

**MINUTES - REGULAR MEETING
BOONE TOWN COUNCIL
MARCH 16, 2010**

A regular meeting of the Boone Town Council was called to order at 6:30 p.m., Tuesday, March 16, 2010, in the Council Chambers, 1500 Blowing Rock Road. Mayor Pro-Tem Lynne Mason presided. Council members present were Andy Ball, Rennie Brantz, Jamie Leigh, and Stephen Phillips. Town Attorney Sam Furgiuele was also present. Staff members present were Town Manager Greg Young, Town Clerk Freida Van Allen, Assistant to the Town Manager Jim Byrne, Police Chief Dana Crawford, Fire Chief Reggie Hassler, Public Works Director Blake Brown, Public Utilities Director Rick Miller, Finance Director Amy Davis, Human Resources Director Peri Moretz, and Development Services Director Bill Bailey.

ANNOUNCEMENTS

Mayor Pro-Tem Mason announced that Mayor Clawson was away on town business tonight and stated that any persons wishing to address the Council should sign in to speak during the Public Comment period.

TENTATIVE AGENDA ADOPTION

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

- Change Item 6.K. from "For Information" to "Action" - Request approval of sidewalk improvements in front of Mast Store and adoption of encroachment agreement.
- Addition of Item 6.W. - Adoption of Downtown Streetscape budget.
- Council member Leigh requested that Items 6.R.4., 8., & 9 - Board Appointments be moved to Thursday night.
- Council member Brantz requested that Item 6.F. - Update on Sister-city project be moved to Thursday night.

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

VOTE: Aye - All
 Nay - None

CONSENT AGENDA ADOPTION

Upon a motion by Council Member Ball, seconded by Council Member Leigh, Council moved to adopt the following consent agenda items:

- Minutes: February 1, 2010 - Special Meeting.
 February 1, 2010 - Quarterly Public Hearing.
 February 11, 2010 - Special Meeting.
 February 16 & 18, 2010 - Regular Meeting.
 February 22, 2010 - Special Meeting.
 February 26, 2010 - Special Meeting.

Tax Releases: February 2010:

**TAX RELEASES
FEBRUARY 2010**

Taxpayer	Year	Amount	Description
JENKINS, PERSONAL TRUST	2009	43.92	INCORRECT SITUS
DAILEY, JAMES W DAILEY, KERRY A	2009	4.35	TURN IN TAG

MANNINA, GAIL ANN	2009	3.70	ADJ FOR INCORRECT VALUE
WILKIE, TIMOTHY RAYMOND WILKIE, MARY JANE	2009	38.80	TURN IN TAG
LENTZ, CHARLES LEWIS LENTZ, DEBORAH BEAVER	2009	4.03	TURN IN TAG
		94.80	

Adoption of Resolution - Disposal of Surplus Property:

**RESOLUTION AUTHORIZING THE DISPOSITION OF
CERTAIN PERSONAL PROPERTY BY PRIVATE SALE**

Whereas, the Council of the Town of Boone desires to dispose of certain surplus property of the Town;

Now, therefore, be it resolved by the Council that:

1. The following described property is hereby declared to be surplus to the needs of the Town:

See list of 87 Police Department Firearms

2. The Police Chief is authorized to dispose of the described property by private sale at a negotiated price.
3. The minimum price to be accepted for the property is \$15,330.00.
4. The Town Clerk shall publish notice summarizing this resolution in accordance with G.S. 160A-267.
5. The sale may be consummated not earlier than 10 days from the date of publication.

Adopted this the 16th day of **March, 2010**.

Mayor

Attest:

Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE(S) 132)

Adoption of Resolution - Service Award - Lieutenant Tom Redmond:

RESOLUTION

The members of the Boone Town Council, meeting in regular session on March 16, 2010, do hereby adopt and pass the following resolution:

WHEREAS, the following person has served the citizens of the Town of Boone for a number of years:

Thomas Redmond, Lieutenant, 28 years

WHEREAS, Lieutenant Redmond will be retiring within the year after serving as a leader in the Boone Police Department in an exemplary fashion; and

WHEREAS, his contribution in the service of Boone and its citizens will always be appreciated;

NOW, THEREFORE, BE IT RESOLVED, that Lieutenant Redmond shall be awarded his Police badge and service weapon as follows:

Thomas Redmond Beretta 90-2SA 40 Caliber Serial #TYO3953

Furthermore, a copy of this Resolution shall be given to Lieutenant Redmond.

Adopted this the 16th day of March, 2010.

Loretta Clawson, Mayor

ATTEST:

Freida Van Allen, Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE(S) 133)

Approval of Encroachment Agreement - Hot "Diggidy" Dog Projecting Sign:

STATE OF NORTH CAROLINA
COUNTY OF WATAUGA
TOWN OF BOONE

ENCROACHMENT AGREEMENT

THIS ENCROACHMENT AGREEMENT is made and entered into this the 16th day of March 2010, by and between the TOWN OF BOONE, party of the first part; and William E. Highsmith dba Hot Diggidy Dog, party of the second part.

W-I-T-N-E-S-S-E-T-H

THAT WHEREAS, the party of the second part desires to encroach on public land designated as sidewalk located at 454 West King Street with the following: a projecting sign (hereinafter referred to as "the facilities").

WHEREAS, it is to the material advantage of the party of the second part to effect this encroachment, and the party of the first part, in the exercise of authority conferred upon it by statute, is willing to permit the encroachment on public land, subject to the conditions of this agreement.

NOW, THEREFORE, IT IS AGREED that the party of the first part hereby grants to the party of the second part the right and privilege to make this encroachment upon the following conditions, to wit:

That the said party of the second part binds and obligates itself, and its successors and assigns, to install and maintain the encroaching facility in such safe and proper condition that it will not interfere with or endanger travel upon said public land, nor obstruct nor interfere with the proper maintenance thereof, to reimburse the party of the first part for the cost incurred for any repairs or maintenance to its roadways, sidewalks and other structures necessary due to the installation and existence of the facilities of the party of the second part, and if at any time the party of the first part shall require the removal of or changes in the location of the encroaching facilities, that the said party of the second part binds itself, its successors and assigns, to

promptly remove or alter the said facilities in order to conform to the said requirements, without any cost to the party of the first part.

That the party of the second part agrees to provide during construction and any subsequent maintenance proper signs, signal lights, flagmen and other warning devices for the protection of the public and in the case of encroachment into a street right of way, in conformance with the latest Manual on Uniform Traffic Control Devices for Streets and Highways and amendments or supplements thereto. Information as to the above rules and regulations may be obtained from the party of the first part.

To the extent permitted by law, the party of the second part shall be responsible for all liability associated with the encroaching facility. The party of the second part agrees to indemnify and hold harmless the party of the first part from and against all claims based upon actions or omissions occurring during construction and maintenance, damages, losses and expenses, including court costs and attorney fees, arising out of or in any way related to the encroaching facility. The party of the second part shall cause its contractors to name the party of the first part as an additional insured on general liability insurance policies applicable to the project contemplated by this agreement.

It is clearly understood by the party of the second part that the party of the first part will assume no responsibility for any damage that may be caused to such facilities in carrying out its construction and maintenance operations.

The party of the second part agrees to restore all areas disturbed during installation and maintenance to the satisfaction of the party of the first part. The party of the second part agrees to exercise every reasonable precaution during construction and maintenance to prevent eroding of soil; silting or pollution to the rivers, streams, lakes, reservoirs, other water impoundments; ground surfaces or other property; or pollution of the air. There shall be compliance with applicable all rules and regulations of the North Carolina Sedimentation Control Commission, and all other applicable laws and regulations relating to pollution prevention and control. When any installation or maintenance operation disturbs the ground surface and the existing ground cover, the party of the second part agrees to remove and replace the sod or otherwise reestablish the grass cover to meet the satisfaction of the party of the first part. The party of the second part shall comply with all pertinent ordinances, rule, regulations and laws, and failure to do so shall be a basis for revocation of this encroachment agreement by the party of the first part.

That the party of the second part agrees to assume the actual cost of any inspection of the work considered to be necessary by the party of the first part.

