

**MINUTES - REGULAR MEETING  
BOONE TOWN COUNCIL  
MAY 17, 2011**

A regular meeting of the Boone Town Council was called to order at 6:30 p.m., Tuesday, May 17, 2011 in the Council Chambers, 1500 Blowing Rock Road. Mayor Loretta Clawson presided. Council members present were Mayor Pro-Tem Lynne Mason, Andy Ball, Jamie Leigh and Stephen Phillips. Town Attorney Sam Furgiuele was also present. Staff members present were Town Manager Greg Young, Deputy Town Clerk Kim Brown, Assistant to the Manager Jim Byrne, Finance Director Amy Davis, Police Chief Dana Crawford, Planning and Inspections Director Bill Bailey, Planner Jane Shook, Fire Chief Jimmy Isaacs, Public Works Director Blake Brown and Public Utilities Director Rick Miller.

**ANNOUNCEMENTS**

Mayor Clawson announced that any persons wishing to address the Council on a non-agenda item should sign in to speak during the Public Comment period.

**TENTATIVE AGENDA ADOPTION**

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

1. Request to Table Item 7.E. Recommendation on Zoning Map Amendments - Case 20110133 until the Thursday (May 19<sup>th</sup>) regular meeting.
2. Addition to Item 7.S. Approval of Budget Amendments - Jimmy Smith Wastewater Treatment Plant Natural Gas Conversion.
3. Addition of Item 15.C. Requested Appearances - Ms. Beth Carrin - Presentation of Jones House Advisory Board Committee Report.
4. Deletion of Item 16.B. Bill Aceto Water & Sewer Request.

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

VOTE: Aye - All  
Nay - None  
Absent - 1 (Brantz)

**CONSENT AGENDA ADOPTION**

On a motion by Council member Phillips, seconded by Council member Leigh, Council moved to adopt the following consent agenda items:

Minutes: April 6, 2011 - Special Meeting  
April 19, 2011 - Regular Meeting  
April 26, 2011 - Special Meeting  
April 26, 2011 - Joint Workshop

Tax Releases & Refunds: April 2011

**TAX RELEASES  
APRIL 2011**

| <b>Taxpayer</b>                           | <b>Year</b> | <b>Amount</b> | <b>Description</b>      |
|---|-------------|---------------|-------------------------|
| MEISTER, BEVERLY WRIGHT                   | 2010        | 12.79         | PLATE TURNED IN SOLD    |
| YATES, HENRY PERRY JR & ANNE              | 2010        | 1.11          | NOT IN TOB              |
| CROSSROAD SPORTS INC DBA SOCIAL RIDE SHOP | 2010        | 382.58        | OUT OF BUSINESS IN 2009 |

|   |      |                |                         |
|---|------|----------------|-------------------------|
| CROSSROAD SPORTS INC DBA BOARD PARADISE | 2010 | 50.09          | BUSINESS CLOSED IN 2009 |
| BOONE DERMATOLOGY CLINIC PA             | 2010 | 21.47          | TURN IN TAG             |
| SMITH, SONJA                            | 2010 | 40.29          | INCORRECT SITUS         |
| PAVELCHAK, JOSEPH AND LINDA P           | 2010 | 131.54         | TURN IN TAG             |
| TURCK, GEORGE PETER                     | 2010 | 3.48           | TURN IN TAG             |
| PHAN, LEI S. PHAN, KIET T               | 2010 | 22.07          | TURN IN TAG             |
| CARLSON, MORGAN DAVIS                   | 2010 | 11.32          | TURN IN TAG             |
| GWYN R PARSONS CPA LLC                  | 2010 | 333.00         | ADJ PER BILL OF SALE    |
| NEALY, WALTER BARRY                     | 2010 | 2.28           | INCORRECT BILL          |
| CURTIS, JOSHUA STEPHEN                  | 2009 | 48.25          | OVERLAPPING TAGS        |
|   |      |                |                         |
|   |      | <b>1060.27</b> |                         |

