

**MINUTES - SPECIAL MEETING  
BOONE TOWN COUNCIL  
MARCH 31, 2010**

A special meeting of the Boone Town Council was called to order at 8:37 a.m., Wednesday, March 31, 2010, in the Council Chambers, 1500 Blowing Rock Road. Mayor Loretta Clawson presided. Council members present were Mayor Pro-Tem Lynne Mason, Andy Ball, Stephen Phillips, Rennie Brantz, and Jamie Leigh. Staff members present were Town Manager Greg Young, Town Clerk Freida Van Allen, Deputy Town Clerk Kim Brown, Assistant to the Manager Jim Byrne, Finance Director Amy Davis, Human Resources Director Peri Moretz, Public Works Director Blake Brown, Police Chief Dana Crawford, Public Utilities Director Rick Miller, Development Services Director Bill Bailey, Fire Chief Reggie Hassler, Planner Jane Shook, and Planner Christy Turner. Town Attorney Sam Furgiuele was present. Scott Nicholson of Mountains Times Publications and Anna Oakes of the High Country Press were also present.

The purpose of this meeting was the Council's annual retreat. Mayor Clawson welcomed all in attendance.

**PUBLIC HEARING - 60-DAY MORATORIUM ON MULTI-FAMILY HOUSING IN CERTAIN BUSINESS DISTRICTS**

Mayor Clawson called a public hearing to order at 8:39 a.m. to hear public comment on a proposed 60-day moratorium on multi-family housing in certain business districts.

The first speaker was Damon Mallatere of Appalachian Hospitality Management. He stated that his company currently owns six lodging establishments in Boone and that his company sold the old Quality Inn to ASU which uses the structure for residential, student housing. He also pointed out that two of the motels owned by his company are at least twenty years old. Mr. Mallatere stated that it is not financially feasible to upgrade the older buildings to franchise standards for continued use as lodging facilities. He stated that the proposed moratorium may limit his ability to sell the two older motels to ASU or another owner for use as productive, residential housing.

Perry Yates, owner of New River Building Supply and Lumber Company, voiced his concern with the proposed moratorium and its effect on the construction industry in the area. He pointed out that the current economic conditions have forced many job losses in the construction industry. Mr. Yates suggested that the Town consider each project individually instead of imposing a moratorium.

Jason Gaston, of Valor Engineering, presented information about his concerns about requiring mixed-use building projects and the proposed moratorium (**copy of presentation permanently on file in the Clerk's office**).

Jeff Templeton pointed out that student housing is the only type of construction that has survived the economic conditions. He stated that the proposed moratorium will put people in the construction industry out of work and cited the Boone Point project as an example of a failed mixed-use project. He stated that this moratorium will force student housing to be built outside the town's jurisdiction in Watauga County.

Allen Yates, owner of a local realty company, asked the Council to allow projects to be considered on an individual basis. He pointed out the large amount of vacant commercial property in Boone. Mr. Yates stated that the proposed moratorium will cause continued job-loss in the construction industry.

Dan Godwin of Weber, Hodges & Godwin Realty, stated that the timing of this moratorium could not be worse due to the economic conditions. He stated that the Council could regulate multi-family development through water allocation and conditional-district zoning.

Liz Aycok, a former Town Council member and realtor, stated that she supports the moratorium. She stated that the business districts of the town should be preserved for that purpose. She indicated that the moratorium will allow time to develop a solution to several of the issues.

Jean Borhman, a broker for Century 21, stated that she supports the moratorium since it will allow time to make sure that the Town is adhering to the guidelines of the Boone 2030 Plan. She also believes that this action will help in protecting commercial properties in town.

Pam Williamson stated that she was involved in the development of the 2030 Plan and that she feels that the Town should do what is right for the future of the area. She stated that this moratorium will allow time to correct problems in the UDO that conflict with the intent of the 2030 Plan. She pointed out that the 2030 Plan advised against considering projects on an individual basis instead of considering the long-term effects of a project.

With no further persons wishing to speak, Mayor Clawson closed the public hearing at 9:07 p.m.

