

**MINUTES - REGULAR MEETING
BOONE TOWN COUNCIL
DECEMBER 18, 2008**

A regular meeting of the Boone Town Council was called to order at 6:32 p.m., Thursday, December 18, 2008, in the Council Chambers, 1500 Blowing Rock Road. Mayor Loretta Clawson presided. Council members present were Mayor Pro-Tem Lynne Mason, Janet Pepin, Liz Aycock, Rennie Brantz, and Stephen Phillips. Town Attorney Sam Furgiuele was also present. Staff members present were Town Manager Greg Young, Deputy Clerk Kimberly Brown, Assistant to the Town Manager Jim Byrne, Police Captain Jim Wilson, Fire Chief Reggie Hassler, Public Works Director Blake Brown, Public Utilities Director Rick Miller, Finance Director Amy Davis, and Development Services Director John Spear.

ANNOUNCEMENTS

Mayor Clawson called the meeting to order and welcomed all in attendance. She noted that anyone wanting to speak during the public comment session would need to sign the public comment sign-up sheet.

Mayor Clawson announced that the following proclamation has been issued:

PROCLAMATION

WHEREAS, America is a nation whose ancestry includes every people on Earth, whose motto is "E PLURIBUS UNUM" which means "OUT OF MANY, ONE" and whose ideals of freedom under law have inspired millions throughout the world; and

WHEREAS, racism is one of the most challenging issues confronting America today and our country must strive to eliminate prejudice against any racial or ethnic group; and

WHEREAS, for too much of our history, ignorance and prejudice have led to endless conflicts in the name of race, class, nation, and religion; and

WHEREAS, the well-being of the whole of mankind, its peace and security, are unattainable unless and until its unity is firmly established; and

WHEREAS, the magnitude and urgency of this issue compel us to arise without further delay to celebrate the diversity of the people of Boone, to discourage and confront prejudice and discrimination wherever we may find it, and to participate in "I Have A Dream Week" as a testimonial of our commitment to unity in diversity.

NOW, THEREFORE, I, Loretta Clawson, Mayor of the Town of Boone, do hereby proclaim January 18-25, 2009 to be "I Have A Dream Week."

PROCLAIMED this the 18th day of December, 2008.

ATTEST:

Mayor

Deputy Clerk

Mayor Clawson announced that the Town of Boone Finance Department has been awarded the Comprehensive Annual Financial Report (CAFR) Award by the Government Finance Officers Association of the United States and Canada. The CAFR Award is the highest form of recognition in the area of governmental accounting and financial reporting.

TENTATIVE AGENDA ADOPTION

Town Manager Greg Young noted that there were no additions or deletions to the agenda. Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to adopt the agenda.

VOTE: Aye - All
 Nay - None

CONSENT AGENDA ADOPTION

Council Member Brantz asked that the minutes of the November 24, 2008 meeting be amended to add the Historic Preservation Commission to the list of committees that will be submitting recommendations to the Town Council for long-term goals to be considered by the Planning Commission. Upon a motion by Council Member Mason, seconded by Council Member Phillips, Council moved to adopt the following consent agenda with the amended minutes from the November 24, 2008 special meeting:

Minutes: November 13, 2008 - Special Meeting.
 November 13, 2008 - Quarterly Public Hearing.
 November 20, 2008 - Regular Meeting.
 November 24, 2008 - Special Meeting.

Tax Releases & Refunds - November 2008.

**TAX RELEASES
 NOVEMBER 2008**

Taxpayer	Year	Amount	Description
BLADE CORP	2008	540.20	NOT COMPLETED 01/01/08
BOWDEN, ALLISON LEIGH	2008	63.20	LIVES IN STOKES CO
COUNCILL, JOHN HARDIN	2008	45.54	TURN IN TAG
EGM INVESTMENTS INC	2008	1224.70	PARTIAL EASEMENT
HOBBS, MATTHEW CLAYTON	2008	42.63	TURN IN TAG
HUGHES, ROBERT DEAN	2008	24.27	INCORRECT VALUE
JACKSON, WILLIAM HARRY	2008	11.59	SOLD VEHICLE, TURNED IN TAG
MARLETT, DAVID C MARLETT, EMILY D	2008	11.10	ADJ FOR INCORRECT VALUE
MENA, JOHN J	2008	2.84	SOLD VEHICLE
TRILOGY LEASING CO, LLC	2008	3.33	EQUIPMENT NOT IN TOB
HIGH COUNTRY THRIFT INC	2008	12.21	BUSINESS DISSOLVED 6/1/06
HIGH COUNTRY THRIFT INC	2007	10.58	BUSINESS DISSOLVED 6/1/06
		1992.19	