**MSD  
APRIL 2011**

| <b>Taxpayer</b>                           | <b>Year</b> | <b>Amount</b> | <b>Description</b>      |
|---|-------------|---------------|-------------------------|
| CROSSROAD SPORTS INC DBA SOCIAL RIDE SHOP | 2010        | 217.14        | OUT OF BUSINESS IN 2009 |
|   |             |               |                         |
|   |             | <b>217.14</b> |                         |

**TAX REFUNDS  
APRIL 2011**

| <b>Taxpayer</b>     | <b>Year</b> | <b>Amount</b> | <b>Description</b> |
|---------------------|-------------|---------------|--------------------|
| NEALY, WALTER BARRY | 2010        | 45.51         | INCORRECT BILL     |
|                     |             |               |                    |
|                     |             | <b>45.51</b>  |                    |

Adoption of Encroachment Agreement - Soul Shine Family Glass.

STATE OF NORTH CAROLINA  
COUNTY OF WATAUGA

ENCROACHMENT AGREEMENT

THIS ENCROACHMENT AGREEMENT is made and entered into this the 17th day of May, 2011, by and between the TOWN OF BOONE, party of the first part; and Soul Shine Family Glass, 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 (CHOOSE ONE) a public sidewalk/public street/public park/public land (hereinafter referred to as the “public land”) located at 222 Howard Street with the following: a projecting sign (hereinafter referred to as “the encroaching facility”); and

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 and ordinance, 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 party of the second part complies with all pertinent provisions of the North Carolina State Building Code, the Town of Boone Unified Development Ordinance and Town of Boone Municipal Code, and such other laws, regulations and ordinances which might apply;

That the said party of the second part binds and obligates itself, 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 costs incurred for any repairs or maintenance to its roadways, sidewalks and other structures resulting from the installation and existence of the encroaching facility 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 facility, that the said party of the second part binds itself, its successors and assigns, to promptly remove or alter the said encroaching facility in order to conform to the said requirements of the party of the first part, 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/or other warning devices, as necessary or as requested by the party of the first party Director of Public Works or his designee, 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.

That to the extent permitted by law, the party of the second party shall be responsible for all liability associated with the encroachment and encroaching facility. In furtherance of such responsibility, the party of the second part agrees to indemnify and hold harmless the party of the first part from and against any claim by any third party based upon any action or omission occurring during construction and maintenance of the encroaching facility, as well as from and against any and all claims, demands, suits, causes of action, or other assertion of responsibility, however denominated, for personal injury, damage to property, losses and expenses, including court costs and attorney’s fees, arising out of or in any way related to the encroachment or encroaching facility;

That where pertinent and requested by the party of the first part, the party of the second part agrees to name the party of the first part as an additional insured on its and/or its contractor’s general liability insurance policies applicable to the encroachment or encroaching facility.

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 encroaching facility as the party of the first part carries out its construction and maintenance operations, and the party of the second party expressly waives all claims of liability or responsibility against the party of the first party for any damage that may be caused to the encroaching facility as the result of the Town carrying out any construction and maintenance operations. The party of the second part acknowledges that with regard to canopies, awnings, signs and similar encroachments, even where same fully comply with the Town of Boone Unified Development Ordinance, when placed less than ten feet

above the surface of a public sidewalk, such obstructions are at great risk of damage by the equipment of the party of the first part during snow removal and general sidewalk construction and maintenance, and the party of the second part understands that by placing the encroaching facility less than ten feet above the surface of a public sidewalk, the party of the second part is knowingly and intentionally assuming that heightened risk of damage.

That the party of the second part agrees to be bound by such other and additional conditions as the Town Council may impose in connection with the encroaching facility.

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. The party of the second part shall comply with all applicable all rules and regulations of the North Carolina Sedimentation Control Commission, the Town of Boone Unified Development Ordinance 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 encroaching 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 encroaching facility 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.

Adoption of Encroachment Agreement - M.C. Adams Clothier.