### **DISCUSSION AND POSSIBLE ADOPTION OF MORATORIUM ORDINANCE**

Council Member Phillips questioned whether it was an appearance issue or a use issue. Council Member Ball stated that he feels that it is a use issue. He pointed out the new apartments located beside the Hardee's restaurant on Highway 321 as an example and stated that he feels this project would have been more appropriate with retail use included since it is located along a main corridor. Furthermore, he stated this will allow for more time to study such issues as parking requirements. Council Member Leigh stated that the Town has embraced the Boone 2030 Plan and smart-growth principles and that the UDO allows but does not encourage or mandate mixed-use development in the "B" districts. She agreed that this moratorium will allow for further study and recommendations. Council Member Mason stated that she recognizes that the UDO allows but does not support mixed-use development along main corridors. She stated that she feels it is important to preserve commercial space. She stated that the Town does not want to stifle development but that several issues need to be studied. Council discussed revisions to the proposed moratorium ordinance and revisions drafted by Town Attorney Sam Furgieule. Council Member Leigh requested the ordinance to also include a consideration of mixed-use zones as well as structures. Council Member Mason asked if the language could be changed to limit the moratorium to along the major corridors. Mr. Furgieule stated that could be changed as long as it is included in the "B" districts. He pointed out that not all corridor areas are zoned business. Council Member Brantz asked if a 60-day time period allows for enough time to study the issues and make necessary amendments. Development Services Director Bailey stated that the staff will make this issue the top priority if so directed by the Council. Upon a motion by Council Member Leigh, seconded by Council Member Ball, Council moved to adopt the following moratorium ordinance with the revised text changes as presented:

ORDINANCE # 10-02

### **ORDINANCE PROVIDING FOR A SIXTY DAY MORATORIUM ON THE ISSUANCE OF BUILDING, ZONING, CONDITIONAL ZONING AND/OR SPECIAL USE PERMIT(S) FOR CERTAIN MULTI-FAMILY HOUSING DEVELOPMENT IN CERTAIN BUSINESS DISTRICTS**

WHEREAS, the Town of Boone (hereafter "the Town") is a municipal corporation organized under the laws of North Carolina and invested with the powers enumerated in Chapter 160A of the North Carolina General Statutes; and

WHEREAS, pursuant to N.C. Gen. Stat. Chapter 160A, Article 19, the Town is given the authority to plan and regulate development within its corporate limits and its extra-territorial jurisdiction ("ETJ"), and pursuant to N.C. Gen. Stat. Chapter 160A-381(e), the Town is specifically given the right, under certain circumstances, to impose a development moratorium; and

WHEREAS, pursuant to N.C. Gen. Stat. Chapter 160A, Article 8, the Town is given authority to prohibit, regulate and abate acts, omissions, or conditions detrimental to the health, safety or welfare of its citizens; and

WHEREAS, the Town has adopted a Unified Development Ordinance (hereafter, the "UDO") to carry out the purposes of its duly adopted 2006 Comprehensive Plan Update

(hereafter, “the Comprehensive Plan”); and

WHEREAS, the Town adopted in October 2009 the “Boone 2030 Land Use Plan,” (hereafter, “the 2030 Plan”) to guide the Town in its long term growth and in further implementation of the Comprehensive Plan; and

WHEREAS, the Comprehensive Plan has adopted development goals to promote small scale, pedestrian-oriented neighborhood businesses; to encourage residential development over retail and office uses; to discourage strip development; to encourage mixed use developments; to promote business, office and multifamily development which is scaled to be compatible with established residential neighborhoods; to harmonize commercial uses and designs along major highway corridors; to protect the historic character and appearance of the Town’s downtown business district; to promote compatible, supportive, mixed use development in the downtown area; to preserve the neighborhood and architectural context of the immediate areas to commercial development, including multi-family development; to encourage new development which offers opportunities for living, working, shopping and gathering places; and to maintain Boone’s original community character as a small town by, among others, promoting mixed use land development patterns which generate fewer cross town trips to find necessary services; and

WHEREAS, the 2030 Plan strongly encouraged that redevelopment of Town business districts be in the form of mixed use development, characterizing it as “vital” to the future viability and vitality of the Town; and

WHEREAS, the 2030 Plan specifically discourages visual clutter on U.S. Highway 321, cheap apartment buildings, “mega apartment complexes,” and further strip development in Town, warning of the dangers of allowing Town growth to be dictated by the individual development plans of individual developers for specific parcels of land; and

