	9.41	TURN IN TAG
HAUNTON, RICHARD	2006	1.48	TURN IN TAG
MERCHANTS RENT A CAR INC	2006	8.18	TURN IN TAG
BRANTZ, RENNIE W & LANA L	2006	8.62	TURN IN TAG
JASSO, RICARDO RUIZ	2006	1.48	TURN IN TAG
VANACORE, DEBBIE DELORES	2005	10.34	TURN IN TAG
PRESNELL, MICHAEL WAYNE	2006	31.61	TURN IN TAG
TOTAL		48.57	

Approval of WHS & ASU Homecoming Parades: Friday, October 5th at 4:00 p.m. and Saturday, October 6th at 10:00 a.m.

Adoption of Resolution: Establishing Capital Reserve Fund - Facilities.

**RESOLUTION
ESTABLISHMENT & MAINTENANCE
OF THE
TOWN FACILITIES CAPITAL RESERVE**

WHEREAS, there is a need in the Town of Boone, North Carolina, to plan for renovation and/or expansion of Town-owned facilities.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD THAT:

Section 1: The Governing Board hereby creates a Capital Reserve Fund for the purpose of planning for the renovation and/or expansion of Town-owned facilities.

Section 2: This fund will remain operational until provisions are made to satisfy identified needs.

Section 3: The Board included appropriation as part of the Fiscal Year 2007/2008 Budget for transfer in the amount of \$1,000,000 from the General Fund to the Town Facilities Capital Reserve Fund.

Section 4: This resolution shall become effective upon its adoption.

Mayor

ATTEST:

Deputy Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE 38)

Adoption of Resolution: Establishment of Capital Reserve Fund - Raw Water.

**RESOLUTION
ESTABLISHMENT & MAINTENANCE
OF THE
RAW WATER LAND ACQUISITION CAPITAL RESERVE**

WHEREAS, there is a need in the Town of Boone, North Carolina, to purchase land for a raw water intake.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD THAT:

- Section 1: The Governing Board hereby creates a Capital Reserve Fund for the purpose of planning for the purchase of land for a raw water intake.
- Section 2: This fund will remain operational until provisions are made to satisfy identified needs.
- Section 3: The Board included appropriation as part of the Fiscal Year 2007/2008 Budget for transfer in the amount of \$1,000,000 from the General Fund to the Raw Water Land Acquisition Capital Reserve Fund.
- Section 4: This resolution shall become effective upon its adoption.

Mayor

ATTEST:

Deputy Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE 39)

Adoption of Resolution: Authorizing Contract with BB&T.

RESOLUTION APPROVING FINANCING TERMS

WHEREAS, the Town of Boone, North Carolina, (the "Town"), has previously determined to undertake a project for the purchase of a voice over internet protocol system, and the Finance Officer has now presented a proposal for the financing of such Project.

NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS:

1. The Town hereby determines to finance the Project through Branch Banking and Trust Company ("BB&T"), in accordance with the proposal dated June 27, 2007. The amount financed shall not exceed \$87,101.00, the annual interest rate (in the absence of default or change in tax status) shall not exceed 4.10%, and the financing term shall not exceed five (5) years from closing.
2. All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the Town are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as

contemplated by the proposal and this resolution. The Financing Documents shall include a Financing Agreement and Deed of Trust and a Project Fund Agreement as BB&T may request.

3. The Finance Officer is hereby authorized and directed to hold executed copies of the Funding Documents until the conditions for the delivery of the Financing Documents have been contemplated to such officer's satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by Town officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Officer shall approve, with the Finance Officer's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.
4. The Town shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The Town hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3).
5. The Town intends that the adoption of this resolution will be a declaration of the Town's official intent to reimburse expenditures for the project that is to be financed from the proceeds of the BB&T financing described above. The Town intends that funds that have been advanced, or that may be advanced, from the Town's general fund, or any other Town fund related to the project, for project costs may be reimbursed from the financing proceeds.
6. All prior actions of Town officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Approved this 16th day of August, 2007.

Mayor

ATTEST:

Deputy Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE 40)

Adoption of Agreement: WHS Resource Officer.

AGREEMENT
between
Watauga County Board of Education
and
Town of Boone
for The Police School Resource Officer Program

This Agreement, entered into this 19th day of July, 2007, between Watauga County Board of Education, a public body corporate organized and existing under the Constitution and laws of the State of North Carolina, hereinafter referred to as the "School Board," and the Town of Boone, a municipal corporation organized and existing under the laws of the State of North Carolina, through it's Police Department, hereinafter referred to as the "Police Agency,"

Witness that:

The School Board and Police Agency mutually agree as follows:

1. **That the School Board shall:**

- a. Provide funds, not to exceed \$60,965 for services rendered by Police Agency during the term of this agreement, to the Police Agency for providing, through a law enforcement officer employed by Police Agency, those services set forth in this agreement.
- b. Develop desired schedule of work for the School Resource Officer, understanding that the School Resource Officer will comply with the Town of Boone Personnel Policies as a Town of Boone employee.

2. **That the Police Agency shall:**

- a. Cause to be provided for and on behalf of the School Board one school resource officer to carry out the duties and responsibilities listed in this agreement. The School Board or their representatives will approve the officer to be assigned.
- b. Cause to be completed and submitted to the School Board, as requested by the School Board, all students and program records.
- c. The Town of Boone will invoice the School Board on a monthly basis.
- d. Allow full access to the personnel file of the School Resource Officer to the School Board, provided the Resource Officer consents and signs a written release in accordance with N.C.G.S. 160A-168 (c)(6).

3. **Reporting Authority:**

- a. For issues of school policy, the School Resource Officer will follow recommendations and coordinate activities with Watauga High Administration.
- b. For all other law enforcement duties and general supervision as per Town of Boone and Boone Police Department Personnel Policy, the School Resource Officer will report to the Boone Police Department.

4. **This agreement shall remain in effect from July 1, 2007 until June 30, 2008, unless terminated sooner pursuant to Section 9 of this agreement.**

5. **Performance Responsibilities:**

The general duties of the School Resource Officer shall be to protect students, staff, visitors, and property of the school. He/she will investigate criminal activity, assist other law enforcement agencies as requested, assist social services and mental health agencies, patrol areas as directed or needed, and provide police protection to special and athletic events.

He/she will attend required training, assist in medical emergencies, assist counseling staff in crisis intervention and prevention, work in the conflict resolution program, conduct formal and informal counseling, and classroom instruction to students on areas of expertise. The School Resource Officer will take law enforcement action as necessary and notify Watauga High Administration and the Boone Police Department within guidelines of the Boone Police Agency. Appropriate campus officials shall be notified of any law enforcement action by the School Resource Officer in a timely fashion for proper school action related to the offender's behavior.