STATE OF NORTH CAROLINA  
COUNTY OF WATAUGA

ENCROACHMENT AGREEMENT

THIS ENCROACHMENT AGREEMENT is made and entered into this the 17th day of May, 2011, by and between the TOWN OF BOONE, party of the first part; and M.C. Adams Clothier, 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 (CHOOSE ONE) a public sidewalk/public street/public park/public land (hereinafter referred to as the "public land") located at 697 West King Street with the following: a projecting sign (hereinafter referred to as "the encroaching facility"); and

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 and ordinance, is willing to permit the encroachment on public land, subject to the conditions of this agreement;

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That the said party of the second part binds and obligates itself, 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 costs incurred for any repairs or maintenance to its roadways, sidewalks and other structures resulting from the installation and existence of the encroaching facility 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 facility, that the said party of the second part binds itself, its successors and assigns, to promptly remove or alter the said encroaching facility in order to conform to the said requirements of the party of the first part, without any cost to the party of the first part.

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general liability insurance policies applicable to the encroachment or encroaching facility. 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 encroaching facility as the party of the first part carries out its construction and maintenance operations, and the party of the second part expressly waives all claims of liability or responsibility against the party of the first part for any damage that may be caused to the encroaching facility as the result of the Town carrying out any construction and maintenance operations. The party of the second part acknowledges that with regard to canopies, awnings, signs and similar encroachments, even where same fully comply with the Town of Boone Unified Development Ordinance, when placed less than ten feet above the surface of a public sidewalk, such obstructions are at great risk of damage by the equipment of the party of the first part during snow removal and general sidewalk construction and maintenance, and the party of the second part understands that by placing the encroaching facility less than ten feet above the surface of a public sidewalk, the party of the second part is knowingly and intentionally assuming that heightened risk of damage.

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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.

VOTE: Aye - All  
Nay - None  
Absent - 1 (Brantz)

### **PUBLIC COMMENT**

There was no one signed up to speak during the public comment period.

### **PUBLIC HEARING - EFFECTIVENESS OF GAME-DAY AND SATURDAY PARKING PLAN**

Mayor Clawson opened a public hearing at 6:34 p.m. to receive input regarding the Town of Boone's Saturday & Game Day Parking Plan. Town Manager Greg Young stated that the Town had instituted a Saturday & Game Day Parking Plan this past fall until the end of the year. He noted that Council had requested a public hearing after the plan had been in use to garner input from the public regarding the effectiveness of the plan and any suggestions for changes to the plan. It was noted that the public hearing was advertised for 7:00 p.m. Mayor Clawson suspended the public hearing at 6:37 p.m. to resume at 7:00 p.m.

### **DISCUSSION AND ACTION ON TABLE OF PERMITTED USES**

Planning Director Bill Bailey began by stating that the Planning Commission had met to discuss the definitions of the actual zoning districts contained in Article 9 of the current code. He noted that Council members Ball and Leigh were in attendance at the meeting but that the Planning Commission did not have a quorum of members at that meeting; however, the Commission did continue discussion of the definitions. Mr. Bailey stated that the general consensus was that the Planning Commission approved the definitions with the exception of the R-A zoning district. He stated that the Commission felt that language should be added, similar to language contained in the B-2 zoning district, which will allow services that relate to the zoning district. Furthermore, Mr. Bailey stated that additional discussion ensued regarding transitional zoning and supplementary use regulations. Council member Mason suggested the incorporation of language such as "low-density commercial" or "services that are compatible or in harmony with" within the definitions. She inquired about the definition of the term "low-density living area." Mr. Bailey stated that the term is not defined as such in the UDO is understood in the planning field and construction industry. He stated that the goal is to have this effective as of January 1, 2012. He suggested that the Council may have to schedule a special public hearing in December in order to allow enough time to complete the work on the proposed changes. Upon a motion by Council member Mason, seconded by Council member Ball, Council moved to direct the Planning Staff to proceed with the definitions contained in the Table of Permitted Uses except for the R-A zoning district, adding language similar to that contained in the B-2 zoning district such as "provide for low-density, compatible goods and services" and to proceed with not allowing new single-family detached housing in the B-1, B-2, B-3, O/I, R-3 and MH zoning districts.