WHEREAS, the stated intent of the UDO, as expressed in UDO Section 152, with respect to the B-1 Central Business District is “to provide for the development of the commercial and service center for the town while maintaining its character,” but the Town’s UDO currently allows in the B-1 Central Business District one-hundred-percent multi-family housing projects, and with the recent decline in commercial development and increase in commercial conversion to primarily multi-family housing, there is a danger that the stated goal of Section 152 for the B-1 District will be undermined; and

WHEREAS, the stated intent of the UDO, as expressed in UDO Section 152, with respect to the B-2 Neighborhood Business District is “to provide for the development of low-density commercial and services that are accessible by pedestrians from surrounding neighborhoods,” but instead, the Town has experienced little or no such development of commercial and service uses within the B-2; and

WHEREAS, the stated intent of the UDO, as expressed in UDO Section 152, with respect to the B-3 General Business District is “to provide a wide range of consumer goods, convenience goods and personal services for the community and surrounding region,” but instead, the Town has experienced the replacement of commercial uses with one-hundred-percent multi-family housing projects; and

WHEREAS, the Town Council previously adopted UDO Section 155, which sought to encourage mixed use development in each of the Town’s business zoning districts on a voluntary basis by individual developers utilizing the Town’s conditional zoning process; and

WHEREAS, although UDO Section 155 created a framework for desirable new development and redevelopment in the B-1, B-2 and B-3 zoning districts (hereafter, “the Business Districts”), it has not been utilized by developers and has failed in directing the Town’s growth in these business districts to comport with the goals of the Comprehensive Plan and the 2030 Plan; and

WHEREAS, the Town’s Business Districts are quickly being converted to 100% apartment development which are undermining and defeating the policy objectives of the Comprehensive Plan and 2030 Plan and causing the Town to develop in undesirable and detrimental ways, and many more such developments, including “mega” apartment complexes

when viewed against the small town character and historic nature of the Town, are proposed but have not yet been permitted, which, if they proceed, will continue to undermine and defeat the objectives of the Comprehensive Plan and the 2030 Plan; and

WHEREAS, the Town Council has determined that emergency and immediate changes to the UDO must be considered in order to redirect development to achieve the goals of the Comprehensive Plan and 2030 Plan, while preventing the further erosion of the Business Districts through development and redevelopment which simultaneously undermines and defeating the goals of those plans while also undermining the goals of the business districts themselves as announced and enumerated in UDO Section 152; and

WHEREAS, Town staff and the Town Attorney have been directed to draft proposed amendments to the UDO which carry out the stated purposes of the Comprehensive Plan and the 2030 Plan with respect to these issues, using the criteria of UDO Section 155 as a framework for such amendments, but making the voluntary mixed use development mandatory to the extent possible in the Business Districts; and

WHEREAS, the Town Council recognizes that under State law and the UDO, development permits which are issued while the requested amendments are prepared will vest development rights which are contrary to the goals of the Comprehensive Plan, the 2030 Plan, and the desired future development of the Town, while interfering with the direction of the Town Council for the preparation and consideration of proposed amendments before further such undesirable development takes place; and

WHEREAS, there is no alternative way to suspend the stated undesirable development while the proposed amendments are prepared; and

WHEREAS, in order to consider the proposed amendments as required by State law and the UDO, giving proper public notice of the proposed amendments and providing the required opportunity for the consideration and recommendations of the Planning Commission and for the further consideration by the Town Council, a moratorium period of at least sixty days is required; and

WHEREAS, this moratorium is for the purpose of allowing the aforesaid procedure to run its course while the desired changes are considered;