6. **Prevention:**

- a. Establish positive relationships between the officer and the student population.
- b. Assist other agencies such as social services, mental health and other organizations which provide services and care to school system employees, students, and families.

- c. Receive training in Conflict Resolution and Peer Mediation.
 - d. Assist students and teachers through Conflict Resolution classroom activities, assemblies, and informal discussion.
 - e. Work with training team to conduct staff development in Conflict Resolution strategies.
 - f. Assist in training students in Peer Mediation.
7. **Intervention:**
- a. Identify causes of violence in the schools.
 - b. Educate students on legal aspects of violence and criminal behavior.
 - c. Investigate criminal activity against property, personnel, students, and visitors.
 - d. Provide and/or coordinate law enforcement at school activities.
 - e. Assist local law enforcement authorities in school related matters as requested.
 - f. Serve as liaison between law enforcement and school officials, students, and parents.
 - g. Keep a log of activities relating to class, student, parent contacts.
 - h. Any other duties as assigned by the Boone Police Department.
8. **Critical knowledge, training or certification:**
- a. Basic Law Enforcement training.
 - b. Certified as a North Carolina Law Enforcement Officer sworn by the Boone Police Department.
 - c. General experience in law enforcement with specialized knowledge of and/or experience in dealing with substance abuse, juvenile law, and operating standards of accepted School Resource Officer procedures.
9. **Termination:**

Either party may terminate this agreement without cause on 30 days notice in writing to the other party; further, either party may terminate this agreement immediately for cause, upon giving written notice to the other party, provided such notice is accompanied by a written opinion from the general counsel of the party terminating the agreement stating that it is not legally permissible for that party to continue to substantially comply with this agreement.

Adoption of Agreement: Watauga County Map Hosting.

MAPPING HOST AGREEMENT

THIS AGREEMENT is made this the 6th day of August, 2007, by and between the **Town of Boone**, a North Carolina Municipal Corporation, hereinafter referred to as “**Town**” and **Watauga County**, a North Carolina County, hereinafter referred to as “**County**,” collectively referred to as the “parties.”

WITNESSETH

THAT WHEREAS, County has created and maintains Internet Mapping Software (hereinafter “IMS”) on its Internet website; and

WHEREAS, County affords the public access to this IMS and the GIS data which is

therein displayed; and

WHEREAS, Town wishes to provide public access to Town mapping and zoning information (hereinafter “the Town’s data”) by means of the County’s IMS system; and

WHEREAS, for an annual maintenance fee, as described herein, County has agreed to host the Town’s data, as described herein; and

WHEREAS, the parties have agreed that it is in their mutual interests to confirm the promises between them; and

WHEREAS, the governing board of each of the parties has duly adopted this Agreement;

NOW, THEREFORE, for and in consideration of the mutual promises herein contained, the Parties agree as follows:

1. **Term**: This agreement shall continue in force until terminated by one of the parties, commencing on the 6th day of August, 2007 and, in accordance with the provisions herein, can be terminated pursuant to sections 5 and 6 of this agreement.
2. **Fees and Payments**: Within ten days of the approval of this agreement by both of the parties’ governing board, and on or before the anniversary of that payment thereafter, Town shall pay County the fixed sum of \$2,500.00 per year, but said amount may be reevaluated each year, and the appropriate adjustments may be made to the fee and agreed upon by the parties.
3. **Town Rights and Responsibilities**: Pursuant to this Agreement, Town may provide County with up to ten layers of information or data, such as a Town zoning layer, Town viewshed overlay layer, Town corridor overlay districts layer, etc., the parties anticipating that initially, the Town will provide at least eight such layers of information or data to the County for potential display through the County’s website and IMS. Quarterly, thereafter, between March 1 and March 31, June 1 and June 30, September 1 and September 30, December 1 and December 31, Town may provide updates to such layers of information or data. Said layers of information or data will be provided to County in ESRI shape file(s).
4. **County Rights and Responsibilities**: County will host, for public access, the layers of information or data provided by Town, will update the information or data within a reasonable time after updates are provided by Town to County, and will provide public access to said layers. County will either modify the current “disclaimer” set out on its website, to disclaim any responsibility of the Town for the use of the data, or it will display a similar disclaimer, in language approved by Town, which will be shown when any person attempts to access Town layers of data.
5. **Default**: All terms of this Agreement are considered by the parties as material to the Agreement, and breach of any term by a party shall entitle the other, upon seven days notice, to terminate its further responsibilities under the Agreement.
6. **Termination other than because of Default**: Either party may terminate this Agreement with or without cause, upon thirty days advance notice to the other party. Should the Agreement be terminated by either party effective at a time for which Town has already paid County the annual fee, County shall refund to Town the prorated amount of the fee for the year in question, a year being measured from the date of the initial payment to a date 364 days thereafter. In other words, should the Town’s initial payment under this Agreement be made on June 1, 2007, each year thereafter will be considered as running from June 1 to May 31.
7. **Modification of Agreement**: This Agreement contains all of the terms and conditions agreed to by the parties concerning these premises. There are no oral terms or conditions agreed to by the parties hereto which are not contained in this written agreement. There shall be no modification of this Agreement unless the modification is in writing and signed by both parties.

8. **Governing Law and Venue:** This Lease shall be governed by and construed in accordance with the laws of the State of North Carolina, and venue of any dispute between the parties shall be in Watauga County, North Carolina.
9. **Execution:** Each of the parties represents and warrants to the other that all necessary authorizations and approvals required for execution and performance of this Lease have been given and that the undersigned individual is duly authorized to execute this Lease and bind the party for which it signs.
10. **Notices:** All notices, requests, demands, and other communications hereunder shall be in writing and shall be deemed given if personally delivered to the following addresses:

If to Town to: Greg Young
 Town Manager
 Town of Boone
 PO Drawer 192
 Boone, NC 28607

If to County to: Rocky Nelson
 County Manager
 Watauga County
 814 W. King Street, Suite 205
 Boone, NC 28607

IN WITNESS WHEREOF, the **parties** have executed this Agreement in duplicate originals, and agree to all of the terms and conditions set forth above, the day and year first above written.

VOTE: Aye-All
 Nay-None
 Absent-1(Wilcox)

ADOPTION OF ZONING AMENDMENTS

Case 20070356 Den Mac, LLC Rezoning - Virgil Freeman on behalf of Den-Mac, LLC is requesting to rezone the property located at 200 Den Mac Drive from Conditional Use General Business. Development Services Director John Spear reported that the Planning Commission has unanimously recommended approval of the map amendment after discussing permitted uses that would be allowed in the B-3 zoning district.