VOTE: Aye - All  
Nay - None  
Absent - 1 (Brantz)

It was the consensus of the Council that Council members Phillips and Mason will attend the next Planning Commission meeting on June 13, 2011 in order to continue discussion on the Table of Permitted Uses.

### **PUBLIC HEARING - EFFECTIVENESS OF GAME-DAY AND SATURDAY PARKING PLAN**

Mayor Clawson resumed the public hearing on the Saturday & Game-Day Parking Plan at 7:14 p.m. Interim DBDA Director Pilar Fotta spoke on behalf of the Downtown Boone Development Association in supporting the use of part of the Town Hall parking lot for game-day parking; however, she stated that the proposal to change the time limit on parking from two hours to one hour might limit the ability of persons to visit the downtown area to shop and dine in restaurants. Dempsey Wilcox, president of the DBDA Board of Directors, agreed by stating that a change from 2-hour to 1-hour parking will limit visitors' ability to spend time in the downtown area.

Janet Mahala, general manager of the Mast General Store, read into record comments from John Cooper, president of the Mast General Store, supporting the parking plan but advising against a change in the time limit for parking (**copy of comments permanently on file in the May 2011 meeting information file.**) Bob Meir, a downtown business owner, voiced support of the overall plan but does not support a change in the 2-hour parking limit. Steve McLaurin, president of McLaurin Parking Company, stated that he feels the parking changes have been favorably received and has provided a positive cash flow for the Town. With no other public comment, Mayor Clawson closed the public hearing at 7:37 p.m.

### **UPDATE ON CHESTNUT ROAD CONNECTOR PROJECT**

Public Works Director Blake Brown stated that he has been trying to contact property owners in regard to this project but has been unable to reach them. He stated that he will continue to try to contact the property owners regarding property acquisition needed to continue with the project.

### **DISCUSSION OF POST OFFICE RE-DESIGN**

Randy Jones of David R. Jones Architecture, presented the redesigned drawings of the Downtown Post Office renovation and a cost comparison for the project (**copy of information presented by Mr. Jones permanently on file in the May 2011 meeting information file**). He noted that, as per the direction of the Council, he has relocated the Planning & Inspections entrance to the east elevation near the southeast corner of the building and has created minimal access to the door that will meet code and accessibility clearances. Additionally, Mr. Jones pointed out that the redesign has resulted in the loss of only one parking space, not four spaces as originally thought. Mr. Jones indicated that the cost comparison shows a difference between the original design and the redesign of \$11,333.00 plus one parking space value. He noted that this redesign has to go back before the state historic office for review. Upon a motion by Council member Leigh, seconded by Council member Mason, Council moved to accept the redesign of the Downtown Post Office renovation as presented.

VOTE: Aye - All  
Nay - None  
Absent - 1 (Brantz)

### **PRESENTATION OF PLANNING & INSPECTIONS MONTHLY REPORT**

Planning and Inspections Director Bill Bailey presented the Planning and Inspections Monthly Report (**permanently on file in the May 2011 Town Council Packet.**)

### **REQUEST FOR FINAL PLAT APPROVAL - FORREST EDGE TOWNHOMES**

Planner Jane Shook explained that this request from John Winkler, on behalf of Poplar 105, LLC, is for final plat approval for Forrest Edge Townhomes in compliance with Article IV, Section 94 of the Town of Boone UDO. She explained that this project is a 33-lot townhome development served by a private road located at the intersection of NC Highway 105 and Poplar Grove Road. She noted that this is the final step in the zoning process. Upon a motion by Council member Mason, seconded by Council member Ball, Council moved to approve the final plat for the Forrest Edge Townhomes located on Tulip Tree Lane at the intersection of NC Highway 105 and Poplar Grove Road.