NOW, THEREFORE, BE IT RESOLVED THAT THE TOWN COUNCIL OF THE TOWN OF BOONE, NORTH CAROLINA HEREBY ADOPTS A SIXTY DAY MORATORIUM, THROUGH AND INCLUDING MAY 30, 2010, ON THE ISSUANCE OF ANY BUILDING PERMIT, EXCEPT IN CASES IN WHICH THE BUILDING PERMIT IS SOUGHT IN CONNECTION WITH A PREVIOUSLY APPROVED AND CURRENTLY VESTED CONDITIONAL DISTRICT ZONING DECISION OR PREVIOUSLY APPROVED AND CURRENTLY VESTED SPECIAL USE PERMIT; ANY ZONING PERMIT; ANY CONDITIONAL DISTRICT ZONING PERMIT; AND/OR ANY SPECIAL USE PERMIT(S); FOR MULTI-FAMILY HOUSING DEVELOPMENT IN THE B-1, B-2 OR B-3 ZONING DISTRICTS, EXCEPT FOR A CONDITIONAL DISTRICT ZONING PERMIT AND ACCOMPANYING BUILDING PERMITS GRANTED AND ISSUED AFTER THE CONDITIONAL DISTRICT ZONING PROCESS HAS BEEN UTILIZED FOR THE PLAN IN QUESTION, WHICH PLAN FULLY COMPLIES WITH AND INCORPORATES THE REQUIREMENTS OF UDO SECTION 155 AND ALL OTHER PERTINENT REQUIREMENTS OF THE UDO.

During the term of this moratorium, Town staff and the Town Attorney shall prepare a proposed amendment to the UDO to require mandatory mixed use development for any project consisting multi-family use, as appropriate, in the B-1, B-2, and B-3 zoning districts, using UDO Section 155 as a framework, taking into consideration provisions both to require mixed use projects and to promote and protect mixed use zones, but incorporating such other and additional requirements as may be needed or desirable to better achieve the purposes and goals of the Comprehensive Plan and 2030 Plan., to present recommended text to the Boone Town Council, for the Boone Town Council to determine what changes and amendments should be considered by the Town, and following a public hearing and the consideration and recommendations of the Boone Planning Commission, to adopt the changes and amendments to the Town's Unified Development Ordinance, if any, which should be made to achieve these purposes and goals.

This Ordinance is effective the 31st day of March, 2010.

Adopted this 31st day of March, 2010.

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Mayor

Attest:

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Town Clerk

**(ORDINANCE TO BE TYPED IN BOOK 3, PAGE(S) 397-400)**

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

**CLOSED SESSION (N.C.G.S. 143-318.11(a)(3))**

Upon a motion by Council Member Brantz, seconded by Council Member Leigh, Council moved to enter into Closed Session at 9:49 a.m. pursuant to N.C.G.S. 143-318.11(a)(3) for the following purpose:

§ Legal Advice on internet sweepstakes.

VOTE: Aye - All  
Nay - None

Upon a motion by Council Member Brantz, seconded by Council Member Leigh, Council moved to exit Closed Session at 10:09 a.m.

VOTE: Aye - All  
Nay - None

**POSSIBLE ACTION FOLLOWING CLOSED SESSION**

Upon a motion by Council Member Ball, seconded by Council Member Brantz, Council moved to enact a 60-day moratorium on the issuance of zoning and building permits on all internet sweepstakes and gambling uses and to direct staff to draft a text amendment for the regulation of this use.

VOTE: Aye - All  
Nay - None

**AWARDING OF BID - HANGER HAZARDOUS TREE REMOVAL**

Public Works Director Blake Brown informed the Council of the need for hanger/hazardous tree removal due to the damage from the ice storms this past winter. He stated that the lowest bid was submitted by Evergreen Tree Service, Inc. in the amount of \$12,402.00. Mr. Brown stated that this company has good references and has performed this type of work for the Town of Blowing Rock. Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to approve the awarding of the bid to Evergreen Tree Service, Inc. in the amount of \$12,402.00 for hanger/hazardous tree removal.

