

**MINUTES - SPECIAL MEETING  
BOONE TOWN COUNCIL  
JULY 31, 2008**

A special meeting of the Boone Town Council was called to order at 4:06 p.m., Thursday, July 31, 2008, in the Commissioners Board Room, 842 West King Street. Mayor Loretta Clawson presided. Council Members present were Mayor Pro-Tem Lynne Mason, Liz Aycock, Janet Pepin, Rennie Brantz, and Stephen Phillips. Staff members present were Greg Young-Town Manager, Kimberly Brown-Deputy Town Clerk, Rick Miller-Public Utilities Director, Blake Brown-Public Works Director, John Spear-Development Services Director and Bill Post-Chief of Police. Town Attorney Sam Furguele was in attendance. County Commissioners present were Chairman Jim Deal, Vice-Chairman Billy Ralph Winkler, Winston Kinsey, and Mary Moretz. Representatives from the NC Department of Transportation present were Michael Pettyjohn, PE-Division Engineer; Trent Beaver, PE-Division Construction Engineer; Charles Rhinehardt, PE-Division Maintenance Engineer; Michael Poe, PE-District Engineer; Dean Ledbetter, PE-Division Traffic Engineer; Daniel Adams, PE-Deputy Division Traffic Engineer; Jimmy Hamrick, PE-Regional Traffic Engineer; Scott Blevins, PE-State Engineering Coordinator; and Steve Trexler-Area Utility Agent. Mr. Arnold Lakey of the Board of Transportation Committee was also present.

Mayor Clawson welcomed all in attendance and invited Mr. Michael Pettyjohn of the NC DOT to begin discussion of the first item on the agenda.

**DISCUSSION AND POSSIBLE ACTION ON THE PROPOSED HIGHWAY 105 IMPROVEMENT PROJECT**

Jimmy Hamrick, Regional Traffic Engineer, presented a power-point display on the proposed improvements to Highway 105 (**copy permanently on file at Town Hall**). Discussion ensued concerning the effects of the proposed medians and left-turn lanes on traffic flow and access to businesses along Highway 105. Several concerns were voiced regarding traffic back-ups due to the limited amount of space for stacking traffic for the left-turn access points. Discussion ensued concerning the use of traffic signals to control the volume of traffic rather than the use of medians and left-turn restrictions. It was the consensus of the Council that a feasibility study be conducted for the installation of a traffic signal at the intersection of Highway 105 and Poplar Grove Road North as a means to improve safety and mobility along the highway. Members of the Watauga County Board of Commissioners agreed that safety must be the top priority in determining what improvements are applied to Highway 105. Council invited comments from individuals and owners of businesses along Highway 105 concerning any proposed improvements to this corridor and will forward all comments received to NC DOT officials.

Mayor Clawson declared a break at 5:33 p.m. Council reconvened at 5:40 p.m.

**DISCUSSION AND POSSIBLE ACTION ON THE 421 WIDENING PROJECT AMENITY COSTS**

Town Manager Greg Young stated Council had postponed action on the contract with the NC DOT for water and sewer line relocation and sidewalk construction. Discussion ensued concerning the costs associated with burying utilities underground. Included in the discussion was an option to eliminate aerial cross lines along the project with the exception of the crosslines at the intersection at the New Market center. Mr. Pettyjohn explained that this option would reduce the costs incurred by the Town especially if Town resources were used to place underground conduit systems in the necessary areas crossing the roadway. In regard to the placement of street lights, officials of the NC DOT pointed out that the Town will incur the cost of installing streetlights and must adhere to NC DOT standards. In regard to sidewalks, Council Member Mason confirmed that the cost for sidewalk installation to be paid by the Town will be for the southbound side only since the NC DOT must pay for replacing the existing sidewalks along the northbound side of the highway. Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to approve the following contract for water and sewer line relocation and sidewalk adjustments:

NORTH CAROLINA DEPARTMENT  
OF TRANSPORTATION

MUNICIPAL AGREEMENT

AND

TOWN OF BOONE

PROJECT: U-4020  
WBS: 35015.3.1

THIS MUNICIPAL AGREEMENT is made and entered into on the last date executed below, by and between the Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the "Department", and the Town of Boone, a municipal corporation, hereinafter referred to as the "Municipality";

WITNESSETH:

WHEREAS, the Department has plans to make certain street and highway constructions and improvements within the Municipality under Project U-4020, Watauga County, and,