On a motion by Council member Pepin, seconded by Council member Spann, Council moved that the application is consistent with all objectives and policies for growth and development of the 2006 Boone Comprehensive Plan.

VOTE: Aye-All
 Nay-None
 Absent-1(Wilcox)

On a motion by Council member Mason, seconded by Council member Pepin, Council moved that the Town Council finds that this application is both reasonable and in the public interest for the following reasons: Supports Comprehensive Plan Sections 2.1.1; 2.1.2 and 2.2.2.

VOTE: Aye-All
 Nay-None
 Absent-1(Wilcox)

On a motion by Council member Mason, seconded by Council member Brantz, Council moved to approve the zoning map amendment.

VOTE: Aye-All
 Nay-None

Absent-1(Wilcox)

Case 20070392 Community Appearance Sports Fields & Parking Lighting - The Town of Boone is proposing a zoning text amendment to correlate the Town's UDO lighting standards with the Illuminating Engineering Society of North American (IESNA) standards relating to sports fields and to provide a broader range of illumination and more uniform lighting in parking areas as recommended by the Illuminating Engineering Society of North American (IESNA). Development Services Director John Spear reported that the Planning Commission had unanimously recommended approval of the text amendment after discussing the lighting standards for playoffs and specials events and the amortization of gas station canopy lighting. Council member Pepin suggested that the Community Appearance Commission review other commercial lighting also.

On a motion by Council member Mason, seconded by Council member Brantz, Council moved that he application is consistent with all objectives and policies for growth and development of the 2006 Boone Comprehensive Plan.

VOTE:Aye-All
Nay-None
Absent-1(Wilcox)

On a motion by Council member Mason, seconded by Council member Pepin, Council moved that the Town Council finds that this application is both reasonable and in the public interest for the following reasons: These standards are recommended by the Illuminating Engineering Society of North America (IESNA).

VOTE:Aye-All
Nay-None
Absent-1(Wilcox)

On a motion by Council member Mason, seconded by Council member Brantz, Council moved to adopt the following zoning text amendment:

PROPOSED TEXT AMENDMENT

Article XXII

Section 398. Lighting

[a] The purpose of this section is to regulate the intensity of exterior lighting. The intent is to prevent light from commercial developments from excessively illuminating the property in question, other properties, or the night sky.

[b] Only light fixtures which are categorized as full cut-off (FCO) fixtures shall be permitted, **except sportsfields fixtures which must comply with Section 398d.** ~~The use of fully shielded (FCO) floodlights are permitted but not encouraged.~~

[c] The following are specific standards for lighting intensity based upon the land use involved. Values are presented in allowable foot-candles (fc) maintained (measured horizontally) at grade and are to be averaged throughout the site to avoid hot spots, i.e. areas of extreme light intensity relative to the remainder of the site:

Land Use	Minimum	Maximum	Max. / Min. Uniformity Ratio
Pedestrian areas/sidewalks	0.2 fc	1.0 fc	
Building entries	1.0 fc	10.0 fc	
Street lighting	0.2 fc	1.0 fc	
Open Parking areas	0.2 fc to 0.9 fc	3.6 fc	4:1

Playgrounds		5.0 fc	
Sports Grounds		20.0 fc	
Site perimeter		0.5 fc	

~~[d]— Athletic fields must be illuminated with fixtures equipped with the manufacturer's glare control package. If the manufacturer does not offer a glare control package, the fixture specifications must be changed to a manufacturer that does offer a glare control package.~~

[d] Lighting for sportsfields and outdoor courts is generally in excess of general outdoor lighting levels. Recreation lighting levels established by the IESNA are to be used as the standard. Higher lighting levels for tournament or high league play are sometimes required and must be approved by the Community Appearance Commission. All sportsfields or tennis courts must meet the following minimum standards.

2.

- [1] Fixtures must be fitted with the manufacturer's glare control package. If the manufacturer does not have a glare control package, the fixture specification must be changed to a manufacturer that offers a glare control package.**
- [2] Lighting shall be extinguished no later than one hour after the event ends.**
- [3] Fixtures must be designed with a sharp cutoff and aimed so that their light beams fall within the primary playing area and the immediate surroundings, so that off-site direct illumination is significantly restricted.**

[e] Gas station canopies shall be illuminated at a maximum illuminance of 30 fc and individual fixtures shall be flush mounted or have the canopy edge below the lowest light-emitting point on the fixtures. All existing gas station canopies which exceed this standard shall be made compliant within seven (7) years of the date of adoption of this article.

[f] Up-lighting may be used to illuminate a building, landscaping element or architectural feature, provided the lighting design has a maximum illuminance of 12 fc, measured in a vertical plane. Down lighting is preferred.

[g] Parking decks and covered parking areas must conform to IESNA standards.

VOTE: Aye-All

Nay-None

Absent-1(Wilcox)

ADOPTION OF RESOLUTION - FIXING DATE OF PUBLIC HEARING ON DEN-MAC ANNEXATION

Development Services Director John Spear said this is the second step in the petition annexation request of 4.47 acres of property located at the corner of Brook Hollow and Bamboo Roads. On a motion by Council member Mason, seconded by Council member Brantz, Council moved to adopt the following resolution:

**RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION
OF ANNEXATION PURSUANT TO G.S. 160A-58.2
(DEN MAC ANNEXATION)**

WHEREAS, a petition requesting annexation of the non-contiguous area described herein has been received; and

WHEREAS, the Town Council has by resolution directed the Town Clerk to investigate the sufficiency of the petition; and

WHEREAS, certification by the Town Clerk as to the sufficiency to the petition has been made;

NOW, THEREFORE, BE IT RESOLVED, by the Town Council of the Town of Boone, North Carolina that:

Section 1. A public hearing on the question of annexation of the non-contiguous area described herein will be held at Council Chambers on Blowing Rock Road at 6:30 p.m. on September 20, 2007.