**MSD
 NOVEMBER 2008**

Taxpayer	Year	Amount	Description

EGM INVESTMENTS INC	2008	695.10	PARTIAL EASEMENT
		695.10	

**TAX REFUNDS
NOVEMBER 2008**

Taxpayer	Year	Amount	Description
MAYHEW, MICHAEL JOSEPH MAYHEW, SARA VETTER	2008	50.80	TURN IN TAG
WILSON, JOSHUA ALEXANDER	2008	2.04	TURN IN TAG
		52.84	

Approval of Contract: Combs, Tennant & Carpenter, P.C. **(Exhibit A)**

2008 Annual Certification of Firemen. **(Exhibit B)**

Adoption of Ordinance Amendment: Ordinance #05-01.

ORDINANCE 05-01

WHEREAS, the Town of Boone has adopted a water system hydraulic analysis and master plan completed by W.K. Dickson; and

WHEREAS, the water system hydraulic analysis and master plan has revealed that the Town of Boone has a very limited remaining capacity in its water distribution system; and

WHEREAS, the Town of Boone has begun planning for alternative raw water sources and possible water treatment plant expansion, but at this time does not know whether, to what extent, and within what time frame the Town may be able to add to its raw water sources; and

WHEREAS, The Town of Boone Water and Sewer Use Ordinance provides for the provision by the Town of water and sewer services both within the corporate limits and outside the corporate limits, including with the extra-territorial jurisdiction (ETJ) of the Town and beyond the boundaries of the Town and its ETJ; and

WHEREAS, during its planning process and until new sources for raw water are developed, the Town must closely monitor and prioritize the distribution of water to new applicants for water service; and

WHEREAS, the Town of Boone's water system was designed to provide water service only in the primary pressure zone, but through *ad hoc* decisions made with respect to individual requests, water service has at times been extended into the secondary pressure zone without the Town having studied the overall effects and costs of the general extension of water services into the secondary pressure zone, and those extensions have caused unexpected construction, engineering and fire protection problems; and

WHEREAS, the Boone Town Council desires to amend the existing policies in the Town of Boone Water and Sewer Use Ordinance so as to establish priorities for the availability of water

to new customers and to afford itself the necessary time within which to determine the future ability of the Town to serve the needs of its citizens and to assess the desirability of permanently amending the Water and Sewer Code to prioritize the future distribution of services;

NOW, BE IT THEREFORE RESOLVED that pursuant to its police powers created under N.C. Gen. Stat. ' 160A-174, in order to provide for the health and welfare of the citizens of Boone, and pursuant to N.C. Gen. Stat. ' 160A-312, which confers upon the Town the authority to protect and regulate its water distribution system through the adoption of reasonable rules, the Boone Town Council hereby adopts the following policy concerning the provision of water service to new customers. For its stated duration, unless extended, to the extent the following creates any conflict with the Town of Boone Water and Sewer Ordinance, the following provisions supercede and control the provision of water by the Town of Boone:

1. To the extent feasible and during the term of this Resolution, the Town shall allocate its remaining water usage gallons, evenly in yearly increments of 50,000 gallons for a four year period beginning January 1, 2008, along with any unused allocation from a prior calendar year made available in the following calendar year. In addition, through and including December 31, 2011, the Town shall reserve an allocation of 10,000 gallons per day from its available water supply for possible allocation to existing vacant lots within the corporate limits of the Town. However, when either a Stage II or Stage III water shortage is declared pursuant to Article VII of the Town of Boone Water and Sewer Code, or imposed on the Town by the State of North Carolina, the Town Council may suspend its consideration and approval of any new water applications. Likewise, the Town Council may direct the Public Utilities Department to suspend its consideration of any new water allocations until further action by the Council. Any approval of water service in a particular calendar year shall ordinarily be attributed to the available allocation for that same calendar year; however, the Town Council may designate that a particular approval of water service shall be attributed to the available allocation from any year within the term of this resolution, but the periods of time established in paragraph 5 herein for the expiration of rights shall be measured from the date of the Town Council's approval.
2. Beginning November 2008, and no less than annually thereafter, the Town shall review actual water usage records to determine whether changes should be made to the allocation allotments for subsequent years. The Council may adjust any yearly allocation based on actual usage as it can be determined and/or new information concerning remaining capacity.
3. Within the aforesaid limits, the Town of Boone shall ordinarily provide water service to future customers within the corporate limits on a first-come, first served, basis. The water usage predicted as to each application shall be determined by multiplying the usage predicted by the North Carolina Discharge Rate (NCDRS) Schedule by **.60**. Any requests for water service which involve predicted usage, as thus calculated, of over 3,000 gallons per day shall only be approved upon action, by majority vote, of the Boone Town Council acting in its *quasi* judicial capacity. Likewise, in each calendar year in which the Town has allocated two-thirds (2/3) of the water allotted for that year, all subsequent requests for water connection for which there is a predicted usage of more than five hundred (500) gallons per day must be approved by the Boone Town Council, without regard to the predicted usage resulting from the granting of the request. In determining the desirability of approving a connection for water service, the Council shall consider the following:
 - a. Any factor which may make the predicted actual use different from the NCDRS predicted use;
 - b. The amount of water usage in gallons per day previously approved during the calendar year;
 - c. The amount of water usage in gallons per day predicted to be used by the applicant, ordinarily with small requests preferred over large requests;