VOTE: Aye - All  
Nay - None

**PRESENTATION OF MAIN STREET SOLUTIONS GRANT APPLICATION AND POSSIBLE ADOPTION OF RESOLUTION OF SUPPORT**

Downtown Boone Development Association Board Chair Dempsey Wilcox and Executive Director Tuesdae Rice appeared before the Council to present a draft application for submission for the Main Street Solutions Fund Grant. Mr. Wilcox stated that the draft will need some modifications prior to being submitted including budgeting and Council recommendations. He also pointed out that a Main Street Master Plan is necessary in order to be competitive for this grant and presented a quote from Insight Architects for approximately \$25,000-\$30,000. Council Member Mason stated that a market analysis is not included with the draft application and was recommended by the Lawrence Group. Council Member Leigh pointed out that the Town does not have any funds appropriated for the creation of a downtown master plan. In response to a question from Council Member Leigh, Mr. Furgiuele stated that if the Town accepts the grant funding, it is bound by the conditions of the grant. Council discussed the need for private matches for funding. Council Member Mason asked if downtown businesses were notified of this opportunity. Ms. Rice stated that the DBDA had a very limited time period in which to prepare this grant application. She stated that this issue was discussed at the DBDA meeting but that all the members of the DBDA were not individually notified. Council Member Leigh stated that she appreciates the cooperative effort proposed by the DBDA but feels that this grant application is very complicated and more time is needed to prepare for this type of application. She also stated that this might not be the right grant for which the Town should apply. Council Member Ball moved to amend the agenda in order to discuss this topic after the capital project/budget review. Council Member Mason seconded the motion. Council Member Leigh stated that she feels that this application requires more than what the Town has committed and that the Council has only a draft application to consider at this time.

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

Mayor Clawson left the meeting at 11:04 a.m. to attend an appointment. Mayor Pro Tem Mason declared a break at 11:05 a.m. Council reconvened at 11:15 a.m.

#### **ADOPTION OF RESOLUTION - AUTHORIZING MOUNTAINTOP HOME BUILDERS CONDEMNATION**

Town Attorney stated that the Council has already authorized this condemnation and that adoption of the resolution is needed to ratify the action. Upon a motion by Council Member Brantz, seconded by Council Member Ball, Council moved to adopt the following resolution:

#### **A RESOLUTION AUTHORIZING CONDEMNATION TO ACQUIRE CERTAIN PROPERTY OF MOUNTAINTOP HOME BUILDERS, LLC, UPON WHICH THERE IS A LIEN IN FAVOR OF BRANCH BANKING AND TRUST COMPANY, BB & T COLLATERAL SERVICE CORPORATION, TRUSTEE**

WHEREAS, the Town Council of the Town of Boone hereby determines that it is necessary and in the public interest to acquire certain property owned by Mountaintop Home Builders, LLC, upon which there is a lien in favor of Branch Banking and Trust Company, BB & T Collateral Service Corporation, Trustee; and

WHEREAS, the Town of Boone is a municipal corporation organized and existing under the laws of the State of North Carolina, possessing the powers, duties and authority, including the power of eminent domain, vested in it by the General Assembly of North Carolina; and

WHEREAS, Mountaintop Home Builders, LLC, is a North Carolina limited liability company, registered with the North Carolina Secretary of State and doing business in North Carolina, and is the owner of that certain tract of land described and depicted as Tract 1 and Tract 2 in that certain plat recorded in Plat Book 19, Page 325 of the Watauga County Registry, also identified by tax parcel identification numbers 2910-00-6961-000 and 2910-00-8656-000; and

WHEREAS, BB & T Collateral Service Corporation is a North Carolina corporation, registered with the North Carolina Secretary of State and doing business in North Carolina, and is the Trustee on that certain deed of trust registered in the Watauga County Registry in Book of Records 1120, Page 51, securing an obligation by Mountaintop Home Builders, LLC, for the benefit of Branch Banking and Trust Company on the property in question; and

WHEREAS, Branch Banking and Trust Company is a North Carolina banking corporation, registered with the North Carolina Secretary of State and doing business in North Carolina and is the beneficiary of that certain deed of trust registered in the Watauga County Registry in Book of Records 1120, Page 51, securing an obligation by Mountaintop Home Builders, LLC, for the benefit of Branch Banking and Trust Company on the property in question; and

WHEREAS, the Town of Boone, for those purposes described in N.C. Gen. Stat. § 40A-3(b) and relevant provisions of Chapter 160A of the North Carolina General Statutes, is specifically authorized to condemn property for the purpose of establishing, extending, enlarging, or improving any of the public enterprises listed in N.C. Gen. Stat. § 160A-311, and establishing programs to prevent obstructions to the natural flow of streams, creeks and natural water channels; and