Section 2. The area proposed for annexation is described as follows:

Begin at the Southwestern corner of Parcel I, Den-Mac, LLC Subdivision as per the plat thereof recorded in Plat Book 15, at Page 146, Watauga County, Registry, and being a point in the Northern boundary line of the New River Capital, Inc. parcel as described in Deed Book 317, at Page 638, Watauga County, Registry, also being the Southeastern corner of the Den-Mac, LLC parcel as described in Book of Records 1296, at Page 402; thence N.69°14'23"W. along the Northern boundary line of said New River Capital, Inc. and the Southern Boundary line of said Den-Mac parcel, 60.84'; thence N.21°53'16"E. along the Eastern boundary line of said New River Capital parcel and the Western boundary line of said Den-Mac parcel 277.61' to a point in the centerline of Brook Hollow Road (NCSR 1614) 50' R/W; thence Northeasterly along the centerline of said Brook Hollow Road the following two courses and distances, (1) N.77°16'21"W., 73.63', and (2) N.77°09'53"E., 308.36' to intersect the centerline of Bamboo Road, 60' R/W, (NCSR 1514), also being a point on a concave curve to the Northeast which center bears S.81°02'22"E., 325.00', and having a central angle of 89°13'53"; thence Southeastwardly along the arc of said curve and the centerline of said Bamboo Road, 506.15'; thence S.87°49'56"E. continuing along the centerline of said Bamboo Road, 27.64' to the Southeastern corner of said Parcel I and the Northeastern corner of aforementioned New River Capital Parcel, Inc.; thence Westerly along the Southerly boundary line of said Parcel I in common with said Northern boundary line of the New River Capital, Inc. parcel and departing from the centerline of said Bamboo Road the following six courses and distances, (1) S.85°36'39"W., 46.84', (2) S.86°32'12"W., 62.66', (3) S.86°36'08"W., 128.41', (4) S.57°26'25"W., 150.93', (5) N.83°00'21"W., 262.64', and (6) N.69°14'23"W., 108.17' to the Point of Beginning and containing 4.47 Acres as computed by coordinate geometry according to a survey performed by Municipal Engineering Services Company, P.A. d/b/a Skyline Surveyors in January 2006 under the direct supervision of Walter R. McCracken, III, PLS, L-3832, Drawing Dated 25 June 2007, Job No.B06019, Description Dated 25 June 2007.

Section 3. Notice of public hearing shall be published once in the Watauga Democrat, a newspaper having general circulation in the Town of Boone, at least ten (10) days prior to the date of the public hearing.

ATTEST:		
		Mayor
Clerk		

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE 41)

VOTE: Aye-All
 Nay-None
 Absent-1(Wilcox)

DISCUSSION OF WATAUGA COUNTY'S COMMITMENT TO THE ELK MOTEL SEWER LINE EXTENSION

Mr. Floyd Garrison appeared before Council to encourage members to work with the County on the installation of the sewer line to the Elk Motel. Watauga County committed to one-third of the installation cost installation if 1) the County receives one-half of the revenues generated from the line; 2) the Town will agree to extend water and sewer lines, at half the cost, to the affordable housing project near Brookshire Park, and 3) Mr. Garrison will agree to place a Deed of Trust on the Elk Motel, payable to the County, to secure the County's investment. Mr. Garrison said he has no problem with the Deed of Trust requirement, but that he could not guarantee future

happenings. Council member Mason questioned Mr. Garrison on his fundraising efforts. Mr. Garrison said he is at a standstill until a final decision is made regarding the installation. Public Utilities Director Rick Miller clarified that the County will receive one-half of all revenues for any future connections to the line. Mr. Miller also presented an estimate for installation of water and sewer lines to the Brookshire Park affordable housing project at a cost of \$318,856 for water and \$399,272 for sewer. Town Attorney Sam Furgiuele pointed out there is no state law that authorizes the sharing of revenues. Council member Mason said, after talking with the Health Department today, she feels this is a potential public health issue and that two member of Council should meet with two members of the County Commissioners to resolve this matter. On a motion by Council member Mason, seconded by Council member Spann, Council moved to have Council members Mason and Brantz, along with the Town Attorney, Public Utilities Director, and a Health Department official, meet with two members of the Watauga County Board of County Commissioners.

VOTE:Aye-All
Nay-None
Absent-1(Wilcox)

PLANNING COMMISSION NOMINATIONS

On a motion by Council member Brantz, seconded by Council member Spann, Council moved to nominate Sheri Baker to the vacant ETJ position on the Planning Commission. The nomination will be forwarded to the County Commissioners for appointment.

VOTE:Aye-All
Nay-None
Absent-1(Wilcox)

BOARD OF ADJUSTMENT APPOINTMENT

On a motion by Council member Mason, seconded by Council member Pepin, Council moved to appoint William Thomas Herron to an alternate resident position on the Board of Adjustment. The term will expire June 30, 2008.

VOTE:Aye-All
Nay-None
Absent-1(Wilcox)

COMMUNITY APPEARANCE COMMISSION APPOINTMENT

On a motion by Council member Spann, seconded by Council member Brantz, Council moved to appoint Chad Jason Michael to a position on the Community Appearance Commission. The term will expire June 30, 2010.

VOTE:Aye-All
Nay-None
Absent-1(Wilcox)

APPOINTMENT OF COMMITTEE FOR RESPONSIBLE PET POPULATION

Mayor Clawson said she met with Kathy Copley of the Humane Society and both agreed that the Town should establish a committee for responsible pet population to review Town ordinances and make recommendations. Mayor Clawson asked for two Town Council members to serve with her on the committee. Council member Pepin volunteered. Council then appointed Council member Wilcox to serve, too. On a motion by Council member Mason, seconded by council member Pepin, Council moved to establish a time-limited committed for responsible pet population.

VOTE:Aye-All

Nay-None
Absent-1(Wilcox)

DISCUSSION OF A CITIZEN'S REPORT

Mayor Pro-Tem Mason commented that there is so much activity going on within the Town government that we should provide better communication to our citizens to make sure they are aware of exactly what is happening. Examples are the status of the water situation, the current greenway expansion, the Howard Street project, the 421 widening project and the upcoming smart growth audit. Council member Pepin suggested a quarterly report that could be emailed or mailed to citizens. Council member Spann suggested putting the report on the website. After some discussion on a motion by Council member Pepin, seconded by Council member Mason, Council moved to develop, with Staff, a quarterly report to be distributed via mail, email and website to inform the citizens of ongoing projects within the Town of Boone.

VOTE: Aye-All
Nay-None
Absent-1(Wilcox)

GREENWAY COMMITTEE RECOMMENDATIONS

Public Services Director Blake Brown reported that the Greenway Committee is recommending that the Town property, which is currently leased to the Humane Society, be converted to a dog park once the property is vacated. Council member Pepin asked who would be responsible for operating the park. Public Services Director Brown said the Greenway Committee did not discuss that matter. After some discussion on a motion by Council member Spann, seconded by Council member Mason, Council moved to explore the possibility of converting Town property, adjacent to the Greenway, into a dog park.

VOTE: Aye-All
Nay-None
Absent-1(Wilcox)

Public Services Director Blake Brown reported that the Greenway Committee is recommending that a greenway connector be constructed on or near the new high school property in order to allow the neighborhoods access to the greenway. Council member Spann felt that any access built should be for the neighborhood (not be a public access) and that the neighborhood should be agreeable to the connector. Mr. Brown suggested sending out a survey to the neighborhood residents to obtain their input on the matter. On a motion by Council member Pepin, seconded by Council member Spann, Council moved to explore the possibility of a greenway connector on or near the new high school property, as long as the neighborhood is involved.