WHEREAS, the Department and the Municipality have agreed that the corporate limits of the Municipality, as of the date of the awarding of the contract for the construction of the above-mentioned project, are to be used in determining the duties, responsibilities, rights and legal obligations of the parties hereto for the purposes of this Agreement; and

WHEREAS, the Municipality and the Department of are authorized by the following legislation: General Statutes of North Carolina, Section 136-66.1, Section 160A-296 and 297, Section 136-18, and Section 20-169, to participate in the planning and construction of a Project approved by the Board of Transportation for the safe and efficient utilization of transportation systems for the public good; and

WHEREAS, the parties to this Agreement have approved the construction of said Project with cost participation and responsibilities for the Project as hereinafter set out.

NOW, THEREFORE, the parties hereto, each in consideration of the promises and undertakings of the other as herein provided, do hereby covenant and agree, each with the other, as follows:

**SCOPE OF THE PROJECT:**

1. This project consist of the roadway improvements from along US 421 (King Street) from US 321 (Hardin Street) to east of NC 194 (Jefferson Road) in Boone.

**PLANNING, DESIGN, AND RIGHT OF WAY:**

2. The Department shall prepare the environmental and/or planning document, and obtain any environmental permits needed to construct the Project, prepare the Project plans and specifications, administer and/or award the construction contract, and supervise Project construction. All work shall be done in accordance with departmental standards, specifications, policies and procedures.
3. The Department shall be responsible for acquiring any needed right of way required for said Project. Acquisition of right of way shall be accomplished in accordance with policies and procedures set forth in the North Carolina Right of Way Manual.

**UTILITIES:**

4. The Municipality, without any cost or liability whatsoever to the Department, shall relocate and adjust all municipally-owned utilities in conflict with the Project and shall exercise any rights which it may have under any franchise to effect all necessary changes, adjustments, and relocations of telephone, telegraph, and electric power lines; underground cables, gas lines, and other pipelines or conduits; or any privately- or publically-owned utilities.
  - (A) Said work shall be performed in a manner satisfactory to the Department prior to the Department beginning construction of the Project. The Municipality shall make every effort to promptly relocate said utilities in order that the Department will not be delayed in the construction of the Project.

- (B) The Municipality shall make all necessary adjustments to house or lot connections or services lying within the right of way or construction limits, whichever is greater, of the Project.
- (C) The Department, where necessitated by construction, will make vertical adjustments if two (2) feet or less to the existing manholes, meter boxes, and valve boxes at no expense to the Municipality.
- (D) If applicable, the Department shall reimburse the Municipality in accordance with the Municipality-Owned Utility Policy of the Department approved by the Board of Transportation.
- (E) If the Municipality requests the Department to include the relocation and/or adjustment of municipally owned utilities in its construction contract provisions, the Municipality shall reimburse the Department all costs associated with said relocation. The current estimated costs of this relocation is \$125,000 (estimate based on preliminary plans). Reimbursement will be based on final project plans and actual costs of relocation. If a request is received from the Municipality, a separate Utility Agreement will be prepared to determine the reimbursement terms and an updated cost estimate.

**CONSTRUCTION AND MAINTENANCE:**

- 5. The Department shall construct, or cause to be constructed, the Project in accordance with the plans and specifications of said Project as filed with, and approved by, the Department. The Department shall administer the construction contract for said Project.
- 6. It is further agreed that upon completion of the Project, the Department shall be responsible for all traffic operating controls and devices which shall be established, enforced, and installed and maintained in accordance with the North Carolina General Statutes, the latest edition of the Manual on Uniform Traffic Control Devices for Streets and Highways, the latest edition of the "Policy on Street and Driveway Access to North Carolina Highways", and departmental criteria. Upon completion of the Project, the roadway shall be a part of the State Highway System and owned and maintained by the Department.