WHEREAS, the Town of Boone operates a water supply and distribution system serving the citizens and residents of the Town of Boone and its environs, a public enterprise authorized by N.C. Gen. Stat. § 160A-311(2); and

WHEREAS, as part of the water system, the Town owns and operates a water intake facility and dam on Winkler's Creek, a perennial waterway which crosses a tract of land which the Town of Boone owns off Deck Hill Road, N.C.S.R. 1547; and

WHEREAS, Winkler's Creek also crosses Mountaintop Home Builders, LLC's property, which is located adjacent to the Town's property and upstream from the Town of Boone's property; and

WHEREAS, over the years, sediment and other deposits have collected in Winkler's Creek, impairing the free flow of water for use in the Town's water supply and distribution system, impairing the full efficiency and effectiveness of the water intake plant on Winkler's Creek, and causing water, sediment and other deposits to collect on property formerly and currently part of Mountaintop Home Builders, LLC's property; and

WHEREAS, the Town of Boone has initiated and undertaken a project to remove the accumulated sediment and other deposits from Winkler's Creek, and said project must be undertaken between April 1 and September 30, in that Winkler's Creek is a protected trout stream and may not be disturbed during other times of the year; and

WHEREAS, in order to properly complete said project and to protect and maintain Winkler's Creek in proximity to the Town of Boone's water intake in the future, the Town of Boone must acquire Mountaintop Home Builders, LLC's property in fee simple; and

WHEREAS, Mountaintop Home Builders, LLC has established a pattern of animosity and hostility toward the Town of Boone, and an interest in said property less than that of fee simple ownership would result in frequent and predictable future disputes between the parties which would interfere with the Town of Boone's ability to effectively maintain its water intake system on Winkler's Creek; and

WHEREAS, in its closed session on June 2009, the Town Council authorized condemnation of the portion of the Mountaintop Home Builders, LLC's property needed, and again on January 19, 2010, with an Exhibit Plat prepared, attached hereto as "Exhibit A" and incorporated by reference herein, the Town Council directed the Town Attorney to initiate a condemnation action against Mountaintop Home Builders, LLC and any other necessary parties to acquire fee simple ownership by condemnation, and again on February 16, 2010, the Town Council authorized the Town Manager to deposit \$25,439.04 with the Watauga County Clerk of Superior Court as compensation for the property, and now wishes to ratify in open session these actions and decisions; and

WHEREAS, the Town Council had found and concluded that the purposes for which the property must be condemned are to protect and provide for the public health through the provision of an adequate and sound public water supply and distribution system, a public enterprise of the Town, to improve such supply and system to meet the needs for increasing

demand for water by Town and area residents and water customers, to improve the Town's water system by removing debris and sediment from Winkler's Creek in proximity to the Town's existing water intake on Winkler's Creek, a perennial water source which travels across the affected property, to access the Winkler's Creek, and to provide for the future protection of the Town's water supply;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BOONE, NORTH CAROLINA, AS FOLLOWS:

1. It is necessary and in the public interest to acquire by condemnation a fee simple interest, as described, in order to improve the Town's water system by removing debris and sediment from Winkler's Creek in proximity to the Town's existing water intake on Winkler's Creek, to protect the public health by providing the public with an adequate and sound water supply and distribution system, and to improve such systems to meet the Town's need for expanded and upgraded services;
2. The Town Attorney shall initiate on behalf of the Town of Boone a condemnation action against Mountaintop Home Builders, LLC, and all other necessary parties, to take and acquire in fee simple ownership is an unimproved 1.544 + - acre portion of two parcels, depicted as Tract 1 and Tract 2 in that certain plat recorded in Plat Book 19, Page 325 of the Watauga County Registry, also identified by tax parcel identification numbers 2910-00-6961-000 and 2910-00-8656-000, shown on the attached "Exhibit Plat" showing the property to be taken with the shaded area on the attached exhibit representing the portion of the two parcels which are to be taken; and
3. The Town Manager is authorized to issue a payment to the Watauga Clerk of Superior Court in the amount of \$25,439.04, found to be just compensation for the property to be condemned, based upon a proration of the collective tax value of the two parcels, \$247,800.00, in consideration of the total area of the two parcels of 15.04 acres, without taking any deduction for the portion of the property already taken, as previously alleged by Mountaintop Home Builders, LLC.