VOTE: Aye-All
Nay-None
Absent-1(Wilcox)

GREENWAY COMMITTEE APPOINTMENTS

On a motion by Council member Brantz, seconded by Council member Mason, Council moved to appoint James Cleary to the Greenway Committee.

VOTE: Aye-All
Nay-None

APPROVAL OF CONTACT FOR FIRE STATION 1 RENOVATIONS

Fire Chief Reggie Hassler presented two informal bids for renovation at Fire Station #1. One bid was received from Vannoy Construction in the amount of \$90,000 and the other bid was received from Greene Construction in the amount of \$64,720. Council member Mason asked if the renovation would extend the garage portion out toward the sidewalk. Fire Chief Hassler said

yes. On a motion by Council member Pepin, seconded by Council member Brantz, Council moved to award the following contract to Greene Construction:

CONTRACT

STATE OF NORTH CAROLINA COUNTY OF WATAUGA

THIS CONTRACT, made and entered into this 30th day of July, 2007, by and between the TOWN OF BOONE, NORTH CAROLINA (HEREINAFTER REFERRED TO AS "TOWN") AND GREENE CONSTRUCTION, INC. (hereinafter referred to as "GREENE CONSTRUCTION").

WITNESSETH:

WHEREAS, Boone has requested proposals for renovations to Fire Station 1; and

WHEREAS, Greene Construction has submitted a proposal to the Town to complete described renovations at a price of \$64,720.00, the lowest proposal received by the Town; and

WHEREAS, Greene Construction has agreed to renovate Fire Station 1 and the Town has agreed to pay \$64,720.00 for the Fire Station 1 Renovations.

NOW, THEREFORE, in consideration of the mutual premises contained herein, as well as other good valuable consideration of the flowing between the parties, it is mutually agreed as follows:

1. The Proposal attached hereto as Exhibit 1 is incorporated herein by reference.
2. Greene Construction shall complete renovations to Fire Station 1 in accordance with the Proposal attached hereto as Exhibit 1.
3. The Town shall pay Greene Construction the sum of \$64,720.00 for said Fire Station 1 Renovations. This payment shall be made on the date Greene Construction completes said Fire Station 1 renovations.
4. Greene Construction shall guarantee the workmanship of its renovations for a period of 1 year from completion of renovations.
5. The Town is responsible for obtaining all Permits for completion of said renovations.
6. This Contract shall be governed by the laws of the State of North Carolina.
7. Any alteration or deviation involving extra costs will be executed only upon written change orders.
8. Greene Construction shall complete renovations to Fire Station 1 within 90 days from the date of contract.

VOTE: Aye-All

Nay-None

SCHEDULING OF SPECIAL MEETING

On a motion by Council member Brantz, seconded by Council member Mason, Council moved to schedule a special meeting for Tuesday, September 4th at 5:00 p.m. in order to meet with ASU officials.

VOTE: Aye-All

Nay-None

APPROVAL OF CONTRACT FOR RAINBOW TRAIL WATER TANK DESIGN

Public Utilities Director Rick Miller said this is the first step in replacement of the Rainbow Trail water tank. The contract provides for the design and construction administration of the tank replacement. On a motion by Council member Brantz, seconded by Council member Pepin, Council moved to approve the following contract with Hobbs, Upchurch & Associates:

CONTRACT

Hobbs, Upchurch and Associated, P.A. (ENGINEER) appreciates the opportunity to submit this proposal for engineering services to the Town of Boone (OWNER) for the coordination and planning, surveying, design, permitting, and construction administration of the proposed 1,000,000 gallon Highway 194 ground storage tank replacement. Our project understanding and scope of services is as follows:

PROJECT UNDERSTANDING

Hobbs, Upchurch & Associates shall design a 1,000,000 gallon storage tank to be located adjacent to the existing tank off of Rainbow Trail. HUA shall coordinate the tank design, inlet piping, tank drain, and all other appurtenances with the Town of Boone. HUA shall coordinate geotechnical services not to exceed \$5,000 to be reimbursed by the Town of Boone.

SCOPE OF ENGINEERING SERVICES

Listed below is the Scope of Services divided into 5 (five) categories to be provided for the execution of this project:

I. Surveying

Hobbs, Upchurch & Associates will provide topographical surveys suitable for the design of the tank, site piping and site layout, and all associated features. The surveying activities will also identify the need and prepare easements, deeds, and plat maps for the acquisition of property as required for the proposed improvements.

HUA shall field verify existing infrastructure including previously installed waterlines to ensure compliance with regulations and constructability of the project. Any additional alignment and topographical surveys will also be provided as required.

Upon OWNER approval, HUA shall provide design plans and specifications suitable for permitting, bidding, and construction. This item shall be bid contingent upon funding availability.

II. Design Plans and Specifications

The design will include preparation of detailed plans for a 1,000,000 gallon ground storage tank as required for construction and permitting. The plans shall be complete, meeting all the requirements for the permitting, bidding, and construction processes. The specifications and instructions shall also provide for the contractor to include demolition, abandonment, and/or protection of existing facilities as requested by the OWNER. HUA understands the existing ground storage tank is proposed to be demolished to the existing slab. The design will also include all necessary hydraulic and structural calculations required by NC DENR, NC DOT and all other parties in the review of the project.

III. Permitting

Hobbs, Upchurch & Associates will provide all coordination with permitting agencies associated with the project. The coordination will involve the submittal and obtaining of approval for all permit applications to all permitting agencies; including FAA, NC DENR Division of Water Quality (DWQ) and Division of Lane Resources (DLR), as well as the NC Department of

Transportation and the Town of Boone Street Maintenance Department. Coordination will continue through the bidding, construction, and final approval of the project.

IV. Contract Administration

Hobbs, Upchurch & Associates will generally administer the terms of the contract by providing contract coordination including preparation of bid documents, issuance of addenda as necessary, and assistance with the evaluation and award of bids to contractors and subcontractors. HUA will hold a preconstruction meeting when the Notice of Award has been prepared and approved by the Town to ensure that the Contractor, Owner, and Engineer are all in agreement about what is expected from the subject project. HUA shall monitor timely performance of CONTRACTORS, notify the CONTRACTOR in writing if subject project construction deadlines are not met and impose liquidated damages on the CONTRACTOR if construction completion deadline is not met.

V. Construction Inspection and Certification

Hobbs, Upchurch & Associates will provide construction administration and inspection services as required to ensure quality construction and prepare as-built drawings as required for certification by the permitting agencies and to insure construction as required by the plans and specifications.