That the party of the second part agrees to have available at the encroaching site, at all times during construction, a copy of this agreement showing evidence of approval by the party of the first part. The party of the first part reserves the right to stop all work unless evidence of approval can be shown.

Provided the work referred to in this agreement is being performed on a completed public street open to traffic; the party of the second part agrees to give written notice of when work will begin to the party of the first part.

That in the case of noncompliance with the terms of this agreement by the party of the second part, the party of the first part reserves the right to stop all work until the facility has been brought into compliance or removed from the right of way at no cost to the party of the first part.

That it is agreed by both parties that this agreement shall become void if actual construction of the work contemplated herein is not begun and completed within 1 year(s) from the date of this agreement unless written waiver is secured by the party of the second part from the party of the first part.

The party of the first part expressly reserves the unrestricted right to require the party of the second part to change the location of the encroachments described herein at no expense to the party of the first part.

IN WITNESS WHEREOF, each of the parties to this agreement has caused the same to be executed as of the day and year first above written.

Approval of Encroachment Agreement - The Custard Depot Projecting Sign:

STATE OF NORTH CAROLINA
COUNTY OF WATAUGA
TOWN OF BOONE

ENCROACHMENT AGREEMENT

THIS ENCROACHMENT AGREEMENT is made and entered into this the 16th day of March 2010, by and between the TOWN OF BOONE, party of the first part; and Crae Morton dba Custard Depot, LLC, party of the second part.

W-I-T-N-E-S-S-E-T-H

THAT WHEREAS, the party of the second part desires to encroach on public land designated as sidewalk located at 158 South Depot Street with the following: a projecting sign (hereinafter referred to as “the facilities”).

WHEREAS, it is to the material advantage of the party of the second part to effect this encroachment, and the party of the first part, in the exercise of authority conferred upon it by statute, is willing to permit the encroachment on public land, subject to the conditions of this agreement.

NOW, THEREFORE, IT IS AGREED that the party of the first part hereby grants to the party of the second part the right and privilege to make this encroachment upon the following conditions, to wit:

That the said party of the second part binds and obligates itself, and its successors and assigns, to install and maintain the encroaching facility in such safe and proper condition that it will not interfere with or endanger travel upon said public land, nor obstruct nor interfere with the proper maintenance thereof, to reimburse the party of the first part for the cost incurred for any repairs or maintenance to its roadways, sidewalks and other structures necessary due to the installation and existence of the facilities of the party of the second part, and if at any time the party of the first part shall require the removal of or changes in the location of the encroaching facilities, that the said party of the second part binds itself, its successors and assigns, to promptly remove or alter the said facilities in order to conform to the said requirements, without any cost to the party of the first part.

That the party of the second part agrees to provide during construction and any subsequent maintenance proper signs, signal lights, flagmen and other warning devices for the protection of the public and in the case of encroachment into a street right of way, in conformance with the latest Manual on Uniform Traffic Control Devices for Streets and Highways and amendments or supplements thereto. Information as to the above rules and regulations may be obtained from the party of the first part.

To the extent permitted by law, the party of the second part shall be responsible for all liability associated with the encroaching facility. The party of the second part agrees to indemnify and hold harmless the party of the first part from and against all claims based upon actions or omissions occurring during construction and maintenance, damages, losses and expenses, including court costs and attorney fees, arising out of or in any way related to the encroaching facility. The party of the second part shall cause its contractors to name the party of the first part as an additional insured on general liability insurance policies applicable to the project contemplated by this agreement.

It is clearly understood by the party of the second part that the party of the first part will assume no responsibility for any damage that may be caused to such facilities in carrying out its construction and maintenance operations.

The party of the second part agrees to restore all areas disturbed during installation and maintenance to the satisfaction of the party of the first part. The party of the second part agrees to exercise every reasonable precaution during construction and maintenance to prevent eroding

of soil; silting or pollution to the rivers, streams, lakes, reservoirs, other water impoundments; ground surfaces or other property; or pollution of the air. There shall be compliance with applicable all rules and regulations of the North Carolina Sedimentation Control Commission, and all other applicable laws and regulations relating to pollution prevention and control. When any installation or maintenance operation disturbs the ground surface and the existing ground cover, the party of the second part agrees to remove and replace the sod or otherwise reestablish the grass cover to meet the satisfaction of the party of the first part. The party of the second part shall comply with all pertinent ordinances, rule, regulations and laws, and failure to do so shall be a basis for revocation of this encroachment agreement by the party of the first part.

That the party of the second part agrees to assume the actual cost of any inspection of the work considered to be necessary by the party of the first part.

That the party of the second part agrees to have available at the encroaching site, at all times during construction, a copy of this agreement showing evidence of approval by the party of the first part. The party of the first part reserves the right to stop all work unless evidence of approval can be shown.

Provided the work referred to in this agreement is being performed on a completed public street open to traffic; the party of the second part agrees to give written notice of when work will begin to the party of the first part.

That in the case of noncompliance with the terms of this agreement by the party of the second part, the party of the first part reserves the right to stop all work until the facility has been brought into compliance or removed from the right of way at no cost to the party of the first part.

That it is agreed by both parties that this agreement shall become void if actual construction of the work contemplated herein is not begun and completed within 1 year(s) from the date of this agreement unless written waiver is secured by the party of the second part from the party of the first part.

The party of the first part expressly reserves the unrestricted right to require the party of the second part to change the location of the encroachments described herein at no expense to the party of the first part.

IN WITNESS WHEREOF, each of the parties to this agreement has caused the same to be executed as of the day and year first above written.

Approval of Memorandum of Understanding - NCDOT:

MEMORANDUM OF AGREEMENT
between the
North Carolina Department of Transportation
and the
Town of Boone

This Memorandum of Agreement (hereinafter, "Agreement") is made on the last date entered below between the North Carolina Department of Transportation (hereinafter, "NCDOT") and the Town of **Boone** (hereinafter, "Town") (collectively referred to hereinafter as "the Parties") for the emergency removal of debris during a State of Disaster or Imminent Threat of Disaster and/or a State of Emergency declared pursuant to Chapters 14 and 166A of the North Carolina General Statutes.

WHEREAS, during a declared State of Disaster or Imminent Threat of Disaster which implements the North Carolina Emergency Operations Plan (hereinafter, "NCEOP"), NCDOT may be called upon to perform certain functions, including the removal of debris from the right of way of public roads and streets, pursuant to the NCEOP; and

WHEREAS, Town has requested that it be allowed the opportunity and responsibility to perform certain of those NCDOT functions as set forth in the NCEOP in order to assure that its citizens are served and protected; and

WHEREAS, the Parties have conferred as to the best methods and practices to allow the Town to assume these responsibilities;

NOW, THEREFORE, the Parties agree as follows:

- § For purposes of this Agreement, the following definitions shall apply:
- q “Secondary Roads” shall mean those roads maintained by NCDOT that are identified by a four-digit SR number.
 - q The term “Eligible Storm Debris” shall be such debris as shall be eligible for reimbursement by the North Carolina Department of Crime Control and Public Safety, Division of Emergency Agency (hereinafter, “DEM”) or the Federal Emergency Management Agency (hereinafter, “FEMA”) during a particular State of Disaster, Imminent Threat of Disaster or State of Emergency.
 - q “FHWA Routes” shall mean those routes for which FHWA does provide NCDOT with reimbursement, generally Interstate routes, US-designated routes, NC-designated routes, and certain secondary routes within the Town eligible for FHWA reimbursement and listed on Attachment A.
 - q “Non-FHWA Routes” shall mean those routes for which FHWA does not provide reimbursement, generally rural secondary roads rights of way within the Town and those urban secondary roads within the municipalities within the Town. The non-FHWA routes are those routes within the Town, which are not listed on Attachment A.
2. During a State of Disaster or Imminent Threat of Disaster and/or State of Emergency declared pursuant to chapters 14 and 166A of the North Carolina General Statutes and upon a determination by the Parties that is desirable that Town be responsible for removal of debris from the right of way of State System Roads, NCDOT shall issue to Town a written Notice to Proceed with debris removal.
 3. Town shall remove and dispose of (1) Eligible Storm Debris on all non-FHWA routes and (2) Eligible Storm Debris except woody debris and sand on FHWA routes. In doing so, Town shall comply with all FEMA and DEM requirements regarding storm removal and disposal including landfill quantity calculations and site disposal costs. Any debris contract between the Town and any other party must be reviewed and approved by DEM and FEMA.
 4. Town shall apply directly to DEM and/or FEMA for reimbursement in accordance with the rules, regulations and procedures of those agencies. Any reimbursement must be governed by rules, regulations, and procedures of those agencies, and NCDOT shall not be responsible for any portion of reimbursement to Town.
 5. Town is responsible for complying with all NCDOT rules and regulations including, but not limited to, safety, insurance, and traffic control in accordance with the Manual on Uniform Traffic Control Devices, and Town shall hold harmless in all matters arising from or related to this Agreement. Further, Town shall be responsible for all damage or injury to persons or to private property occurring as a result of the debris removal activities pursuant to this Agreement, and Town shall hold NCDOT harmless in all matters arising therefrom.
 6. Town shall be responsible for repair of any damages to the state maintained right of way, which may be caused by debris removal operations undertaken pursuant to this Agreement. All repairs shall be made to the satisfaction of the Division Engineer of the Highway Division in which Town is located, and the Division Engineer’s judgment in this regard shall be final.
 7. Town shall remove all Eligible Storm Debris even if such removal requires multiple passes on a particular route and shall continue until the mutually agreed upon completion date. All work pursuant to this Agreement shall be done to the satisfaction of the Division Engineer of the Highway Division in which Town is located, and the Division Engineer’s judgment in this regard shall be final.
 8. All work pursuant to this Agreement shall be completed by a date mutually agreed to by DEM, FEMA, NCDOT and Town.
 9. This Agreement may be terminated by either party upon submission of a thirty-day advance written notice of termination. No notice of termination shall be effective for debris removal pursuant to any Notice to Proceed already issued by NCDOT.
 10. This Agreement may be amended at any time by mutual agreement of both parties as evidenced by a written Supplemental Memorandum of Agreement approved and signed by both parties.

11. To provide consistent and effective communication between the Parties, each party shall appoint a Principal Representative to serve as its central point of contact responsible for coordinating and implementing this Agreement. The Principal Representative of the NCDOT shall be Chief Engineer Operations or his designee. The Principal Representative of the Town shall be the Town Manager or his designee.

PUBLIC COMMENT

There was no one signed up to speak.

SCHEDULE TEXT AMENDMENT - MAY QUARTERLY PUBLIC HEARING

Development Services Director Bill Bailey reminded Council that during the Planning Retreat the Town Council had voted to change the name of Development Services Department to the Department of Planning and Inspections. Mr. Bailey said the name change will constitute various changes within the UDO. Mr. Bailey requested that the text amendment be presented at the May Quarterly public hearing. On a motion by Council member Brantz, seconded by Council member Ball, Council moved to send the proposed text amendment to the May Quarterly public hearing.

VOTE: Aye - All
 Nay - None

SCHEDULE SPECIAL MEETING - JOINT MEETING WITH PLANNING COMMISSION

Development Services Director Bill Bailey explained that at the recent planning retreat Council agreed to a joint meeting with the Planning Commission to discuss density recommendations. On a motion by Council member Leigh, seconded by Council member Brantz, Council moved to schedule a special meeting with the Planning Commission on Thursday, April 22, 2010 at 6:30 p.m. in the Council Chambers.

VOTE: Aye - All
 Nay - None

SCHEDULE SPECIAL MEETING - INTERGOVERNMENTAL RETREAT

On a motion by Council member Phillips, seconded by Council member Ball, Council moved to schedule a special meeting for the next Intergovernmental Retreat on Monday, March 22, 2010 at 5:00 p.m. in the Powers Room South at the ASU Broyhill Inn and Conference Center.

VOTE: Aye - All
 Nay - None

UPDATE ON REIMBURSEMENT OF WINTER STORM FEMA 1871-DR-NC

Public Works Director Blake Brown reported that Town crews have collected over 7,500 cubic yards of debris and estimated that there is another 14,000 cubic yards of debris remaining to collect. Mr. Brown reported that over 300 trees located in Town parks are damaged and that over 50 trees must be removed. Mr. Brown said that Town streets have sustained over \$200,000 in damages from the ice storm, not including potholes. Mr. Brown said that Town crews have accumulated over 3,700 overtime hours and have had only nine days off since December 13, 2009. Council member Mason commended Town staff for a great job during this difficult winter. Assistant to the Manager Jim Byrne agreed and said that Town crews have worked under dangerous, rotten conditions and have done a great job in snow and debris removal. Mr. Byrne said he anticipates that the final cost of expenditures of the Christmas day ice storm to be in excess of \$1 million dollars. Mr. Byrne said the Town should expect 100% reimbursement, because the State of North Carolina has agreed to the 25% local match and FEMA will reimburse 75%. Mr. Byrne said the Town must have all work completed by September 2010 and should expect final reimbursement by December 2010. Town Manager Greg Young commented that the Town is fortunate that it has funds available to pay for all expenses.

REQUEST FUNDING APPROVAL - FOR IMPROVEMENTS TO HORN IN THE WEST

Assistant to the Manager Jim Byrne requested \$7,500 in funds to provide routine maintenance and repairs to facilities located at Horn in the West. Mr. Byrne said that volunteers will be performing the maintenance; however, since they are Town facilities the Horn is requesting funding from the Town. Council member Brantz asked if the volunteers will be able to repair the Hickory Ridge Homestead buildings with the money. Mr. Byrne said he was unsure but that \$7,500 is enough money to make many repairs. Mr. Byrne also reported that he is trying to secure a grant for funding the replacement of the Powderhorn Theatre. On a motion by Council member Brantz, seconded by Council member Leigh, Council moved to allocate \$7,500 to the Horn in the West property for annual maintenance and repairs.

VOTE: Aye - All
 Nay - None

SCHEDULE SPECIAL MEETING - REVIEW OF TOWN COMMITTEES/BOARDS PRIOR YEAR ACTIVITIES AND PROJECTS

Council member Leigh said she would like to schedule a special meeting in order to meet with all the Town committees. This meeting would give the committees an opportunity to give reports to Council and for Council to give guidance to the committees. Town Attorney Sam Furguele pointed out that according to the Town Code the duration of most committees is one year. Mr. Furguele said Council may want to assign a time frame for each committee during this meeting. After some discussion about the length of time needed for such a meeting, Council member Ball made a motion to move this item to Thursday night for further discussion. Council member Phillips seconded.

VOTE: Aye - All
 Nay - None

REQUEST PERMISSION TO APPLY FOR GRANT - RECYCLING BIN GRANT

Public Works Director Blake Brown requested permission to apply for a recycling bin grant from the Coca-Cola Corporation and Keep American Beautiful organization. Grant recipients will receive recycling bins to be used for the collective of beverage recyclables. The bins can be used at special events or public facilities. On a motion by Council member Leigh, seconded by Council member Phillips, Council moved to grant permission to apply for the grant.

VOTE: Aye - All
 Nay - None

TRANSPORTATION COMMITTEE RECOMMENDATION - PROPOSED SPEED-HUMP ON PALMER DRIVE

Public Works Director Blake Brown said the Transportation Committee had recommended approval of a traffic speed hump to be located on Palmer Drive. Council member Leigh asked Mr. Brown if he thought speed humps are an effective way to slow down traffic. Mr. Brown said yes. After some discussion, on a motion by Council member Phillips, seconded by Council member Brantz, Council moved to approve the installation of a speed hump on Palmer Drive.

VOTE: Aye - All
 Nay - None

CONSIDERATION OF ENGINEERING PROPOSAL - TO INSTALL A CONNECTOR-ROAD BETWEEN CHESTNUT DRIVE AND NEW MARKET BOULEVARD

Public Works Director Blake Brown requested that Council approve the hiring of Davis, Martin and Powell to perform the engineering and design of a connector road between Chestnut Drive

and New Market Boulevard. Mr. Brown said both property owners, Modern Toyota and Advent Christian Church, are in favor of the connector road. Mr. Brown indicated that NC Department of Transportation Secretary Conti told him that DOT will assist in the construction of the connector road. Council member Brantz asked if DOT turned down the request for a stop light at Farthing Street. Mr. Brown said he has not heard from DOT regarding that request. Council member Leigh asked if New Market Boulevard can handle the additional traffic generated by this connector road. Mr. Brown said yes. On a motion by Council member Brantz, seconded by Council member Phillips, Council moved to approve the engineering proposal from Davis, Martin and Powell in the amount of \$18,000.