Adopted this 31st day of March, 2010.

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Mayor

Attest:

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Town Clerk

**(RESOLUTION TO BE TYPED IN BOOK 3, PAGE(S) 134-135)**

VOTE: Aye - All  
Nay - None

**PRESENTATION FROM KIT FISCHER OF DANIEL BOONE NATIVE GARDENS**

Kit Fischer, Chair of the Board of Directors for the Daniel Boone Native Gardens, appeared before the Council to request funding for the creation of a safe entrance to the gardens that bypasses the use of the stone stairway at the entrance. She indicated that a ramp and a walkway from the parking area into the gardens of the area of the Pickin Porch and Wedding Lawn are needed to provide access for those who cannot use the steps into the garden. Ms. Fischer stated the proposal estimate for the cost to be \$70,600, broken into three phases:

Phase I:

Pathway from Horn Parking Area to Pickin Porch/covered stage	\$20,400
General set-up costs	\$4,100
Handicapped parking in Horn parking area	\$1,750

**Total** **\$26,250**

Phase II:

Pathway to trellis and Wedding Lawn	\$6,600
Path from trellis to Well	\$3,100
Remove and rebuild arched bridge	\$2,600
Walkway repair and entrance to cabin	\$4,000
<b>Total</b>	<b>\$16,300</b>

Phase III:

Raised ramp/walkway from service road to center of Fern Garden	\$26,600
Handicapped parking space adjacent to service road	\$1,450
<b>Total</b>	<b>\$28,050</b>

Ms. Fischer requested funding from Tourism and Development funds for this project. Council Member Brantz asked if Ms. Fischer had applied for any type of grants. Ms. Fischer stated that most grants require the gardens to already be handicap-accessible. Council Member Mason thanked Ms. Fischer for the presentation and stated that the Council will consider this information during budget discussions.

Mayor Clawson rejoined the meeting at 11:50 a.m.

**LOBBYIST REPORTS**

Steve Metcalf, of The Policy Group, appeared before the Council to present a report regarding the results of 2009 Legislation and infrastructure funding items (**copy of report permanently on file in the Clerk's office**). Mr. Metcalf requested a special meeting with the Council in order to discuss the priorities for the next General Assembly. Upon a motion by Council Member Ball, seconded by Council Member Phillips, Council moved to amend the agenda in order to schedule a special meeting.

VOTE: Aye - All  
Nay - None

Upon a motion by Council Member Ball, seconded by Council Member Phillips, Council moved to schedule a special meeting on Friday, May 7, 2010, at 12:00 p.m. in the Council Chambers, 1500 Blowing Rock Road, in order to meet with the Town's state and federal lobbyists to discuss priorities for the next legislative session.

VOTE: Aye - All  
Nay - None

Town Manager Greg Young presented a report from the Town's federal lobbyist, Brad Edwards (**copy of report permanently on file in the Clerk's office**).

**PRESENTATION AND DISCUSSION OF CAPITAL PROJECT/BUDGET REVIEW**

Town Manager Greg Young began a power-point presentation (**copy of power-point presentation permanently on file in the Clerk's office**) regarding capital project/budget funding review. He listed projects by departments and updated the Council on what actions the Town has taken toward sustainability. He also updated the Council on the 2009 sales tax and property tax collections. Mr. Young presented a map of tax-exempt properties within the town limits.

Mayor Clawson declared a lunch break at 12:29 p.m. Council reconvened at 1:17 p.m.

**CONTINUED PRESENTATION AND DISCUSSION OF CAPITAL PROJECT/BUDGET REVIEW**

Town Manager Greg Young presented an update on priorities designated by Council and the amount of funding spent and remaining for each priority.

## § **Update on Raw Water Intake**

Town Manager Greg Young presented an update on the Raw Water Intake project. He stated that the two major decisions to be made by the Council in the next 60 days to keep the project progressing are:

1. Review and approve the USDA Letter of Conditions
2. Make decision on proceeding with Design Phase simultaneously with Stream Reclassification.

Council Member Mason stated that she does not want to see this project delayed as it was originally projected to require 5-6 years to complete.