HUA shall review and grant approval of all shop drawings prior to the commencement of construction. HUA shall review and verify all quantities submitted in partial payment applications and provide to the OWNER Certified Pay Estimates by the 5th of each month. HUA shall coordinate all field modifications through the HUA onsite Field Engineer, which shall be verified through the HUA Project Engineer. If subsequent field modifications should result in a change order then HUA will issue change orders as required with OWNER approval.

PROPOSED FEE

In consideration for the ENGINEER's services, the OWNER (Town of Boone) agrees to pay the ENGINEER a cost not to exceed of \$79,000.00. The Fee was established using the Man Day Estimate and fee schedule for services to be provided that is attached to this contract.

ADDITIONAL SERVICES

Any work not specifically listed will be performed on a basis to be negotiated prior to the accomplishment of the work or in accordance with the attached Hourly Rate Schedule.

SCHEDULE

The ENGINEER shall complete the design within a reasonable time period, not to exceed sixty (60) days following the execution of this agreement, based on the date of acceptance by the OWNER.

STANDARD TERMS AND CONDITIONS

In the event the ENGINEER has not performed according to the terms of the Agreement, for any reason, including but not limited to substantial and unjustified delays in work without approval of the OWNER, the ENGINEER is found incapable to performing the class of work specified, or other breach of the terms of the agreement, the OWNER may in its sole discretion declare the ENGINEER in default of the terms of this Agreement. Upon declaration by the OWNER of default of the ENGINEER, the OWNER shall furnish written notice of such default at the last known address which the ENGINEER has provided to the OWNER. If the ENGINEER has not satisfied such default within ten (10) days from the date of default, the OWNER shall consider the Agreement terminated and in such termination agree to pay the ENGINEER for work performed, with the OWNER reserving unto itself any and all rights to damages or other relief allowable by law. The failure of the OWNER at any time to require performance by the ENGINEER of any provision hereof shall in no way affect the right of the OWNER hereafter to enforce same.

Payment shall be made on the basis of monthly invoices submitted to the OWNER by the ENGINEER as the project progresses. All invoices are due and payable upon receipt. Owner shall pay each invoice in full within 30 days of the date of the invoice. Invoices are subject to review prior to payment by OWNER to ENGINEER.

VOTE: Aye-All

Nay-None

APPROVAL OF CONTRACT FOR TRACY CIRCLE PHASE 1 DESIGN

Public Utilities Director Rick Miller said replacement of a portion of the Tracy Circle sewer lines is included in the five-year capital improvement plan which was adopted in 2003. This contract will provide for the design and construction administration for that project. On a motion by Council member Brantz, seconded by Council member Mason, Council moved to adopt the following contract with Hobbs, Upchurch & Associates:

CONTRACT

Hobbs, Upchurch and Associates, P.A. (ENGINEER) appreciates the opportunity to submit this proposal for engineering services to the Town of Boone (OWNER) for the coordination and planning, surveying, design, permitting, and construction administration of the proposed Tracy Circle and Edgewood Drive Sanitary Sewer Main Upgrade. Our project understanding and scope of services is as follows:

SCOPE OF ENGINEERING SERVICES

Listed below is the Scope of Services divided into 5 (five) categories to be provided for the execution of this project:

I. Surveying

Hobbs, Upchurch & Associates will provide topographical surveys suitable for design of the sanitary sewer system and all associated features. The surveying activities will also identify the need and prepare easements, deeds, and plat maps for the acquisition of property as required for the proposed improvements.

HUA shall field verify existing infrastructure including previously installed waterlines and known locations of existing sewer lines to ensure compliance with regulations and constructability of the project. Any additional alignment and topographical surveys will also be provided as required.

Upon OWNER approval, HUA shall provide design plans and specifications suitable for permitting, bidding, and construction. This item shall be bid contingent upon funding availability.

II. Design Plans and Specifications

The design will include preparation of detailed plans for approximately 3600LF of gravity sewer as shown on the *Tracy Circle and Edgewood Drive Cost Estimate* drawing as required for construction and permitting. The plans shall be complete, meeting all the requirements for the permitting, bidding, and construction processes. The specifications and instructions shall also provide for the contractor to include demolition, abandonment, and/or protection of existing facilities as requested by the OWNER. The design will also include all necessary hydraulic and structural calculations required by NC DENR, NC DOT and all other parties in the review of the project.

III. Permitting

Hobbs, Upchurch & Associates will provide all coordination with permitting agencies associated with the project. The coordination will involve the submittal and obtaining of approval for all permit applications to the permitting agencies: including NC DENR Division of Water Quality

(DWQ) and Division of Land Resources (DLR), as well as the NC Department of Transportation and the Town of Boone Street Maintenance Department. Coordination will continue through the bidding, construction, and final approval of the project.

IV. Contract Administration

Hobbs, Upchurch & Associates will generally administer the terms of the contract by providing contract coordination including preparation of bid documents, issuance of addenda as necessary, and assistance with the evaluation and award of bids to contractors and subcontractors. HUA will hold a preconstruction meeting when the Notice of Award has been prepared and approved by the Town to ensure that the Contractor, Owner, and Engineer are all in agreement about what is expected from the subject project. HUA shall monitor timely performance of CONTRACTORS, notify the CONTRACTOR in writing if subject project construction deadlines are not met and impose liquidated damages on the CONTRACTOR if construction completion deadline is not met.

V. Construction Inspection and Certification

Hobbs, Upchurch & Associates will provide construction administration and inspection services as required to ensure quality construction and prepare as-built drawings as required for certification by the permitting agencies and to insure construction as required by the plans and specifications. HUA expected project construction time is approximately 120 days with project bid expected to occur in January and commence construction in February.

HUA shall review and grant approval of all shop drawings prior to the commencement of construction. HUA shall review and verify all quantities submitted in partial payment applications and provide to the OWNER Certified Pay Estimates by the 5th of each month. HUA shall coordinate all field modifications through the HUA onsite Field Engineer, which shall be verified through the HUA Project Engineer. If subsequent field modifications should result in a change order then HUA will issue change orders as required with OWNER approval.

PROPOSED FEE

In consideration for the ENGINEER's services, the OWNER (Town of Boone) agrees to pay the ENGINEER a cost not to exceed of \$93,700.00. The Fee was established using the Man Day Estimate and fee schedule for services to be provided that is attached to this contract.

ADDITIONAL SERVICES

Any work not specifically listed will be performed on a basis to be negotiated prior to the accomplishment of the work or in accordance with the attached Hourly Rate Schedule.

SCHEDULE

The ENGINEER shall complete the design within a reasonable time period, not to exceed ninety (90) days following the execution of this agreement, based on the date of the acceptance by the OWNER.