VOTE: Aye - All
 Nay - None

APPROVAL OF MAST STORE SIDEWALK IMPROVEMENTS AND ADOPTION OF ENCROACHMENT AGREEMENT

Public Works Director Blake Brown explained that Mast General Store wants to install a brick sidewalk in front of the Boone store. Mr. Brown reminded Council that this request was presented to them last month and that Council asked the Community Appearance Commission to review the proposed sidewalk plan. Mr. Brown reported that the Community Appearance Commission approved the installation of the brick sidewalk with some conditions. Council discussed at length sidewalk replacement in the downtown area. Council member Leigh asked who is responsible if the Town damages the brick sidewalk during snow removal. Town Attorney Furgieuele said Mast General Store will be responsible as it is stated in the encroachment agreement. Council member Leigh voiced her opposition to the brick sidewalk and encroachment agreement because it shows favoritism to one business and sets a precedent. Council member Leigh said that Council adopted a streetscape plan for downtown Boone and now wants to allow a different sidewalk design. Council member Ball agreed that approval may set a precedent. Town Attorney Sam Furgieuele said there may be a problem with the UDO in that it specifies that according to Section 243 [c][2]: *Sidewalks will be constructed in accordance with the Town of Boone Transportation Specifications and Policy Manual. Any deviation from the requirements must be approved by the Administrator. Deviations may only be allowed when strict compliance with the Town of Boone Transportation Specifications and Policy Manual is impractical due to topography or because there exists site conditions beyond the applicant's control and not of the applicants making.* Mr. Furgieuele pointed out that if Council approves the plan and it is not in compliance with the UDO, then Council has granted a variance, an action that Council can not perform. Council member Brantz commented that the Town has studied sidewalks for years and was hoping that this experiment can help the downtown area move forward. Mr. Tim Meadows from the Mast General Store said it is not the intent to be treated differently, but to jump-start the useage of brick pavers in the downtown area. Council member Ball said he was not prepared to vote on approval of the project until he knows if granting approval will create a variance from the Transportation and Specifications Policy manual. That being said, Council member Ball made a motion to table this item until Thursday night's meeting, in order to allow the Town Attorney the opportunity to review the policy manual. Council member Brantz seconded.

Mayor Pro-Tem Mason declared a break at 8:12 p.m. Council reconvened at 8:23 p.m.

VOTE: Aye - All
 Nay - None

REQUEST TO DISSOLVE INACTIVE/DEFUNCT COMMITTEE - BOONE MINIMUM HOUSING BOARD

Council member Leigh requested that the Council dissolve the Boone Minimum Housing Board since it has been inactive for many years. Town Attorney Sam Furgieuele said State law requires that the Town have in place a minimum housing code and an appeals mechanism; however, Mr. Furgieuele said the Board of Adjustment can hear the appeals. Mr. Furgieuele said a code amendment is necessary to make the change from the Minimum Housing Board to the Board of Adjustment. On a motion by Council member Leigh, seconded by Council member Phillips,

Council moved to have the Town Attorney draft a code amendment to replace the Minimum Housing Board with the Board of Adjustment for hearing appeals.

VOTE: Aye - All
 Nay - None

REQUEST TO DISSOLVE INACTIVE/DEFUNCT COMMITTEE - CABLE TV ADVISORY COMMITTEE

Council member Leigh requested that Council dissolve the Cable TV Advisory Committee since it has been inactive for a couple of years. Town Attorney Sam Furgiuele requested that Council table this matter so he can research federal and state law to assure that dissolving the committee is permitted. On a motion by Council member Leigh, seconded by Council member Phillips, Council moved to table this matter until the April 15, 2010 meeting.

VOTE: Aye - All
 Nay - None

REQUEST TO DISSOLVE INACTIVE/DEFUNCT COMMITTEE - VAGRANCY TASK FORCE

Council member Leigh requested that the Council dissolve the Vagrancy Task Force since it has been inactive for many years. On a motion by Council member Ball, seconded by Council member Leigh, Council moved to dissolve this task force.

VOTE: Aye - All
 Nay - None

REQUEST TO DISSOLVE INACTIVE/DEFUNCT COMMITTEE - HOWARD STREET STEERING COMMITTEE

Council member Leigh requested that the Council dissolve the Howard Street Steering Committee since it has been inactive for many years. On a motion by Council member Ball, seconded by Council member Leigh, Council moved to dissolve this committee.

VOTE: Aye - All
 Nay - None

UPDATE ON STATUS OF PARKING TASK FORCE

Council member Phillips updated Council on the status of the Downtown Parking Task Force. Council member Phillips said the roster is set and the first meeting will be on Thursday, March 25, 2010 at 3:00 p.m. at the Jones House. Council member Phillips said the first meeting will be an organizational meeting.

ANNOUNCEMENT OF BOARD VACANCY

Mayor Pro-Tem Mason announced the following board vacancies:

Greenway, Parks and Garden – one position/term expires July 31, 2012.

Boone ABC Board – one position/term expires April 30, 2010.

Cable TV Advisory Committee – two positions/terms expire April 30, 2010.

BOARD APPOINTMENT - AFFORDABLE HOUSING TASK FORCE

Council member Mason nominated Linwood Brown. There being no further nominations, Council appointed Linwood Brown as a community-at-large representative. No term was set.

Council member Ball nominated Jayme Glover. There being no further nominations, Council appointed Jayme Glover as a representative who qualifies for affordable housing. No term was set.

BOARD APPOINTMENT - BOONE ABC BOARD

Council member Brantz nominated Ron Holste. There being no further nominations, Council appointed Ron Holste to the Boone ABC Board. His term will expire March 30, 2011.

BOARD APPOINTMENT - BOARD OF ADJUSTMENT

Town Clerk Freida Van Allen explained that the County Commissioners have requested a letter explaining that an alternate ETJ position on the Board of Adjustment has been open since September, 2009. The County Commissioners will attempt to find someone to serve in that position.

BOARD APPOINTMENT - GREENWAY, PARKS & GARDENS COMMITTEE

Council member Leigh nominated Randy McDonough. There being no further nominations, Council appointed Randy McDonough to the Greenway, Parks and Garden Committee. His term will expire Jul 31, 2012.

BOARD APPOINTMENT - JONES HOUSE ADVISORY BOARD

Council member Brantz nominated Trent Margrif and Carolyn Travis to two open positions. There being no further nominations, Council appointed Trent Margrif and Carolyn Travis to the Jones House Advisory Board. Their terms will expire February 28, 2013.

BOARD APPOINTMENT - OUTSIDE AGENCY FUNDING COMMITTEE

There were no applications received for the three open positions.

APPROVAL OF ORDINANCE #05-01 AMENDMENTS

Public Utilities Director Rick Miller said the Water Committee is recommending some changes to Ordinance #05-01 regarding super majority votes and payment of availability fees. After some discussion, on a motion by Council member Phillips, seconded by Council member Brantz, Council moved to change all references of “**outside the corporate limits**” to “**outside the ETJ**”.

VOTE: Aye - 3 (Brantz, Mason, Phillips)
 Nay - 2 (Ball, Leigh)

Council discussed at length whether a provision to refund availability fees should be included in Ordinance #05-01 if the Board of Adjustment denies a project. Town Attorney Sam Furgiuele suggested further study of the matter. On a motion by Council member Ball, seconded by Council member Leigh, Council moved to table this matter until the April 15, 2010 meeting in order to allow the Water Study Committee to discuss the provision.

VOTE: Aye - All
 Nay - None

On a motion by Council member Phillips, seconded by Council member Ball, Council moved to amend the agenda to set a date for the Water Study Committee meeting.