VOTE: Aye - All  
Nay - None  
Absent - 1 (Brantz)

### **DISCUSSION OF HOUSING MARKET ANALYSIS**

Council member Mason explained that the Affordable Housing Task Force is recommending that the Town pursue a housing market analysis in an effort to guide housing and land-use policy. After discussion, Council member Phillips moved to direct the Town Manager to seek quotes for a housing market analysis for the town and ETJ. Council member Mason seconded the motion.

VOTE: Aye-All

Nay-None  
Absent - 1 (Brantz)

Mayor Clawson declared a break at 8:20 p.m. Council reconvened at 8:35 p.m.

### **ADOPTION OF IMPROVEMENTS - COLLEGE STREET AND HAMBY ALLEY**

Public Works Director Blake Brown presented the following recommendations from the Transportation Committee regarding improvements on College Street and Hamby Alley:

*Due to the construction of the ASU's new College of Education, the influx of fifteen (15) or more Appalcart stops per hour and the increase of pedestrian traffic, the Transportation Committee is requesting Council's approval of the College Street improvements as follows:*

1. *Make College Street more pedestrian friendly by realigning the street -please see attached conceptual drawing (copy of drawing permanently on file in the May 2011 meeting information file.)*
2. *Improve the curb and guttering and the sidewalk system on College Street.*
3. *Improve the storm water management system.*
4. *Relocate the metered parking spaces to the northside of Hamby Alley.*
5. *Change Hamby Alley's one-way direction from a west to eastward traffic.*

*Appalachian State has agreed to fund the engineering for the College Street improvements as well as assist with lighting and improvements upon their properties. The First Baptist Church has agreed to give easement for parking along Hamby Alley as well as any easement needed along King Street by the NC DOT. NC DOT will be performing a traffic study at the intersection of King Street and College Street.*

Town Manager Greg Young advised that the Town procure a contract or memorandum of understanding from all parties involved, including ASU, which outlines what each party is willing to do. Upon a motion by Council member Phillips, seconded by Council member Ball, Council moved to direct the Public Works Director to proceed with the Transportation Committee's recommendation for this project.

VOTE: Aye - All  
Nay - None  
Absent - 1 (Brantz)

### **ADOPTION OF TENETS OF SUSTAINABILITY**

Patrick Beville, chair of the Sustainable Development Task Force, presented the Tenets of Sustainability for review and adoption by the Town Council. He offered that these tenets be used by the Town in future decision-making. Council member Mason asked that the following terms be incorporated into the proposed tenets: "reduce", "reuse", and "recycle." Additionally, she asked that "composting" also be included. It was also suggested that the word "pays" be changed to "promotes" in paragraph 6 entitled "Social." Upon a motion by Council member Mason, seconded by Council member Leigh, Council moved to adopt the following Tenets of Sustainability and to direct Chair Patrick Beville to present the document to the Sustainable Development Task Force for review of these proposed revisions:

Sustainable Development Task Force  
"Tenets of Sustainability"  
3/7/11

These tenants are fundamental principles around which the Town of Boone will operate and develop policy.

**Economic:** We envision the Town of Boone as a community that utilizes tax dollars and various local resources in an efficient manner. The Town will promote, procure, and focus the economy locally, through implementing polices that support local businesses.

**Transportation:** We envision the Town of Boone as a community that is a regional leader in providing a full range of safe, clean, and user-friendly transportation options. The Town will discourage fossil fuel burning vehicle use and enhance other healthier forms of transportation such as walking, bicycling, and carpooling. The Town will continue to support and improve accessibility of public transportation efforts.

**Water:** We envision the Town of Boone as a community that acknowledges the precious and valuable resource that is water. The Town will implement policies and procedures that maximize water efficiency and minimize the environmental impacts of both, water extraction from and returning water to the natural environmental system.