## § **Update on Howard Street Project**

Town Manager Greg Young presented information regarding the status of the Howard Street project (**copy of information permanently on file in the Clerk's office**). He stated that the highest estimated debt service for this project is \$5,200,000. He listed the amount of tax increase for \$468,000 declining interest as 3.57 cents and the tax increase for \$380,200 level interest & principal as 2.90 cents. Mr. Young stated that he has received information from WK Dickson in regard to hiring a right-of-way agent such as is used by the NC DOT. Public Works Director Blake Brown presented information regarding the cost estimated in installing a one-way street on Howard Street with 24" curb & gutter and 5' sidewalks. He stated the cost estimate to be \$341,000 and that the Town must determine the amount of right-of-way needed to proceed with a one-way street design. Council Member Mason stated that the Council may need to consider other options if it does not have 100% cooperation from property owners along Howard Street. She suggested that the Town may need to consider grant funds for use toward this project. Council Member Ball stated he feels that the Town should continue to acquire the remainder of the right-of-way for the project. Council Member Leigh and Mayor Clawson were adamant that the Town should not raise taxes in order to pursue this project. It was the consensus of the Council to place this item for discussion during Closed Session at the April regular meeting.

Mayor Clawson declared a break at 3:40 p.m. Council reconvened at 3:51 p.m.

## **CONTINUED DISCUSSION OF PRESENTATION OF MAIN STREET SOLUTIONS GRANT APPLICATION AND POSSIBLE ADOPTION OF RESOLUTION OF SUPPORT**

It was the consensus of the Council not to pursue the Main Street Solutions Grant Application at this time.

## **PRIORITIZATION OF FUND BALANCE**

Town Manager Greg Young asked for direction from the Council in regard to prioritization of the fund balance. The following items were listed by Council Members:

- < Funding for Howard Street project
- < Funding for Watauga Arts Council and Jones House projects
- < Funding for Town Calendar
- < Funding for Delmar Street Stormwater project
- < Funding for improvement/restoration of town facilities, i.e., Jones House, Horn in the West, Daniel Boone Native Gardens
- < Funding for expansion of sidewalks
- < Maintenance of current level of town staff
- < Consideration of options for Health Insurance costs (employee spouse/family)

## **COUNCIL ITEMS FOR DISCUSSION:**

### § **Discussion of Possible Vehicle Tax to Fund Sidewalk Expansions**

Brief discussion ensued concerning the possibility of levying a vehicle tax of \$5 per vehicle to be used for funding for sidewalk expansion.

§ **Discussion of Greenway Expansions**

Council Member Phillips suggested continuing with the expansion of the Greenway Trail system along Greenway Road. Council Member Brantz emphasized continued cooperation between the Town of Boone, Watauga County, and other entities in expansion opportunities for the Greenway Trail system.

§ **Development of Formal Program to Instruct all Committees on Open Meetings Law**

Council Member Leigh suggested some type of training for all members of Town committees, boards, task forces, and subcommittees regarding the open meeting law requirements. Town Attorney Sam Furgiuele agreed that this training is necessary and volunteered to draft information from the state statutes regarding open meeting laws.

§ **Proposal to Eliminate Council Liaison Appointments to Town Departments**

Council Member Leigh suggested the elimination of Council Liaison appointments to Town departments. She suggested that this action has several negative effects including the circumvention of the “chain of command.” Upon a motion by Council Member Leigh, seconded by Council Member Brantz, Council moved to eliminate Council Liaison appointment to Town departments effective immediately.

VOTE: Aye - All  
Nay - None

§ **Discussion of Continued Funding of Downtown Streetscape Plans (Phase II)**

Council Member Leigh suggested the inclusion of Howard Street in this category.

§ **Discussion of Reserving MSD Funds for Infrastructure Expenditures**

Council Member Leigh stated that the Council should start thinking now about how to use the MSD money in the coming year. She suggested developing a plan of action for use of these funds.

**DEPARTMENTAL REPORTS**

Each department head presented the departmental report. **(Copies of the departmental reports are permanently on file in the Clerk’s office.)**

**ADJOURNMENT**

With no other items for consideration, Mayor Clawson adjourned the meeting at 5:22 p.m.

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Deputy Town Clerk

Mayor