VOTE: Aye - All
 Nay - None

SCHEDULING OF SPECIAL COUNCIL MEETING - WATER STUDY COMMITTEE

On a motion by Council member Phillips, seconded by Council member Leigh, Council moved to schedule a Water Study Committee meeting for Thursday, April 8, 2010 a 5:30 p.m. in the Council Chambers.

VOTE: Aye - All
 Nay - None

APPROVAL OF WK DICKSON RAW WATER INTAKE CONTRACT AMENDMENT

Public Utilities Director Rick Miller requested approval of a contract amendment for W.K. Dickson’s raw water intake contract in the amount of \$23,705. Mr. Miller said this contract amendment will allow W.K. Dickson to perform an additional bathymetric survey and a new mussel relocation site evaluation. Mr. Miller said the mussel relocation will cost from \$10,000 to \$15,000 and is not included in this contract amendment. On a motion by Council member Brantz, seconded by Council member Leigh, Council moved to adopt the contract amendment with W.K. Dickson in the amount of \$23,705.

VOTE: Aye - All
 Nay - None

MONTHLY WATER STATUS REPORT

Public Utilities Director Rick Miller presented the monthly water-use status report (**copy permanently on file in the March 2010 Town Council meeting packet.**)

APPROVAL OF BUDGET AMENDMENTS

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

DESCRIPTION	ACCOUNT #	TO:	FROM:
CONTRACTED SERVICES-INTERN (HISTORIC PRESERVATION)	010-401-000-545003	\$1,000.00	
APPROPRIATED FUND BALANCE-GENERAL FUND	010-000-000-499900		(\$1,000.00)
CONTRACTED SERVICES-ADMINISTRATION (MSD SURVEY)	010-401-000-577000	\$7,000.00	
APPROPRIATED FUND BALANCE-GENERAL FUND	010-000-000-499900		(\$7,000.00)
MAINTENANCE & REPAIR-VEHICLES (FIRE DEPARTMENT)	010-500-350-525301	\$6,760.00	
MISCELLANEOUS REVENUE-GENERAL FUND	010-000-000-489900		(\$6,760.00)
OVERTIME-STREET DEPT.	010-600-401-501201	\$12,000.00	
GAS & OIL-STREET DEPT.	010-600-401-515100	\$20,000.00	
MISCELLANEOUS SUPPLIES-STREET DEPT.	010-600-401-519900	\$10,000.00	
MILEAGE REIMBURSEMENT-STREET DEPT.	010-600-401-521111	\$1,500.00	
MAINTENANCE & REPAIR-EQUIPMENT STREET DEPT.	010-600-401-525201	\$20,000.00	
MAINTENANCE & REPAIR-VEHICLES STREET DEPT.	010-600-401-525301	\$20,000.00	

APPROPRIATED FUND BALANCE-GENERAL FUND	010-000-000-499900		(\$83,500.00)
SNOW & ICE REMOVAL-STREET DEPT.	010-600-401-514304	\$80,500.00	
APPROPRIATED FUND BALANCE-GENERAL FUND	010-000-000-499900		(\$80,500.00)
OVERTIME-FLEET MAINTENANCE	010-600-404-501201	\$10,000.00	
MISCELLANEOUS SUPPLIES-FLEET MAINTENANCE	010-600-404-519900	\$15,000.00	
MILEAGE REIMBURSEMENT-FLEET MAINTENANCE	010-600-404-522101	\$1000.00	
TELEPHONE SERVICES-FLEET MAINTENANCE	010-600-404-522101	\$300.00	
APPROPRIATED FUND BALANCE-GENERAL FUND	010-000-000-499900		(\$26,300.00)
OVERTIME-FACILITIES MAINTENANCE	010-600-405-501201	\$26,000.00	
SNOW & ICE REMOVAL-FACILITIES MAINTENANCE	010-600-405-514301	\$10,000.00	
MAINTENANCE & REPAIR-EQUIPMENT FACILITIES MAINT.	010-600-405-525201	\$10,000.00	
APPROPRIATED FUND BALANCE-GENERAL FUND	010-000-000-499900		(\$46,000.00)
MAINTENANCE & REPAIR-EQUIPMENT FACILITIES MAINT.	010-600-405-525301	\$425.00	
MISCELLANEOUS REVENUE-GENERAL FUND	010-000-000-489000		(\$425.00)
ARMORY SUPPLIES-NARCOTICS FUND	012-500-303-519200	\$11,000.00	
FEDERAL ASSET-TREASURER	012-500-303-472002		(\$11,000.00)

VOTE: Aye - All
 Nay - None

APPROVAL OF DOWNTOWN STREETSCAPE BUDGET

Public Services Director Blake Brown said the Community Appearance Commission had reviewed the streetscape budget that was presented last meeting. The Community Appearance Commission recommends adoption of the budget. Mr. Brown pointed out that the budget does not include street lighting. Town Manager Greg Young said the DBDA has committed \$20,000 toward the streetscape amenities, with a match of \$20,000 from the Town of Boone. After little discussion on a motion by Council member Ball, seconded by Council member Leigh, Council moved to adopt the following downtown streetscape budget:

	Item and Description	Cost	Amount	Total
1	Wausau Tile Trash Receptacles in Black and Green Recycled Glass	\$649.00	15	\$9,735.00 + \$741.00 freight \$10,476.00
2	Petersen Mfg. Co., Inc. Recycling Kiosk	\$3,269.75	3	\$9,809.25
3	Pedestrian Street Sign	\$22.50	16	\$360.00

		Map Inserts 12x18 in aluminum .040			
	4	Plasa Cut Finials for the Pedestrian Street Signs	\$75.00	8	\$600.00
	5	Light Pole Banners – Full Color Print: Double Sided, Hemmed w/ Pole Pockets	\$125.00	22	\$2750.00
	6	Kiosk Signage – w/ Framing and Backer	\$425.00	1	\$425.00
	7	Kiosk Framing – 6x6 PT Posts w/ 4x4 PT Cross members; Cedar Roof; Augured Holes w/ Concrete	\$1750.00	1	\$1750.00
	8	Bike Racks	\$200.00	2	\$400.00
Donations?	9	Dumar 8’ Benches w/ 3 arms “Gullwings Black”	\$1033.00	4	\$4,132.00 + \$306.00 freight \$4,438.00
Donations?	10	Cultural Historical Bench Enhancements			
	11	Big Belly Solar Compactor	\$3995.00	3	\$11,985.00 + \$300.00 freight \$12,285.00
				Total	\$43,293.25

VOTE: Aye - All
Nay - None

RECESS

Upon a motion by Council Member Ball, seconded by Council Member Brantz, Council moved to recess the meeting at 9:55 p.m. until Thursday, March 18, 2010 at 6:30 p.m. in the Council Chambers, 1500 Blowing Rock Road.

VOTE: Aye - All
Nay - None

CALL TO ORDER

A recessed meeting from Tuesday, March 16, 2010 was called to order at 6:30 p.m., Thursday, March 18, 2010, in the Council Chambers, 1500 Blowing Rock Road. Mayor Loretta Clawson presided. Council members present were Mayor Pro-Tem Lynne Mason, Andy Ball, Rennie Brantz, Jamie Leigh, and Stephen Phillips. Town Attorney Sam Furguele was also present. Staff members present were Town Manager Greg Young, Town Clerk Freida Van Allen, Assistant to the Town Manager Jim Byrne, Police Chief Dana Crawford, Fire Chief Reggie Hassler, Public Works Director Blake Brown, Public Utilities Director Rick Miller, Finance Director Amy Davis, Human Resources Director Peri Moretz, and Development Services Director Bill Bailey.

Mayor Clawson stated that any persons wishing to address the Council should sign in to speak during the Public Comment period.

ANNOUNCEMENTS

Mayor Clawson announced that Saturday, April 17, 2010 is Boone Spring Clean-Up Day. Mayor Clawson urged all citizens to participate.

Mayor Clawson announced that a reception will be held on Monday, March 22, 2010 from 4 to 6 p.m. at the Jones House in honor of the Preserve America Community designation that the Town of Boone received last month.