**INCIDENTALS AND FUNDING:**

- 7. At the request of the Municipality, the following additional work shall be included in the Department's construction contract:
  - (A) At the request of the Municipality, and in accordance with the Department's "Guidelines for Planning Pedestrian Facilities", the Department shall include provisions in its construction contract for the construction of 4" concrete sidewalks along US 321 (Hardin Street) to Grove Street along the southbound side of US 421 in Boone. Said work shall be performed in accordance with Departmental policies, procedures, standards and specifications, and the following provisions.
  - (B) It is understood by both parties that all sidewalk work shall be performed within the existing right of way. However, should it become necessary, the Municipality, at no expense or liability whatsoever to the Department, shall provide any needed right of way and or construction easements for the construction of the sidewalks, and remove from said rights of way all obstructions and encroachments of any kind or character. Acquisition of any needed right of way shall be performed in accordance with the following state and federal policies and procedures, "Right of Way Acquisition Policy and Land Acquisition Policy, contained in the Federal-Aid Policy Guide, Part 712, Subpart B", and the North Carolina Right of Way Manual (Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970). The Department shall be indemnified and held harmless from any and all damages and claims for damages associated with the acquisition of any construction easements and/or right of way.
  - (C) Upon completion of the project, the Municipality shall reimburse the Department thirty percent (30%), of the actual cost, including administrative costs, of the work associated with the construction of the sidewalks. The Department shall participate in seventy percent (70%) of

the actual cost of the work associated with the construction of the new sidewalks of the portion of the project within the corporate limits, where new sidewalks are to be installed. The estimated cost of the sidewalks is \$202,240.00. The estimated cost to the Municipality is \$60,672.00. Both parties understand that this is an estimated cost and is subject to change. Reimbursement to the Department shall be made in one final payment within sixty days of invoicing by the Department. The Department shall charge a late payment penalty and interest on any unpaid balance due in accordance with G. S. 147-86.23.

8. Upon completion of the sidewalks, the Municipality, at no expense to the Department, shall assume all maintenance responsibilities for the sidewalks and release the Department from all liability relating to such maintenance.

**ADDITIONAL PROVISIONS:**

9. It is the policy of the Department not to enter into any agreement with another party that has been debarred by any government agency (Federal or State). The Municipality certifies, by signature of this agreement, that neither it nor its agents or contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal or State Department or Agency.
10. To the extent authorized by state and federal claims statutes, each party shall be responsible for its respective actions under the terms of this agreement and save harmless the other party from any claims arising as a result of such actions.
11. The Department shall have the right to abandon the Project at any time before the Municipality has been called upon to perform any part of its agreement. All terms of this Agreement are subject to available departmental funding and fiscal constraints.

IT IS UNDERSTOOD AND AGREED upon that the approval of the Project by the Department is subject to the conditions of this Agreement.

IN WITNESS THEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Municipality by authority duly given.

VOTE:           Aye - All  
                      Nay - None

Upon a motion by Council Member Brantz, seconded by Council Member Phillips, Council moved to direct the Town of Boone Public Works Department to coordinate with the appropriate utility companies the placement of underground conduit for the project.

VOTE:           Aye - All  
                      Nay - None

**DISCUSSION AND POSSIBLE ACTION ON THE COSTS ASSOCIATED WITH THE NEW ROAD IMPROVEMENTS TO THE WATAUGA HIGH SCHOOL PROJECT**

Town Manager Greg Young stated that the preliminary right-of-way cost estimate for sidewalk installation from Highway 421 to Cole Street is \$89,000 and the estimate for sidewalk construction from Highway 421 to the Watauga High School site is \$188,000. He clarified that the cost estimates are for right-of-way acquisition and that the remainder of the cost for the installation of the sidewalks is covered in the project construction cost. Council was informed by officials from the NC DOT that a 16" waterline may have to be relocated to accommodate the installation of the sidewalks, thereby increasing the cost of the sidewalk installation. Public Utilities Director Rick Miller estimated that the cost involved in relocating that size of line could range from \$200,000-\$350,000. Upon a motion by Council Member Aycock, seconded by Council Member Mason, Council moved to continue the process of acquiring the necessary right-of-way for the installation of sidewalks from Highway 421 to the new Watauga High School site with a request that the NC DOT officials consider all possible alternatives so as to avoid the relocation of the 16" waterline.

VOTE:       Aye - All  
              Nay - None

Town Attorney Sam Furgiuele requested to amend the agenda for the August 8, 2008 special meeting of the Town Council to include the consideration of an encroachment agreement from Appalachian State University for the College of Education building. Upon a motion by Council Member Brantz, seconded by Council Member Aycock, Council moved to amend the agenda for the August 8, 2008 special meeting to include consideration of an encroachment agreement from Appalachian State University for the College of Education building.

VOTE:       Aye - All  
              Nay - None

**ADJOURNMENT**

Upon a motion by Council Member Brantz, seconded by Council Member Aycock, Council moved to adjourn at 6:31 p.m.

VOTE:       Aye - All  
              Nay - None

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Deputy Town Clerk

Mayor