**Environment:** We envision the Town of Boone as a community that celebrates its unique and extraordinary natural environment that benefits and sustains its citizens and attracts visitors. The Town of Boone will maximize environmental protection policies to ensure that the natural environment is maintained and enhanced for all future generations.

**Resilience:** We envision the Town of Boone as a community that recognizes the current economy is dependent upon global systems that are increasingly dynamic and volatile. The Town of Boone will promote self reliance by encouraging policies and practices that localize markets and resource use, better preparing the community for potential resource constraints.

**Social:** We envision the Town of Boone as a community free from discrimination and violence, where everyone has access to: adequate housing and food, meaningful work that pays a living wage, quality healthcare services, participatory civic opportunities, education, and everyone is free from discrimination and violence. The Town of Boone will favor policies that build community and increase quality of life for all of its citizens.

**Recycling:** We envision the Town of Boone as a community that promotes the reduced consumption of consumer goods and natural resources. The Town of Boone will be a regional leader in providing convenient opportunities for businesses, industries and households to recycle the goods and resources that must be discarded. (KD-H)

**Food:** We envision the Town of Boone to be a community where food is healthful, safe, and increasingly raised/produced locally, using sound environmental, humane & sustainable practices, available to and affordable for all.

**Energy:** We envision the Town of Boone to be a community whose innovative approaches to energy are upheld as leadership practices. Citizens will be aware of individual and aggregate energy use, engaged in methods for utilizing energy effectively, and educated on new and renewable means of energy production. These efforts will focus on operating our community infrastructure more sustainably while also enabling individuals to utilize these methods and knowledge in their own homes and businesses.

**Education & Outreach:** We envision the Town of Boone to be a community where our institutions and citizens share and promote sustainability freely, openly and collaboratively. The community's diverse sustainability resources will be documented and inventoried. The Town of Boone will partner with these resources to educate the community and support sustainable development activities.

VOTE: Aye-All

Nay-None

Absent - 1 (Brantz)

### **ADOPTION OF IMPROVEMENTS - HOWARD STREET**

Public Works Director Blake Brown presented the following recommendation from the Transportation Committee for temporary improvements to Howard Street:

*Due to safety concerns regarding heavy pedestrian and vehicular traffic along Howard Street, the Transportation Committee is requesting Council's approval of the following temporary improvements that coincide with the original engineering study's recommendations:*

- 1. Maintain the Appalachian to S. Depot section of Howard Street as a two-way street with sidewalk markings on the south side.*
- 2. Change the S. Depot to S. Water section of Howard Street to a one-way street with traffic flow moving east to west converting the east bound lane into a pedestrian walk way.*
- 3. Use planters and delineators along the intersection and between lanes from S. Depot to S. Water Street to direct and calm traffic flow.*

Upon a motion by Council member Phillips, seconded by Council member Ball, Council moved to adopt the recommendations from the Transportation Committee for temporary improvements to Howard Street.

VOTE:Aye-All  
Nay-None  
Absent - 1 (Brantz)

### **DISCUSSION OF POSSIBLE CODE AMENDMENT - LIMIT NUMBER OF TOWN COUNCIL MEETINGS TO BE SCHEDULED WITHIN A GIVEN TIME PERIOD**

Council member Leigh requested discussion of a possible code amendment to limit the number of Council meetings that can be scheduled within a given time period. She proposed to limit the number of special meetings to three per quarter for a total of twelve per year with the exclusion of regular Council meetings, quarterly public hearings, and budget hearings. Town Attorney Sam Furgiuele advised that any proposed code changes must take into account the fact that state statues allow for the mayor, mayor pro-tem, or a total of two Town Council members to call a special meeting. Upon a motion by Council member Leigh, seconded by Council member Ball, Council moved to direct the Town Attorney to draft a code amendment to bring back before the Council in June.