TENTATIVE AGENDA ADOPTION

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

- Moved items 6.F., G., K., R.4.8.&9 from Tuesday night's meeting to this agenda.
- Addition to Closed Session - Legal Advice on SAHA lease, Mast Store Improvements and Internet Sweepstakes.

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

VOTE: Aye - All
 Nay - None

UPDATE ON SISTER-CITY PROJECT - REQUEST PERMISSION TO JOIN SISTER-CITY INTERNATIONAL

Council member Brantz proposed that the Town of Boone join the Sister Cities International organization as the first step in establishing a sister-city with Guba, Azerbaijan. Council member Brantz said after joining the next step will be to establish a citizens' committee. Council member Brantz said he would also like for the Town to re-establish its relationship with Collingwood, Canada, another sister city of Boone's. Mr. Galib Abbaszade of Guba, Azerbaijan agreed that the Town should join the international organization as the next step and that he looks forward to the travel and business ventures between both towns. On a motion by Council member Brantz, seconded by Council member Phillips, Council moved to join the Sister Cities International organization and to solicit privately the \$360 per year fee.

VOTE: Aye - All
 Nay - None

SCHEDULE SPECIAL MEETING - REVIEW OF TOWN COMMITTEES'/BOARDS' PRIOR YEAR ACTIVITIES AND PROJECTS

Council member Leigh presented the following proposal for the review of Town committees' and boards' prior year activities and projects:

- March 31st - Council Retreat
- April 5th - Council member Leigh will prepare suggested Committee Report format for inclusion in April's regular Council meeting packet.
- April 15th - Council will review, discuss and approve Committee Report format at April regular Council meeting and choose which committees to include.
- May 10th - Due date to receive completed reports from committees.
- May 18th - Schedule special meeting(s) for June to review and discuss completed committee reports and communicate Council priorities for upcoming fiscal year.
- June, 2010 - Hold special meeting(s).

The report contents will recap activities, accomplishments, work-in-progress, abandoned projects and future projects not yet begun from FY 2009-2010. For FY 2010-2011 plans including priorities/projects already assigned by Council.

On a motion by Council member Leigh, seconded by Council member Ball, Council adopted the proposal as presented.

VOTE: Aye - All
 Nay - None

CLOSED SESSION

On a motion by Council member Brantz, seconded by Council member Ball, Council moved to enter Closed Session at 6:50 p.m. pursuant NCGS 143-318.11a)5) to discuss Legal Advice on the Mast Store Encroachment Agreement.

VOTE: Aye - All
 Nay - None

On a motion by Council member Ball, seconded by Council member Brantz, Council moved to exit Closed Session at 7:23 p.m.

VOTE: Aye - All
 Nay - None

APPROVAL OF MAST STORE SIDEWALK IMPROVEMENTS AND ADOPTION OF ENCROACHMENT AGREEMENT

On a motion by Council member Brantz, seconded by Council member Mason, Council moved to amend the agenda to **Consider Amendments to the Downtown Boone Streetscape Plan.**

VOTE: Aye - 2(Brantz, Mason)
 Nay - 3(Ball, Leigh, Phillips)

Public Works Director Blake Brown explained that Mast General Store wants to install a brick sidewalk in front of the Boone store. Mr. Brown reminded Council that this request was presented to them last month and that Council asked the Community Appearance Commission to review the proposed sidewalk plan. Mr. Brown reported that the Community Appearance Commission approved the installation of the brick sidewalk with some conditions. Mr. Tim Meadows of Mast General Store presented cost estimates to remove the concrete sidewalks and replace with solid brick pavers. Town Attorney Sam Furguele reminded Council that to grant approval of the project will be inconsistent with the recently adopted Downtown Boone Streetscape Plan. On a motion by Council member Leigh, seconded by Council member Phillips, Council moved to deny the request by Mast General Store because its plan is not consistent with the Town's streetscape plan. Council also requested that the Downtown Boone Streetscape Plan be reviewed by the Community Appearance Commission to include different sidewalk variations.

VOTE: Aye - All
 Nay - None

BOARD APPOINTMENT - COMMUNITY APPEARANCE COMMISSION

Council member Mason nominated Emily Stallings. There being no further nominations, Council appointed Emily Stallings to the Community Appearance Commission. Her term will expire June 30, 2011.

BOARD APPOINTMENT - SUSTAINABLE DEVELOPMENT TASK FORCE

Council member Ball nominated Rowan Cannell, Jed Moody, Kelly Drey-Houck and Susie Winters. There being no further nominations, Council appointed Rowan Cannell, Jed Moody, Kelly Drey-Houck and Susie Winters to various positions on the Sustainable Development Task Force. No terms were set for these positions.

BOARD APPOINTMENT - TREE BOARD

Council member Mason nominated Jim Hamilton and Chad Michael. There being no further nominations, Council appointed Jim Hamilton and Chad Michael to the Tree Board. Their terms will expire October 31, 2012.

REQUESTED APPEARANCE - TUESDAE RICE/DBDA

Mr. Dempsey Wilcox, President of the Downtown Boone Development Association, appeared before Council to request permission to apply for an NC Department of Commerce Main Street Solutions Grant. Mr. Wilcox said the deadline for the grant application is April 15th and that the Town can utilize the \$35,000 allocated toward downtown street lamps, along with a \$10,000 DBDA contribution, as a match toward the grant. Mr. Wilcox explained that the Town can apply for funds to help with public infrastructure or can apply for funds to help private businesses. Mr. Wilcox also requested that Council member Mason and Assistant to the Manager Jim Byrne assist with the grant. Council member Mason asked if the grant application can combine both public and private projects. Assistant to the Manager Jim Byrne responded that at this late date he would apply for public infrastructure funding; however, he did not feel there is adequate time to pull together an effective application. Mr. Byrne said letters of commitment from private businesses must be secured and that the application must also prove that any funding will provide jobs and increase sales to the downtown area. Mr. Byrne said he is concerned that if the private businesses who sign commitment letters do not follow through the Town may be liable. Mr. Byrne felt the grant would have been a good opportunity if the DBDA had pursued it when the application was first released in February. Mr. Wilcox said the DBDA is prepared to complete the application and have it ready to present to Council by the March 31st Council retreat. Council member Mason felt it was a good opportunity to maximize funds already allocated for street lamps. Council member Leigh agreed with the concern that the Town may be held liable for funds if the private commitments from business owners are not met. Council discussed at length the proposed grant application. Town Manager Young suggested having the DBDA focus on a public project, such as downtown lighting or sidewalks. Mr. Young said the DBDA could start preparing the grant application and report at the Council's retreat its progress. Mr. Young said the Town will also need a contract with the DBDA in case grant funds must be repaid. Mr. Byrne said the Town has a reputation of excellence with the NC Department of Commerce and receives numerous grants from the organization each year. Mr. Byrne felt the Town should not jeopardize the relationship. Council member Brantz agreed and stated he was concerned about the staff time that will be involved in assisting with the application. After another lengthy discussion, Council member Mason made a motion to grant permission to the DBDA to apply for the Main Street Solution grant from the NC Department of Commerce. The grant application will focus on a downtown lighting public project. The Town will commit \$35,000, along with the DBDA contribution of \$10,000, as a match for the grant. The Town Attorney will also research the Town's liability if private commitment that is required for the grant is not met and prepare a resolution for adoption that will be presented, along with the completed application, and letters of property owner commitment at the March 31st Council retreat.

VOTE: Aye - 4(Ball, Brantz, Mason, Phillips)
 Nay - 1(Leigh)

REQUESTED APPEARANCE - PAM WILLIAMSON

Ms. Pam Williamson presented the following statement and exhibits:

18 March 2010

My name is Pam Williamson. I am a Boone resident and appreciate the opportunity to address the Council tonight.