STANDARD TERMS AND CONDITIONS

In the event the ENGINEER has not performed according to the terms of the Agreement, for any reason, including but not limited to substantial and unjustified delays in work without approval of the OWNER, the ENGINEER is found incapable of performing the class of work specified, or other breach of the terms of the agreement, the OWNER may in its sole discretion declare the ENGINEER in default of the terms of this Agreement. Upon declaration by the OWNER of default of the ENGINEER, the OWNER shall furnish written notice of such default at the last known address which the ENGINEER has provided to the OWNER. If the ENGINEER has not satisfied such default within ten (10) days from the date of the default, the OWNER, shall consider the Agreement terminated and in such termination agree to pay the ENGINEER for work performed, with the OWNER reserving unto itself any and all rights to damages or other relief allowable by law. The failure of OWNER at any time to require performance by the

ENGINEER of any provision hereof shall in no way affect the right of the OWNER hereafter to enforce same.

Payment shall be made on the basis of monthly invoices submitted to the OWNER by the ENGINEER as the project progresses. All invoices are due and payable upon receipt. Owner shall pay each invoice in full within 30 days of the date of the invoice. Invoices are subject to review prior to payment by OWNER to ENGINEER.C

VOTE:Aye-All
Nay-None

MONTHLY WATER USE STATUS REPORT

Public Utilities Director Rick Miller presented the following monthly water use 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 2.104 million gallons on Wednesday, July 11, 2007, and the average daily demand was 1.777 million gallons for the entire month.

Attached you will find a chart that depicts a comparison of the maximum daily demands for the month of July since 1995. Included is an average trend line that illustrates the extent the maximum daily demand has increased during the last thirteen years.

As adopted in Ordinance 05-01, the Town of Boone Council has appropriated for 25,000 gallons per day usage for year 2007 for allocation to customers. Council chose to allocate 4,800 gallons from 2007 and after adding back the 6,788 gallons carried over from 2006, a balance of 25,943 gallons remaining for allocation in 2007.

Since the last Town Council meeting the Public Utilities approved three projects that subtracted 510 gallons per day from the 2007 allotment. The total water allotment remaining for the year 2007 has not broken the sixty percent threshold. All future water service requests in excess of 3000 gallons per day usage will be forwarded to Town Council as required in Ordinance 05-01.

As you can see in the attached “Approved Water Connections” chart, the Public Utilities Department now has 15,712 gallons per day remaining for allotment in 2007 and 15,991 gallons remaining for 2008.

Staff Approved	Date	Projected Usage	Approved Water Connections	Date	Projected Usage	Remaining Gallons
			2007			
			Watauga County	Nov-06	4800	25000
			2006 Balance Carry Over	Jan-07	6788	20200
Park Street Subdivision	Jan-07	850				26988
Steven Airey	Jan-07	195				26138
Boone Mall	Jan-07	439				25943
Sarvos Properties	Feb-06	2100				25504
			Jamus FLP	Feb-06	4209	27604
Mauldin Chiropratic	Feb-07	69				23395
Ross Chrysler	Feb-07	60				23326
A-Z	Feb-07	900				23266
						22366

Enterprises						
			Fatbellies LLC	Mar-06	3750	18616
High Country Bank	Mar-07	450				18166
Enterprise Leasing	Mar-07	45				18121
James Maltba	Mar-07	31				18090
Dana Willet	Jun-05	450				18540
Dana Willet	Jul-05	150				18690
HW Partners	May-07	45				18645
Hoan Nguyen	May-07	283				18362
			CCC&TI	Jun-06	1650	16712
Jeff Templeton Rentals	Jul-07	490				16222
ECHO Prop LLC	Jul-07	270				15952
Karl Pond	Jul-07	90				15862
Winklers Creek Assoc.	Jul-07	150				15712
			2008			
Staff Approved	Date	Projected Usage	Council Approved	Date	Projected Usage	Remaining Gallons
						25000
			Watauga County	Nov-06	4800	20200
			Jamus FLP	Feb-07	4209	15991

Council member Mason asked about the current drought situation. Public Utilities Director Miller said his department is monitoring the situation daily and that the Council may have to implement Phase II water conservation measures within the month.

APPROVAL OF BUDGET AMENDMENTS

On a motion by Council member Pepin, seconded by Council member Mason, Council moved to adopt the following budget amendments:

DESCRIPTION	ACCOUNT #	TO:	FROM:
Capital Outlay-Other Improvements (Fire S	010-406-000-574001		
Transfer from Capital Reserve-Land	010-000-000-498016		
Wide Area Network	010-411-000-549102		
Appropriated Fund Balance-GF	010-000-000-499900		
Miscellaneous Revenue	010-000-000-489900		
Transfer to Law Enforcement Pension Trus	010-500-300-598042		
Appropriated Fund Balance-GF	010-000-000-499900		

VOTE: Aye-All
Nay-None

Mayor Clawson declared a break at 7:45 p.m. Council reconvened at 7:56 p.m.

REQUESTED APPEARANCE - CARL WINSTEAD

Town Attorney Sam Furgiuele opened the public hearing at 7:57 p.m. to hear testimony from local attorney Don Watson, who was representing Mr. Winstead on his request for a 60-day time extension for a water and sewer allocation for the Glen Wilde LLC office building, Phase II. Sworn testimony was received from Public Utilities Director Rick Miller and Development Services Director John Spear. Mr. Watson explained that the contractors have submitted a building permit application which must be completed within 60 days. Mr. Watson expects the building permits to be issued once a pre-construction meeting is held. Town Attorney Furgiuele questioned the expiration date of the special-use permit. Development Services Director John Spear confirmed that the building permit application has been approved and the actual permit will be issued once a pre-construction meeting is held. Council member Pepin asked if the pre-construction meeting could be held within 60 days. Development Services Director Spear said yes, that his department has been waiting for the contractor action for several months now. There being no further testimony, the hearing closed at 8:05 p.m. On a motion by Council member Wilcox, seconded by Council member Mason, Council moved to extend the water and sewer allocation to the Glen Wilde Phase II for an additional 60 days.

VOTE: Aye-All
Nay-None

REQUESTED APPEARANCE - RON & JOYCE DUNBAR

Town Attorney Sam Furgiuele opened the public hearing at 8:06 p.m. to hear sworn testimony from Joyce Dunbar and Public Utilities Director Rick Miller about a request for water and sewer extension to property located at 199 US Highway 421 East. Town Attorney Sam Furgiuele asked when the special use permit for the project expires. Mr. Dunbar said the special use permit for that project expires in January, 2009 and that she is requesting that the water and sewer allocation coincide with that date. Council member Pepin asked if the availability fees had been paid for the project. Ms. Dunbar said she has paid half of the availability fees. There being no further testimony the public hearing closed at 8:10 p.m. On a motion by Council member Brantz, seconded by Council member Spann, Council moved to grant the water and sewer allocation extension to coincide with the special use permit expiration date of January, 2009, contingent upon the remaining availability fees being paid.