- d. Whether in its opinion the application is for a land use which is consistent with the Town's adopted policies concerning growth and development; and
 - e. Such other factors as may be identified by the Town Council in its deliberations which either suggest that a particular project promotes or undermines the public health or safety, or the general welfare of the Town.
4. During the term of this Resolution, ordinarily only requests for service connections to property which is in the corporate limits will be granted. An applicant whose property is partly or wholly outside the Town limits may petition the Town for annexation, and if the property is annexed, in accordance with the requirements of North Carolina General Statutes and the Town of Boone's ordinances, water services may be extended to such property, in accordance with the provisions of this Resolution.
 5. During the term of this Resolution, no service extensions into the secondary pressure zone shall be considered for approval unless the requesting property was located inside the Boone corporate limits on or before March 8, 2007, and applicant is willing to adhere to Town of Boone secondary pressure zone specifications, ~~These specifications include~~ **including**, but are not limited to: eight-inch minimum pipe diameter; booster pumping stations ~~shall be an~~ **of** EFI design with fire pumping capabilities; minimum 100,000 gallon welded joint steel storage tank; pressure protection is provided for each individual water service; ~~and telemetry systems shall be~~ **Dataflow Systems radio telemetry and shall be compatible with existing Town of Boone system; In addition, no portion of a and proposed extension does not may exceed 3,620 feet in elevation. For purposes of this paragraph, an "extension" refers to the continuation of a water main beyond its currently existing limits.**
 6. **During the term of this Resolution**, a connection to an existing water main in a secondary pressure zone may be ~~considered approved by the Town Council where the connection is within the corporate limits as they exist as of the date of the resolution, and~~ where such connection creates no negative impact on the Town's distribution system, allows adequate pressure to be maintained as may be necessary to comply with the requirements of the Boone Fire Department **and** applicable fire codes, results in no additional costs to the Town, and otherwise complies with the requirements of the Town of Boone Water and Sewer Code for connection to the Town's water system. For purposes of this paragraph, a "connection" is defined as the linking of pipes serving a single ~~dwelling unit customer~~ **customer** to an existing water main. ~~For purposes of this paragraph, an "extension" refers to the continuation of a water main beyond its currently existing limits.~~
 7. Any applicant granted the right to connect to the Town's water distribution system, without regard to the calendar year to which the applicant's predicted water usage is attributed, must obtain all needed development permits within one year of the approval by the Town Council or Public Utilities Department of the water application, or said approval will expire and the allocated water usage shall return into the overall water census for redistribution. Upon subsequent action by the Boone Town Council, the approval of a water application may be extended for a second year from the date of the initial approval, whether by the Town Council or staff of the Public Utilities Department, upon payment by the applicant of a non-refundable availability fee in the amount of the normal availability fee established by the Town of Boone Water and Sewer Code for use(s) of the type proposed. Previously approved requests which have not been connected shall likewise expire within one year of enactment of this ordinance. However, they, too, may be extended for an additional period upon payment by the approved applicant of a non-refundable availability fee in the amount of the normal availability fee established by the Town of Boone Water and Sewer Code for use(s) of the type proposed. If approved, the additional period shall be no less than one year, but in the case where development rights are vested through the issuance of a zoning permit, special use permit, or the approval of a conditional zoning district, the additional period may be extended and approved for a longer period, so that the resulting water rights and the approved development rights simultaneously expire. Previously approved requests which have not

been connected shall likewise expire within one year of enactment of this ordinance. However, they, too, may be extended for an additional period upon payment by the approved applicant of a non-refundable availability fee in the amount of the normal availability fee established by the Town of Boone Water and Sewer Code for use(s) of the type proposed. Without regard to the foregoing, should any applicant whose development project requires a special use permit or zoning permit allow the special use permit or zoning permit to expire, the applicant's water rights will also immediately expire. Likewise, should any applicant whose development project acquires a building permit allow the building permit to expire, the applicant's water rights will also immediately expire.