When a charrette and other community meetings were held to gather input from citizens in anticipation of the Boone 2030 Smart Growth Plan, residents weighed in on what their priorities were for the Town's commercial zones. Listed among residents' least favorite things about Boone was "*visual clutter on Hwy 321.*"¹ Community priority Number 4 was "*discourage cheap apartment buildings.*"² Of the top 5 Housing Priorities by Residents, Number 2 was "*mixed use buildings.*"³ Other priorities included "*student housing with mixed uses along major corridors,*"⁴ "*responsible mixed use*

¹ Boone 2030 Smart Growth Plan, page 24

² Boone 2030 Smart Growth Plan, page 25

³ Boone 2030 Smart Growth Plan, page 26 and 91

⁴ Boone 2030 Smart Growth Plan, page 26

development,”⁵ “no more mega apartment complexes,”⁶ “improve appearance of corridors,”⁷: and “make UDO change recommendations ASAP.”⁸

Boone’s 2030 Smart Growth plan subsequently outlined recommendations based on desired development as expressed by residents and consistent with Boone’s development goals.

The plan lists the gateway commercial corridors in particular as “*primary focus areas*”⁹ and specifically highlights those focus areas on its “Boone Context Map” (Exhibit A). These focus areas include Downtown, Hwy 421 west of Boone, Hwy 421 east of Boone, Hwy 105, and Hwy 321.

The 2030 plan emphasizes that the Town’s vision for its commercial areas is that they are “*successful and beautiful commercial corridors*,”¹⁰ and that the Town’s Growth Principles for its commercial areas is “*mixed land uses*.”¹¹

The Boone 2030 plan also included some special warnings: (1) mixed use is literally “*vital*”¹² on Hwy 421 east and (2) “*care should be taken to limit the length of G-3 corridor developments to avoid the creation of lengthy, undifferentiated linear strip development*.”¹³

While the 2030 plan acknowledges there was a retail vacancy rate of 4.5% at the time of its writing, the plan says there is still much opportunity for different kinds of retail space, including general merchandising, medical office space, office and low-impact space, and additional professional office uses. The report concludes that retail will “*continue to expand as additional demand is created as a result of growth in the resident and daytime populations*.”¹⁴ One of the primary reasons residential development is currently being developed in our “B” zones is simply because there is more money to be made in high density housing than there is in commercial space rather than a reflection of too much commercial and office space.

The 2030 plan stresses repeatedly that in order for the Town to achieve its smart growth principles for commercial areas with a view towards the future, it should include a mix of uses that integrates commercial and residential development.¹⁵

Furthermore, the Boone 2030 smart growth plan gives notice that the zoning map in the town’s Unified Development Ordinance “lacks the detail to facilitate the Town’s Smart Growth Goals” and notes that “growth is being decided incrementally by individual developer’s intent for various pieces of land rather than by a comprehensive land use vision.”¹⁶

Therein lies the problem. Exhibit B is what Boone’s 2030 plan envisions for the town’s commercial zones. Exhibits C1 and C2 are what we’re getting. And it’s a far cry from the smart growth principles and vision set forth in the Boone 2030 Plan.

The Town’s Unified Development Ordinance (UDO), Section 152 sets out the basic intent behind the Town’s “B” zones. B-1 commercial zones are intended as mix of commercial and residential development. B-2 and B-3 commercial zones are intended

⁵ Boone 2030 Smart Growth Plan, page 28

⁶ Boone 2030 Smart Growth Plan, page 31

⁷ Boone 2030 Smart Growth Plan, page 32

⁸ Boone 2030 Smart Growth Plan, page 32

⁹ Boone 2030 Smart Growth Plan, page 13

¹⁰ Boone 2030 Smart Growth Plan, page 2

¹¹ Boone 2030 Smart Growth Plan, pages 2 and 20

¹² Boone 2030 Smart Growth Plan, page 103

¹³ Boone 2030 Smart Growth Plan, page 43

¹⁴ Boone 2030 Smart Growth Plan, page 18 and 19

¹⁵ Boone 2030 Smart Growth Plan, page 18

¹⁶ Boone 2030 Smart Growth Plan, page 15

strictly for commercial use. Yet what we are seeing developed in these zones is 100% housing.

It's true that Boone's 2030 Plan established a vision for the Town's commercial zones not yet reflected in an ordinance change. **But nowhere in either the ordinance nor the Boone 2030 Plan is there any evidence whatsoever that the Town's "B" zones were ever envisioned as 100% residential.**

The Town has tried to encourage mixed use in some of its commercial zones by adding UDO section 155. This section lays out development standards for commercial/residential mixed use developments for the "B" zoning classifications, including (among other things) ground level commercial use, allowance of upper level residential use, awnings, and parking behind the building. The problem is that mixed use is not required in "B" zones, only encouraged. And, worst of all, the Town's Table of Permissible Uses still allows 100% housing in its "B" zones.

While the town's goals are clear in light of its Unified Development Ordinance, the Boone 2030 Smart Growth Plan, and the inclusion of UDO Section 155, what we are getting instead is 100% high-density housing in our commercial zonings, especially along the very major corridors Boone's 2030 plan warned us are especially sensitive. We can already see what damage has been done to the Hwy 421 corridor west of Boone, and now we are seeing the same thing happening from the Convocation Center down the Hwy 321 corridor.

Continuing to allow the development of large apartment complexes that do not include retail or office space on the bottom in the Town's "B" zoning classifications is (1) eating up our commercial space, (2) is unattractive, (3) creates high-density housing sprawl along our commercial corridors, (4) is entirely contrary to the vision and recommendations of the Town's Smart Growth Plan and UDO, and (5) **is exactly what Boone residents said they did not want.**

For these reasons, I am requesting tonight, pursuant to UDO Section 162, that the Town Council direct Planning and Inspections staff and the Town Attorney to draft a text amendment to the Town's UDO and Table of Permissible Uses to require that any housing developed in "B" zoning classifications be developed as mixed commercial/residential use, and that UDO Sections 155(e), (f), and (g) be used as a template for establishing development standards.

Council agreed with Ms. Williamson regarding the erosion of commercial space by multi-family housing developments and discussed at length the best way to proceed. Town Attorney Sam Furguele said Council could consider a 60-day moratorium on multi-family housing in the B-zones until a text amendment can be prepared. On a motion by Council member Mason, seconded by Council member Brantz, Council moved to have the Town Attorney prepare a 60-day moratorium on multi-family housing within the B-zones. The proposed moratorium, along with other options, will be presented for discussion and action at the March 31st Council retreat.

VOTE: Aye - All
 Nay - None

On a motion by Council member Mason, seconded by Council member Ball, Council moved to instruct Planning Staff and the Town Attorney to begin development of a text amendment to the UDO that would require any housing development in B-zones be developed as mixed commercial/residential use.

VOTE: Aye - All
 Nay - None

Mayor Clawson declared a break at 9:04 p.m. Council reconvened at 9:14 p.m.

REQUESTED APPEARANCE - JOE MARTIN/WATAUGA COUNTY FARMERS' MARKET

Mr. Joe Martin, President of the Watauga County Farmers' Market, appeared before Council and requested that the following modifications be included within the sub-lease of the Southern Appalachian Historical Association (SAHA) and the Watauga County Farmers' Market:

1. Allow the Farmers' Market to pay rent as follows:
 - a. \$5,000 on the 1st Saturday in May.
 - b. \$2,500 on the 1st Saturday in July.
 - c. \$2,500 on the 1st Saturday in August.
2. Allow the Farmers' Market to terminate the lease with SAHA on a 30-day notice.
3. Allow the Farmers' Market to remove the covered vendor sheds.
4. Prevent SAHA from sub-leasing to another Farmers' Market for a period of five years once the Watauga County Farmers' Market has vacated the premises.

Mr. Martin explained that the Farmers' Market is currently pursuing another location and requested that Council approve the lease modifications as presented above. Mr. Billy Ralph Winkler, President of SAHA, appeared before Council and agreed to the rent terms as presented above. Mr. Winkler said the other three modifications should be decided by the Town since it is the property owner. Council took no action on this request since it will be discussed further in closed session.