VOTE: Aye-All
Nay-None

REQUESTED APPEARANCE - ANDREW WADE

Town Attorney Sam Furgiuele opened the public hearing at 8:12 p.m. to hear sworn testimony from Andrew Wade and Public Utilities Director Rick Miller on a water and sewer request to property located off Highway 105 adjacent to Zippis Amoco. Mr. Wade presented a powerpoint (**EXHIBIT A**) which exhibited Mr. Wade's plans for two-bay automatic and six-do-it-yourself carwash bays. Mr. Wade reported that he estimates the car wash will use about 6,035 gallons of water per day, but that he plans to install a water reclamation system which will reclaim about 4,280 gallons of water per day, making the net use of water to about 1,755 gallons of water per day. The Town has estimated a use of 8,856 gallons per day according to the discharge schedule. Mr. Wade testified that most larger municipalities in North Carolina require that water reclamation systems be installed in car washes and that he considers this car wash to be environmentally friendly. Town Attorney Sam Furgiuele asked Mr. Wade if he plans to purchase the property. Mr. Wade said he currently has a contract to purchase. Council member Spann asked Mr. Wade if he plans to actually install the reclamation system. Mr. Wade said yes. Council member Brantz questioned if the Town must use the discharge schedule in the ordinance when determining the allocation. Public Utilities Director Rick Miller said yes, that according to Ordinance 05-01 the Town must allocate water according to the discharge schedule; then after one year of actual useage, the allocation may be adjusted. Council member Wilcox asked if availability fees would be based on the discharge schedule rate. Mr. Miller said yes, but that a variance could be requested in this case. There being no further testimony, the public hearing closed at 8:21 p.m. On a motion by Council member Mason, seconded by Council member Brantz, Council moved to approve the water and sewer request of 8,856 gallons of water.

VOTE: Aye-All
Nay-None

REQUESTED APPEARANCE - BELLSOUTH/AT&T

This request was moved to the September 20th meeting.

REQUESTED APPEARANCE - RITCHIE JACOBS

Mr. Ritchie Jacobs, Vice-President of the Downtown Boone Development Association, appeared before Council to request additional police protection downtown during the evenings. Mr. Jacobs specifically requested an additional police officer from 2:00 to 9:00 p.m. during the spring, summer and fall months. Council member Wilcox agreed that the second largest complaint about the downtown area is panhandling, with parking being the first complaint. Council member Wilcox felt the DBDA's request was reasonable and suggested that Chief Post explore what resources would be needed to supply this additional officer. Chief Post responded that an additional officer is starting today and will be on duty until 9:00 p.m. Chief Post said the opening of the methadone clinic and the new bus service from Greensboro are presenting an influx of undesirables in the downtown area. Chief Post said he would request an additional position for next year's budget that would cover problem areas. Mayor Clawson encouraged citizens to call the Police Department with all incidents, no matter how minor.

PUBLIC COMMENT

Mr. Phil Templeton appeared before Council to say that he was delighted to see that Town Council is discussing the role of the Town Attorney in the Board of Adjustment meeting during Closed Session.

CLOSED SESSION

On a motion by Council member Wilcox, seconded by Council member Pepin, Council moved to enter Closed Session at 8:40 p.m., pursuant to NCGS 143-318.11a)3)5) in order to discuss the role of the Town Attorney at the Board of Adjustments meetings and property acquisition for water.

VOTE: Aye-All
Nay-None

On a motion by Council member Mason, seconded by Council member Pepin, Council moved to exit Closed Session at 9:42 p.m.

VOTE: Aye-All
Nay-None

REQUESTED APPEARANCE - DONALD DOTSON

Town Attorney Sam Furgiuele opened a public hearing at 9:44 p.m. to hear sworn testimony from Donald Dotson and Public Utilities Director Rick Miller on a sewer-only request for property located off Highland Hall Road. Mr. Dotson said he plans to construct a two-bedroom house on a 100' lot. Staff provided a memorandum recommending denial of the request because the sewer line is only a 4" line and must be upgraded before allowing another connection. Council member Mason asked Mr. Dotson if he would be willing to upgrade the line at his expense. Mr. Dotson said yes, that he was well aware of the costs associated with connecting to the sewer line. Mr. Dotson then reported that the Highland Hall nursing home was recently closed, even though there was no official announcement of that closure. Public Utilities Director Rick Miller said if the nursing home is actually closed, it would relieve some of the load on the line and that he would feel more comfortable in allowing this sewer connection. Council member Mason questioned how much the sewer line upgrade would cost. Public Utilities Director Rick Miller said it would be very expensive, estimating that it would cost close to \$75,000. Council member Spann asked if connecting this residence would tax the line. Public Utilities Director Miller said not until the nursing home reopens. After some discussion regarding the future of the nursing home, Council member Mason made a motion to deny the water request, since there is no line in this area. Council member Brantz seconded.

VOTE: Aye-All
Nay-None

On a motion by Council member Mason, seconded by Council member Spann, Council moved to allow the sewer-only connection, contingent upon the nursing home actually being closed.

VOTE: Aye-All
Nay-None

REQUESTED APPEARANCE - COMPTON FORTUNA

Ms. Compton Fortuna, Director of the Watauga County Hunger Coalition, appeared before Council to request a funding allocation of \$15,000 from the 2007/2008 budget. Ms. Fortuna said due to miscommunication between her office and the office of the Clerk, she missed the deadline for submitting a funding application to the Town. Ms. Fortuna then presented statistics on her agency and said it provides food and pharmacy assistance in the area, with 42% of the people served living within Boone. Ms. Fortuna noted there is no other agency within the County that provides food assistance. Council member Pepin expressed her concern about a compromise of the entire funding process. Council member Pepin said the Town will set a precedent and the allocation would not be fair to all the other agencies who followed the new funding application process. Council member Mason suggested having the outside agency funding committee review the application, score it, and if any funds remain at the end of the fiscal year, the allocation could then be made. Council member Wilcox said that since this was the first year of the new process and that it could have been a clerical error on the Town's part, the agency should be penalized and allocated only \$12,000. Council member Spann agreed that the outside agency funding committee should review the application first. On a motion by Council member Mason, seconded by Council member Brantz, Council moved to have the outside agency funding committee review the application and send a report to the September 20th meeting.

VOTE: Aye-4(Brantz, Mason, Spann, Wilcox)
Nay-1(Pepin)

ADJOURNMENT

On a motion by Council member Wilcox, seconded by Council member Brantz, Council moved to adjourn at 10:00 p.m.

VOTE: Aye-All
Nay-None

Town Clerk

Mayor