8. For purposes of this Ordinance, the term "development permits", as referred to in paragraph 5 above, shall mean the following:
 - a. In the case of applicants for water service for a minor subdivision, the minor subdivision plat approval and recording of the approved plat with the Watauga County Register of Deeds, and any associated zoning and grading compliance certificates;
 - b. In the case of applicants for water service for a major subdivision, a special use permit, and associated zoning and grading compliance certificates;
 - c. In the case of commercial development projects, all permits required for the physical development of the land, plus those permits necessary for the building. These may include some or all of the following: special use permits, zoning permits and building permits.
9. Whenever the Town Council approves an application for water service to either a proposed minor or major residential subdivision, the Director of Public Utilities shall subtract an amount of water from the available water calculations which reflects the projected amount of water which will be consumed when all residences in the proposed subdivision are fully constructed.
10. During the term of this Resolution, Section 3-10(G) of the Town of Boone Water and Sewer Code, which prohibits the connection into the Town's sanitary sewer system of the discharge from private water systems, other than the system of Appalachian State University, is suspended as to those applicants whose application for both water and sewer connections cannot be granted because the request for water service has been denied by the action of the Town Council in applying this Resolution. However, in order to be granted the right to connect to the sanitary sewer system, along with such other conditions as may be placed upon the applicant in accordance with the Town of Boone Water and Sewer Code, the applicant must agree to connect into the Town's water system, should the Town later request that such a connection be made, and the applicant must sign a statement of commitment to that effect, which will remain on file with the Town's Public Utilities Department.
11. Any requests for water services from the Town must comply with all requirements of the Town of Boone Water and Sewer Code which are not superceded by this Resolution .
12. The Town of Boone Water and Sewer Department shall provide a monthly report to the Boone Town Council concerning the number and predicted volume of each water connection request approved during the term of this Resolution.
13. This resolution shall expire December 31, 2011, unless specifically extended by action of the Boone Town Council, and it may be modified by the Boone Town Council upon majority vote of the Council.
14. This policy shall become effective upon the adoption of this Resolution.

Amended and effective this the 27th day of June, 2005.
Amended and effective this the 21st day of July, 2005.
Amended and effective this the 15th day of December, 2005.
Amended and effective this the 16th day of February, 2006.
Amended and effective this the 20th day of December, 2007.
Amended and effective this the 21st day of February, 2008.
Amended and effective this the 18th day of September, 2008.
Amended and effective this the 18th day of December, 2008

VOTE: Aye - All
 Nay - None

PRESENTATION OF FY07/08 AUDIT REPORT

Billy Combs, of Combs, Tennant & Carpenter, P.C., appeared before the Council to present the FY2007-2008 audit report (**permanently on file**). He offered praise for the employees of the Finance Department and the Town Manager for the outstanding work accomplished in handling the Town's finances.

PRESENTATION OF PROPOSED ORDINANCE AMENDMENTS & SCHEDULING OF PUBLIC HEARING - PLANNING COMMISSION & QUARTERLY PUBLIC HEARING

Development Services Director John Spear presented information regarding the rescheduling of the Quarterly Public Hearings beginning next year. He noted that the Planning Commission will now be meeting on the second Monday of each month. Furthermore, Mr. Spear explained that since UDO Section 380 currently requires public hearings to be held on the second Thursday of February, May, August, and November, it is recommended that the quarterly public hearings be moved to the first Monday of February, May, August, and November to accommodate the new Planning Commission schedule. Upon a motion by Council Member Brantz, seconded by Council Member Aycock, Council moved to schedule a special public hearing for Monday, January 12, 2008, at 6:30 p.m. in the Council Chambers to hear public comment regarding the proposed amendment.

VOTE: Aye - All
 Nay - None

ESTABLISHMENT OF COMMITTEE - DOWNTOWN STREET APPEARANCE IMPROVEMENT COMMITTEE

Mr. Adrian Tait, Chair of the Community Appearance Commission, presented a power-point (**permanently on file**) regarding the creation of a Downtown Street Appearance Improvement Committee which would be tasked with the following project objectives:

- § To provide an overall approach and plan for replacement of site furnishings and streetscape amenities
- § To provide a brand and image for downtown and incorporate this image into the plan, through furnishings, banners, streetscaping, signage and wayfinding collectively
- § To help ensure that consistent decisions will be made when replacing or renovating the existing streetscape downtown
- § To provide a comprehensive auto and pedestrian-oriented signage and wayfinding program.