WATER & SEWER REQUEST - VANACORE/WALSH

Town Attorney Sam Furgiuele opened a public hearing at 9:29 p.m. to hear sworn testimony from Jeff Vanacore, Planner Jane Shook and Public Utilities Director Rick Miller on a request for water and sewer service to property located at 2588 US Highway 321. Town Attorney Sam Furgiuele asked Mr. Moseley if he objected to the minutes of a previous water/sewer request, made by Floyd Garrison, be reviewed by Town Council. Mr. Moseley said no. Mr. Allen Moseley, attorney for Vanacore/Welsh, said the property is known as the Elk Motel property. Mr. Moseley said Vanacore/Welsh is under contract to purchase the motel and a single-family residence located on the property. Mr. Moseley said the septic system is failing so the applicants are requesting a sewer- only extension as water is not available to the property. Mr. Moseley said the applicants are willing to annex the property and connect to water once it is available. Mr. Moseley also requested that the Town consider participation in the cost of the sewer extension. Mr. Moseley said the applicants are willing to make significant upgrades to the property such as repainting, repaving, landscaping and refurbishing of the motel. Mr. Moseley said upgrades would benefit the Town in providing low-income housing and an increased tax base. Council member Brantz asked about the management of the property. Mr. Jeff Vanacore said he would be the manager of the property and his intention is to maintain the current rental program and to clean-up the property. Mayor Clawson pointed out that extending the sewer line is very expensive, especially given the Town's current obligations and the upcoming budget. Council member Ball asked what type of commitment from the Town is requested. Mr. Moseley said the applicants are requesting that the Town pay half the costs to extend the sewer line. Mr. Vanacore testified that he is planning to invest \$150,000 initially. Council member Brantz asked how much it will cost to extend the sewer. Public Utilities Director Rick Miller estimated the cost to be about \$277,000, without a sewer lift station and more if a lift station is needed. Town Attorney Furgiuele asked Mr. Miller if there is a sunset provision on approval of sewer service, given that Council granted approval of a sewer line extension to Mr. Garrison on May 15, 2008. Mr. Miller said there is no sunset provision on sewer-service approvals and that technically an extension for sewer service is already granted to the property. Council member Mason asked about zoning classifications for the property. Planner Jane Shook responded that the property is zoned B-3 and R-1. Council member Brantz asked if the applicants would be willing to hold the property as affordable housing for as long as 10 years. Mr. Moseley felt that 10 years is a long commitment, but answered yes. Town Attorney Furgiuele explained that since sewer service has already been granted to the property, the Town could negotiate a contract with the new owners if the Town decides to participate in the sewer-line extension. There being no further comments, the public hearing closed at 10:09 p.m. Council member Mason felt there is a public health issue with the failing septic system; moreover, she did not comprehend how the Town could afford to participate in the project, especially with all the current obligations the Town has in the

water/sewer area. On a motion by Council member Brantz, seconded by Council member Ball, Council moved to confirm the previous approval of sewer extension to the property as long as the applicants/owner pay all costs associated with the extension and annexation of the property.

VOTE: Aye - All
 Nay - None

WATER & SEWER REQUEST - CATHY KOSTERMAN

Town Attorney Sam Furgiuele opened a public hearing at 10:14 p.m. to hear sworn testimony from Cathy Kosterman and Public Utilities Director Rick Miller on a request to extend a water allocation to property located at 232 Park Street. Mr. Stacey Eggers IV, attorney for Ms. Kosterman, stated that no development permits for the project have been issued yet; however, a special use permit was granted on July 10, 2008 for a two-year period. Mr. Eggers said closing on the property is scheduled for April 5, 2010 and that the applicant is requesting an extension of the water/sewer service allocation that was granted on April 19, 2009. Ms. Cathy Kosterman, property owner, reminded Council of plans for a 50 unit multi-family development to be constructed on the 20-acre tract. Public Utilities Director Rick Miller said Council granted approval of the request contingent upon the development being located within the corporate limits. The 20-acre tract is located both in and out of the town limits and is within the secondary pressure zone. Council member Brantz asked when construction of the project will begin. Mr. Eggers said permits must be pulled before July 2010. There being no further comments, the public hearing closed at 10:26 p.m. Town Attorney Sam Furgiuele noted that if Council grants approval of the extension, the extension will begin on April 20, 2010. On a motion by Council member Mason, seconded by Council member Brantz, Council moved to grant an extension of the water/sewer service effective April 20, 2010, as long as the applicant pays the availability fees within the time required by the Town of Boone Water and Sewer Code.

VOTE: Aye - All
 Nay - None

WATER & SEWER REQUEST - RON SAYLES

Town Attorney Sam Furgiuele opened a public hearing at 10:28 p.m. to hear sworn testimony from Ron Sayles, Hollis Boreman, Planner Jane Shook and Public Utilities Director Rick Miller on a request for water and sewer service to property located at 424 and 446 Green Street. Town Council members noted they had received an email from someone regarding the proposed project, but that they would not consider its contents when making this decision. Ms. Chelsea Garrett, attorney for Mr. Sayles, did not object to Council's admission of receiving the email and agreed Council should not consider the content when making this decision. Ms. Chelsea Garrett, attorney for Mr. Sayles, said the property is located within the corporate limits and is in within the primary water zone. Ms. Garrett said the proposed project is for a 24-unit multi-family apartment and that the project is consistent with the neighborhood. Mr. Ron Sayles testified that the property is now zoned R-1A, but that he plans to ask for rezoning of the property if water/sewer service is granted. Council member Brantz asked how much the rent would be for each apartment. Mr. Sayles said rent would be \$550 per bedroom and that the project would include 98 bedrooms. Mr. Hollis Boreman testified that the building will lie horizontally with parking in the front and rear of the property. Public Utilities Director Rick Miller read a statement from Catherine Scantlin who voiced her opposition to the project stating this project is adjacent to a single-family neighborhood. Ms. Garrett noted this request is for water/sewer only and that the neighborhood will be presented the opportunity to speak to the project during the permitting process. Council member Brantz asked if the property is located within the Town's viewshed. Planner Jane Shook said no, but that the property is located adjacent to the Queen Street Neighborhood Conservation District. Ms. Shook explained in detail the difference between R-1 and R-1A zones and the O2 classification as specified by the Land Use Master Plan. Ms. Garrett asked if there are R-1A properties located within the Queen Street Neighborhood Conservation District. Planner Shook said yes. There being no further comments, the public hearing closed at 11:03 p.m. Council agreed that the project does not comply with the Land Use Master Plan and does not fit into the neighborhood. After some discussion, on a motion by Council member Phillips, seconded by Council member Mason, Council moved to deny the water and sewer request.

VOTE: Aye - All
Nay - None

CLOSED SESSION

Upon a motion by Council Member Brantz, seconded by Council Member Ball, Council moved to enter Closed Session at 11:05 p.m. pursuant to NCGS 143-318.11a)(3)(5) in order to discuss the following matters:

- Property Acquisition - Raw Water.
- Possible Settlement of Mountaintop Properties Condemnation.
- § Legal Advice - Templeton Medical Clinic.
- § Legal Advice - Regarding Qualifications of Committee Members.
- § Legal Advice - UDO Text Amendment.
- § Legal Advice - SAHA Lease.
- § Legal Advice - Internet Sweepstakes.

VOTE: Aye - All
Nay - None

Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to exit Closed Session at 12:35 a.m.

VOTE: Aye - All
Nay - None

ACTION FOLLOWING CLOSED SESSION

On a motion by Council member Mason, seconded by Council member Brantz, Council moved to send to the May Quarterly Public Hearing a text amendment to UDO Sections 15, 165 and 184.

VOTE: Aye - All
Nay - None

On a motion by Council member Mason, seconded by Council member Brantz, Council moved to direct the Town Attorney to prepare a text amendment to the UDO regarding internet sweepstakes.

VOTE: Aye - All
Nay - None

On a motion by Council member Brantz, seconded by Council member Leigh, Council moved to excuse the Mayor from discussion on the following matter: **Discussion of Templeton Medical Clinic Case.**

VOTE: Aye - All
Nay - None

DISCUSSION OF TEMPLETON MEDICAL CLINIC CASE

On a motion by Council member Ball, seconded by Council member Brantz, Council authorized Town Attorney Sam Furgieule and associates from Parker and Poe to represent the Town of Boone in the upcoming Board of Adjustment hearing on the Templeton Medical Clinic case.

VOTE: Aye - All
Nay - None

ADJOURNMENT

On a motion by Council Member Mason, seconded by Council Member Ball, Council moved to adjourn the meeting at 12:46 a.m.

VOTE: Aye - All
 Nay - None

Town Clerk

Mayor