

**WINTER QUARTERLY PUBLIC HEARING  
MEETING MINUTES  
MONDAY, FEBRUARY 7, 2011  
7:00 P.M.**

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Boone Town Council: Mayor Loretta Clawson, Lynne Mason-Mayor Pro-Tem, Stephen Phillips, Jamie Leigh, Rennie Brantz and Andy Ball

**Boone Area Planning Commission:** Chairperson Bunk Spann, Kayla Malsbury, Donald Dotson, Greg Simmons, Brett Scantlin, Shawna Rhyne, Terrence Milstead, Jay Vincent and Kimberly Marland

**Planning Staff:** Bill Bailey-Director of Development Services, Jane Shook-Planner and Marlene Crosby-Board Secretary

**Others:** Greg Young-Town Manager and Sam Furgiuele-Town Attorney

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Mayor Loretta Clawson opened the meeting at 7:04 p.m.

**Case 20090571 Recycling:** Amend the Town of Boone Unified Development Ordinance (UDO) Article 2, Section 15 Definitions, Article 15 Section 199 Definitions, and Section 269 Sites for and Screening of Dumpsters and Article 21, Section 363 Buffer and Screen Requirements to incorporate new solid waste enclosure requirements and recycling requirements for multi-family projects.

Ms. Jane Shook presented this case as outlined in the meeting packet. Planning Commission Chairperson Bunk Spann asked what caused staff to make this text amendment change. Ms. Shook said that in 2009 Town Council adopted a resolution because of concern for a lot of our Multi-Family Districts that do not have recycling areas. In order to incorporate those into our ordinance, it required a text amendment. At the same time the staff modified the solid waste and dumpster requirements to fit in together. The Town Code also had to be amended.

There were no speakers for this case.

With no further questions, Mayor Clawson closed the public hearing for this case.

**Case 20100658 Sign Height Amendment:** Amend UDO Article 18 to amend the language regarding the general regulations for awnings, canopies and signs which project over a public sidewalk.

Ms. Shook presented this case as outlined in the meeting packet.

There were no speakers or discussion on this case.

With no further questions, Mayor Clawson closed the public hearing for this case.

**Case 20110001 Pavement Sealant Standards:** Amend the UDO Article 19, Section 350 Vehicle Accommodation Surfaces to incorporate standards for asphalt and pavement sealants.

Ms. Shook presented this case as outlined in the meeting packet.

Discussion ensued on who the permitting process applies to and Mr. Furgiuele said it applies to everyone. Mayor Pro Tem Lynne Mason asked how long does it take to issue a permit. Ms. Shook said it depends on the staff load and weather, etc. This would require many site visits. Mr. Bailey talked about the permit fees and he is working on a five-tier system. Mr. Furgiuele the Town was not aware of the manufacturer's specifications until the fish died in July of 2010. Town Council Member Andrew Ball said that the manufacturer came to the Town of Boone after July of 2010 and voiced their best management practices. Planning Commission Member Greg Simmons asked if staff has consulted with other municipalities on Coal Tar Sealants. Town Council Member Stephen Phillips asked there is there enforcement of Coal Tar Sealants on Saturdays. Mr. Bailey said that there are incidences where staff will have to be made available on Saturdays for enforcement purposes. Discussion ensued on coal tar sealants and human cancer studies. Town Council Member Rennie Brantz asked if there is a system for penalties.

Discussion ensued on interstate commerce. Discussion ensued on banning Coal Tar Sealants in the Town of Boone. Mr. Furgiuele said that banning Coal Tar Sealants would put the Town of Boone in a

difficult position. Mr. Furgiuele talked about case studies in Dallas, Texas. Mr. Furgiuele talked about a four-tier permit fee system with low fees and quick turnarounds.

There were nine speakers on this case.

The first speaker was Shea Tuberty, PhD.; he is an Associate Professor of Biology at Appalachian State University. He gave a background on his training as an Aquatic Environmental Toxicologist and his understanding of the Coal Tar Asphalt Sealant and what it does when it is exposed to the environment. He talked about the long term damage that this type of exposure does to the environment. He is in support of the protection of our environment and the proposed text change in Article 19, Section 350. Vehicle Accommodation Area Surfaces.

After the meeting Dr. Tuberty submitted a two page document regarding Coal Tar Sealants to be distributed to the Boone Town Council (**permanently on file in the February, 2011 Boone Town Council packets**). This document outlines the documented dangers regarding the use of coal tar asphalt sealants as well as the long-term biological effects that this product has had on Boone's own Hodges Creek, etc.

The second speaker was Ms. Gloria Griffith. She is a member of the Watauga Watershed Alliance. She stated that the proposed language was written well and she supports it 100 percent.

With no further questions, Mayor Clawson closed the public hearing for this case.

The third speaker was Mr. and Mrs. Dick and Joan Hearn. They are a member of the Watauga River Conservation Partners and a project called "Kids in the Creek". This project teaches fourth graders to protect the Eco System. They were dressed up as Mandy and the Stream Dr. They support the proposed text change to support the streams.

The fourth speaker was Liz Aycock. She supports this proposed text change. She asked if there is educational material available to the public via town water bills. Mr. Bill Bailey, Director of Planning and Inspections said he is working on it.

The fifth speaker was Mr. Eric Chance. He works at Appalachian Voices and the Watauga River Keepers. He said that people come to the Boone area to see a clean environment. He believes there is no reason to use coal tar in any area. He supports the proposed text change.

The sixth speaker was Mr. Benji Burrell. He said he was scared when he heard about the fish kill. He talked about the dust from the asphalt paving coming into his apartment. He talked about the survival rates between the asphalt and Coal Tar Sealant. He said it is worth the risk of a lawsuit to reduce the health risks from the sealants.

The seventh speaker was Mr. Jeff Deal. He supports the proposed text change.

The eighth speaker was Mr. Parker Stevens. He works at Appalachian Voices. He is concerned with the chemicals washing off in heavy rains and it running into the storm drains. He supports the proposed text change and a full ban with stricter permitting.

The ninth speaker was Ms. Donna Lisenby. She is from the Watauga River Keepers. She told the Planning Commission members that she could provide an educational session on Cold Tar Sealants. Planning Commission Chairperson Bunk Spann asked her to come to the February 14, 2011 Planning Commission meeting to give her presentation. She supports the proposed text change. She supports the banning of the use of cold tar sealants.

Discussion ensued on the Poly Aromatic Hydrocarbons levels and slow death after accumulation.

Mr. Furgiuele said the proposed language is for the banning of Coal Tar Sealants in the floodway. Ms. Shook handed out a map of the floodway showing the Upper New, Upper Yadkin, Nolichucky, Watauga rivers.

#### **ADJOURNMENT**

With no further business, Mayor Clawson adjourned the public hearing at 8:21 p.m.

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Mayor, Loretta Clawson

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Marlene Crosby, Board Secretary