Council briefly discussed the merits of appointing another committee to study these issues. Mayor Clawson asked that the structuring of the Downtown Boone Development Association be an item of study at the annual retreat in February. Upon a motion by Council Member Mason, seconded by Council Member Aycock, Council moved to direct the Community Appearance Commission to study the issue of a downtown streetscape with input provided by a representative from each of the following groups:

- § Boone Area Chamber of Commerce
- § Downtown Boone Development Association Board and/or staff
- § Public Art Committee member
- § Development Services Department staff
- § Public Works staff.

Furthermore, it was the consensus of the Council to direct the Community Appearance Commission to be able to make these recommendations to the Council in February 2009.

VOTE: Aye - All
 Nay - None

ANNOUNCEMENT OF BOARD OF ADJUSTMENT VACANCY

Development Services Director John Spear announced a vacancy for the Board of Adjustment. Council directed the Clerk to release a press release announcing the BOA vacancy, as well as the Cable TV Board vacancy.

ADOPTION OF RESOLUTION - SCHEDULING OF PUBLIC COMMENT

Council Member Aycock stated that she would like to have the public comment period come toward the beginning of the meeting so that persons wishing to speak would not have to wait until after all other Council business was heard before having a chance to address an issue. Council discussed having a time limit set on the public comment period of at least 15 minutes and, if there is a need for further public comment, to defer it until after Council matters and requested appearances. Upon a motion by Council Member Pepin, seconded by Council Member Aycock, Council moved to direct the Town Attorney to draft language to reflect these changes to be presented to the Council at the next regular meeting in January.

VOTE: Aye - All
 Nay - None

COMMITTEE APPOINTMENT - WATAUGA COUNTY ECONOMIC DEVELOPMENT COMMISSION

Mayor Clawson announced that the Watauga County Commissioners have elected to add a 14th member slot to the Watauga County Economic Development Commission to be filled by a member of the Boone Town Council. Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to appoint Council Member Aycock to serve as the Boone Town Council representative to the Watauga County Economic Development Commission.

VOTE: Aye - All
 Nay - None

TRANSPORTATION COMMITTEE RECOMMENDATIONS

Public Works Director Blake Brown presented the following recommendations from the Transportation Committee:

1. To contact the NC DOT and the Appalachian Regional Health Care System regarding the installation of a right-turn lane on Deerfield Road at the intersection of State Farm Road.
2. To request Council's guidance regarding the installation of a right-turn lane on Deerfield Road at the Blowing Rock Road intersection.
3. To request Council's approval to have the Public Works Department investigate the possibility of coordinating with the NC DOT U-4020 project to install a right-turn lane on Tracy Circle at the intersection of Council Street at the same time the NC DOT project is being constructed at the Highway 321/King Street intersection.

Mr. Brown stated that the first two recommendations are being addressed by the NC DOT by way of other projects that are being undertaken in those locations. Council Member Aycock agreed with the importance of the third recommendation since once the Highway 421 project is complete, this will be the only access for several neighborhoods. Upon a motion by Council Member Phillips, seconded by Council Member Brantz, Council moved to approve the request to have the Public Works Department investigate the possibility of coordinating with the NC DOT U-4020 project to install a right-turn lane on Tracy Circle at the intersection of Council Street at the same time the NC DOT project is being constructed at the Highway 321/King Street intersection.

VOTE: Aye - All
 Nay - None

REQUEST FOR TOWN MAINTENANCE OF ROADWAY - MARKET COURT

Public Works Director Blake Brown informed the Council that a request has been received from Graydon Eggers, Dr. Stephen Canipe, and Larry Hughes for the Town to assume the maintenance, repairs, and snow removal for Market Court. He indicated that both he and Street Superintendent Greg Miller have investigated the roadway and find it acceptable for Town maintenance. Council briefly discussed the issue of the stormwater retention system located underneath the roadway and several concerns with accepting the retention system along with the maintenance responsibilities for the roadway. Upon a motion by Council Member Pepin, seconded by Council Member Mason, Council agreed to move forward with the request with the Town Attorney’s review of the issues involved with the stormwater retention system.

VOTE: Aye - All
 Nay - None

ADOPTION OF WATER & SEWER CODE AMENDMENT - SECTION 6-6

Town Attorney Sam Furguele presented a proposed code amendment to the Water and Sewer Code recommended by both the Affordable Housing Task Force and the Water Study Committee in which low-income projects outside the Town limits would be charged in-town sewer rates. He explained that this proposed amendment would apply to low-income housing projects that are rental properties and are managed by a housing authority. Furthermore, he noted that such projects must adhere to strict criteria in order to for this to be applied. Mr. Furguele advised that if the Council adopts the amendment, an effective date be set so that administrative action needed for such a change can be undertaken. Council Member Mason stated this proposed amendment is beneficial as it helps to promote affordable housing. Upon a motion by Council Member Brantz, seconded by Council Member Phillips, Council moved to adopt the following amendment to the Water & Sewer Code with an effective date of July 1, 2009:

**ARTICLE VI
WATER AND SEWER EXTENSIONS**

...

Section 6-6. Extensions Outside of Town.

...

E. Except for those applications. . .

...

3. When an extension or connection to an Affordable Rental Housing Project outside the Town limits has been authorized under this Article and other pertinent ordinances, customers thereby served shall be charged at the rate of in-town customers if all of the following are met:

a. The Project is managed by a duly created and authorized Housing Authority, as that term is defined pursuant to N.C. Gen. Stat. 157-3;

b. All residents of the Project qualify for and receive housing assistance under the Section 8 Program, United States Housing Act of 1937, as amended, or all residents of the Project qualify for and receive public housing, as that term is defined under the United States Housing Act of 1937, as amended; and

c. The Housing Authority which manages the Project executes an agreement to indemnify and reimburse the Town for any undercharge due the Town as a result of the cessation of the Project's compliance with the criteria of this section, § 6-6(E)(3), until sixty days after the Housing Authority has notified the Town in writing that the Project is no longer entitled to the in-town rate.

VOTE: Aye - All
Nay - None

MONTHLY WATER USE STATUS REPORT

Public Utilities Director Rick Miller presented the monthly water status report (**copy permanently on file in December Town Council packet**) and noted that the drought designation for this area has been changed from severe to moderate.

APPROVAL OF BUDGET AMENDMENTS

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to approve the following budget amendments:

DESCRIPTION	ACCOUNT #	TO:	FROM:
MISCELLANEOUS EXPENSE-GOVERNING BODY	010-400-000-539901	\$1,780.00	
APPROPRIATED FUND BALANCE-GENERAL FUND	010-000-000-499900		(\$1,780.00)
CONTRACTED SERVICES-INTERN	010-401-000-545003	\$500.00	
APPROPRIATED FUND BALANCE-GENERAL FUND	010-000-000-499900		(\$500.00)
PROFESSIONAL SERVICES-LEGAL	010-404-000-509100	\$35,541.00	
APPROPRIATED FUND BALANCE-GENERAL FUND	010-000-000-499900		(\$35,541.00)
NATIONAL LEAGUE OF CITIES	010-413-000-549214	\$55.00	
NC INSTITUTE OF GOVERNMENT	010-413-000-549215	\$81.00	
APPROPRIATED FUND BALANCE-GENERAL FUND	010-000-000-499900		(\$136.00)
ELECTRICITY-KING STREET POST OFFICE	010-417-000-523110	\$1,250.00	
PROPANE-KING STREET POST OFFICE	010-417-000-523300	\$12,500.00	
MAINTENANCE & REPAIR-KING STREET POST OFFICE	010-417-000-525101	\$1,000.00	
RENTAL INCOME	010-000-000-484102		(\$8,438.00)
APPROPRIATED FUND BALANCE-GENERAL FUND	010-000-000-499900		(\$6,312.00)

MAINTENANCE & REPAIR-VEHICLES (POLICE DEPT)	010-500-300-525301	\$3,982.00	
MISCELLANEOUS REVENUE-GENERAL FUND	010-000-000-489900		(\$3,982.00)
CONTRACTED SERVICES-PUBLIC UTILITIES	030-700-801-577000	\$1,153,525.00	
TRANSFER FROM WATER/SEWER INFRASTRUCTURE FUND	030-000-000-498033		(\$1,153,525.00)

VOTE: Aye - All
 Nay - None

REQUESTED APPEARANCES - NANCY SPANN, CHAIR, SAHA

Nancy Spann, chair of the Southern Appalachian Historical Association, appeared before the Council to inform the Council of several issues regarding the facilities. She requested assistance from the Town in addressing the following list of items:

1. No Trespassing Signs: We would like for signs to be placed at the approaches to the theater and the backstage area that say PROPERTY OF THE TOWN OF BOONE - NO TRESPASSING. We have a lot of casual lookers that endanger the grounds and facility as well as themselves (especially behind the stage area).
2. Electrical Work: We had many comments on our Audience Survey about problems with sound and one of our goals this year is to improve the sound system. We have two donors who will help us with the costs of an improved sound system and microphones. Once that is purchased, we will need some additional electrical work to accommodate a new system. In conjunction with the installation of this electrical work, we will need a covered sound booth constructed at the back of the seating area that can be secured. We also have a potential need for two “telephone poles” (or steel poles) 10-12 feet above ground on outside aisles of seating area to support a new sound system.
3. Stage: The slope and water run-off on the stage is a safety issue for the dancers and actors and it needs to be tilled and leveled out again. The concern is that the slope of the stage and the pooling of water on the stage can harm the dancers and actors as they dance and move about. Along with that, it would help to have another row or two of railroad ties placed on the wall to secure the sand from slipping away into the drains. The ramp to the left of the stage is in need of repair/replacement as well because we are concerned about the safety of the actors and the audience in that area. Ideally, the whole front part of the stage needs to be repaired to enhance safety for our actors and dancers and to minimize the water pooling on the stage.
4. Back Deck/Catwalk: The dancers need a place to warm up and the case could use a place to wait for their cues. We would like to have an extension built off the back deck/catwalk for dancer warm ups (maybe large enough for a picnic table) with a roof if possible.
5. Handicapped Area: We have discussed the need for wheelchair ramps for our mobility handicapped but determined that it is not feasible to construct these ramps due to the topography of the land. Currently, our wheelchair bound visitors sit at the top of the seating area where they don’t have good visibility or sound (which we hope to remedy with a new sound system). We propose to construct a handicapped area that extends into the seating area (a type of deck) so that the wheelchairs could roll out onto this area and our patrons would have greater visibility and be more included in the audience.
6. Paving: There is a small area backstage (about 30 feet long by 20 feet wide) by the building called Helter Shelter with a steep slope or incline that actors and tech crew go up and down during the course of their work. It becomes slippery during bad weather and even in dry weather it is a safety hazard. We are hoping that this small area could be paved (perhaps with leftover asphalt from another job) to make it more accessible for both cast and crew as well as for any vehicles that might need to use it.

Ms. Spann announced that attendance figures from the past year indicate a 14% increase over previous years. She thanked the Council for its continued support of SAHA and the Horn in the West program. Council Member Brantz inquired as to a cost estimate for the requested work. Ms. Spann stated that a cost estimate has not yet been tallied. It was the consensus of the Council to place this issue on the agenda for consideration during the annual retreat to be held in February.

REQUESTED APPEARANCES - CHERRY JOHNSON, DIRECTOR, JONES HOUSE

Beth Carrin, president of the Jones House Advisory Board, appeared to thank the Council for its support and participation in the Jones House Centennial Celebration events during the past year. Cherry Johnson, director of the Jones House, presented a power-point illustrating the various events that had taken place during the past year to celebrate the 100-year anniversary of the Jones House and the history of the Jones family.

Mayor Clawson declared a break at 8:21 p.m. Council reconvened at 8:32 p.m.

WATER & SEWER REQUEST - ANDREW SALDINO

Town Attorney Sam Furgiuele announced that the public hearing for this case had been concluded at the past meeting on November 20th and that the Council can now enter deliberations for this case. Council Member Aycock reminded the Council that she had been excused from deliberation of this case due to having contact with Mr. Saldino. Upon a motion by Council Member Pepin, seconded by Council Member Mason, Council moved to excuse Council Member Aycock from deliberation of this case.

VOTE: Aye - All
 Nay - None

Council Member Mason stated that this project addresses a housing need in Boone and is adjacent to water and sewer mains. Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to grant the request for 2,400 gallons per day from the 2008 allotment subject to annexation of the property.

VOTE: Aye - All
 Nay - None
 Excused - 1 (Aycock)

Town Attorney Sam Furgiuele asked all Council Members whether or not they have had contact with any of the applicants of the water and sewer requests on the agenda. All Council Members stated that they had not had any contact with any of the applicants for any of the following water and sewer requests; however, Council Member Aycock asked that she be excused for deliberating and voting on the application for Country Stone Cottages Inc. because she is employed by Weber & Hodges Realtors which represents the property owner. Upon a motion by Council Member Brantz, seconded by Council Member Pepin, Council moved to excuse Council Member Aycock from deliberations for the water and sewer request by Country Stone Cottages, Inc.

VOTE: Aye - All
 Nay - None

WATER & SEWER REQUEST - COUNTRY STONE COTTAGES INC.

Town Attorney Sam Furgiuele opened a public hearing at 8:38 p.m. to hear sworn testimony from Alan Crees of Municipal Engineering, Public Utilities Director Rick Miller, and Development Services Director John Spear regarding a request for water and sewer service to property located at the corner of NC Highway 105 and Highway 105 Bypass. Alan Crees, project engineer, began by explaining the project as consisting of 10 two-bedroom multifamily units and 6000 square feet of retail space. He stated that the request is for 3,432 gallons per day.

Mr. Crees stated that the applicant would like to transfer an allocation received in April 2008 by Charisma Partners for 4,176 gallons per day for a project located at another location. Public Utilities Director Rick Miller stated that the property is located in the Town limits primary pressure zone and adjacent to existing water and sewer mains. Council Member Brantz inquired as to the driveway locations for the project. Mr. Crees stated that the applicant is currently meeting with DOT officials to discuss this issue but that the main driveway is proposed for location on Highway 105 with a right-turn-only exit located on the Highway 105 Bypass. Development Services John Spear stated that the property is zoned B-3 General Business. With no other testimony, Mr. Furgieuele closed the public hearing at 8:46 p.m. Upon a motion by Council Member Brantz, seconded by Council Member Phillips, Council moved to grant the request for 3,432 gallons per day from the 2009 allocation contingent on an agreement confirming the relinquishment of the allocation amount of 4,176 gallons per day granted in April 2008 to Charisma Partners.

VOTE: Aye - All
 Nay - None
 Excused - 1 (Aycock)

Upon a motion by Council Member Pepin, seconded by Council Member Phillips, Council moved to reseal Council Member Aycock for deliberation of the next two requests.

VOTE: Aye - All
 Nay - None

WATER & SEWER REQUEST - DAVID & DREW TAYLOR

Town Attorney Sam Furgieuele opened a public hearing at 8:48 p.m. to hear sworn testimony from Norm Miller and Public Utilities Director Rick Miller regarding a request for water and sewer services to property located at 1282 West King Street. Norm Miller, contractor representing the property owner, explained the project as a 12-unit, 48-bedroom multifamily housing complex which will be located at the former Auto Exchange location. Council Member Brantz asked about the expected completion date for the project. Mr. Miller stated that the project is anticipated to be completed by August 2009. Public Utilities Director Rick Miller clarified that the requested amount of water is 7,164 gallons per day and stated that the utility lines in the area had recently been upgraded. With no other testimony, Mr. Furgieuele closed the public hearing at 8:55 p.m. Upon a motion by Council Member Pepin, seconded by Council Member Phillips, Council moved to grant the request for 7,164 gallons per day from the 2009 allocation.

VOTE: Aye - All
 Nay - None

WATER & SEWER REQUEST - HARRY LAINAS

Town Attorney Sam Furgieuele opened a public hearing at 8:56 p.m. to hear sworn testimony from Harry Lainas, owner of Mr. Original Gyros, and Public Utilities Director Rick Miller regarding a request for water and sewer service to property located at 2968 Highway 105. Mr. Lainas stated that he is currently the owner of an existing restaurant at that location for the past eight years. He expressed concern about his ability to pay the availability fees for a restaurant at a new location and stated that he had paid the availability fees for his current location in March 2001. Public Utilities Director Rick Miller cited the policy stated in Article 3, Section 3(I) in the Water & Sewer Code in reference to requesting a variance from paying availability fees. Mr. Miller explained that the policy includes several conditions for granting a variance by either the Town Manager or his/her designee and stated that Mr. Lainas must conform to those conditions in order to receive a variance. Mr. Lainas stated that the current restaurant consists of 46 seats and that the new restaurant will have 48 seats. In response to a question from Council Member Pepin, Mr. Lainas stated that he is currently using more water than originally anticipated at his current location but plans to utilize "green" building standards at the new location. Council Member Mason asked if the proposed location can be served by Town utility service without any

problems. Mr. Miller stated he did not foresee any problems providing service at the new location. With no further testimony, Mr. Furgiuele closed the public hearing at 9:05 p.m. Upon a motion by Council Member Mason, seconded by Council Member Phillips, Council moved to grant the request for 1,072 gallons per day from the 2009 allocation.

VOTE: Aye - All
 Nay - None

PUBLIC COMMENT

There was no one signed up for public comment.

CLOSED SESSION

Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to enter closed session at 9:07 p.m. pursuant to NCGS 143-318.11a)3)5) to hear the following items:

- Property Acquisition:
 1. Water.
 2. High Country Conservancy.
- UDO Violations: First Baptist Church.

VOTE: Aye - All
 Nay - None

On a motion by Council member Mason, seconded by Council member Aycock, Council moved to exit Closed Session at 10:05 p.m.

VOTE: Aye - All
 Nay - None

ADJOURNMENT

On a motion by Council member Pepin, seconded by Council member Brantz, Council moved to adjourn at 10:07 p.m.

VOTE: Aye - All
 Nay - None

Deputy Town Clerk

Mayor