VOTE:Aye - All  
Nay - None  
Absent - 1 (Brantz)

### **DISCUSSION OF POSSIBLE CODE AMENDMENT - REVISE ROLES FOR COUNCIL LIAISONS TO TOWN BOARDS, COMMISSIONS & TASK FORCES**

Council member Ball presented the following proposal:

*Town boards and commissions are created primarily to serve as citizen advisory groups who are tasked with policy review or project specific duties. They subsequently report to Town Council on policies, projects, and initiatives. In the interest of preserving these boards as citizen-led, I propose the following changes to the Council liaison appointment system:*

- 1. To clarify that the role of Council liaisons as advisors and communicators, rather than strictly policy-focused. Council members should provide direction on the relationship between Council and Town boards, assist with procedural matters, serve as resource to boards, and most importantly, communicate concerns and initiatives of boards back to the full Town Council.*
- 2. Council members are appointed to boards, commissioners and task forces as ex-officio, non-voting members.*
- 3. No Council member may serve as Chair or Vice-Chair of a Town board, commission or task force.*

*These changes will be effective beginning July 1, 2011.*

Council member Mason suggested that this should be considered for each board, commission, or task force on a case-by-case basis or when the committee is formed. It was also noted making this change could affect the voting mechanism for some boards. Upon a motion by Council member Ball, seconded by Council member Leigh, Council moved to direct the Town Attorney to draft a code amendment for the abovementioned proposal.

VOTE: Aye - 3 (Phillips, Leigh, Ball)  
Nay - 1 (Mason)  
Absent - 1 (Brantz)

**DISCUSSION OF EXPANDED HOURS OF OPERATION - JONES HOUSE COMMUNITY CENTER**

Council member Leigh requested discussion on the possibility of expanded hours at the Jones House Community Center. She stated that this facility is a wonderful asset for the community and should be open more often so as to be enjoyed by the community. Town Attorney Sam Furgiuele referenced the conditions contained in the agreement and lease between the Town of Boone and the Watauga Arts Council regarding the operation of the facility. It was determined that the current hours of operation are from 12:00 p.m. until 5:00 p.m. on Tuesdays through Fridays. As there were members of the audience who wished to speak to the topic, it was the consensus of the Council to open the floor for comment. Beth Carrin, chair of the Jones House Advisory Board, introduced several members of the Watauga Arts Council Board and Jones House Advisory Board in attendance. She asked that the Council table this issue until Council member Brantz was present to offer his input on the subject. Ms. Carrin read into record a letter from Council member Brantz and Ross Cooper regarding their thoughts on the request (**a copy of each letter is permanently on file in the May 2011 meeting information file.**) Furthermore, Ms. Carrin offered that the facility is open for other activities other than what the stated hours of operation reflect. Council member Mason stated that she feels that more input, specifically from the Jones House Advisory Board, should be considered before making any decisions regarding the request. Jones House Director Cherry Johnson stated that she has other employees and work-study students that are on the premises at times other than the official hours of operation. She relayed that volunteers are usually present if events such as weddings or private parties occur on Saturdays or Sundays. Upon a motion by Council member Mason, seconded by Council member Ball, Council moved to ask the Jones House Advisory Board to investigate ways to expand hours that the Jones House can be open to the community beyond the current work-time hours and during the weekends and to report back to the Council its recommendations to accomplish that by the next regular meeting in June.

VOTE: Aye - All  
Nay - None  
Absent - 1 (Brantz)

Mayor Clawson declared a break at 10:38 p.m. Council reconvened at 10:46 p.m.

**DISCUSSION OF JONES HOUSE AS OFFICE SPACE - DOWNTOWN DEVELOPMENT DIRECTOR POSITION**

Mayor Clawson requested that an office for the newly created Downtown Development Director position be temporarily located within the Jones House Community Center and to have the office of the current Interim Director of the DBDA relocated to the Jones House effective July 1, 2011. She stated that this action would save money used currently to rent a location and that relocating the office in the Jones House would result in that position being closer to the Downtown Art Program. Mayor Clawson asked that the Jones House Advisory Board and Watauga Arts Council Board share in the use of the Jones House Community Center. She commented that the facility should not be used solely by one group but can be a cooperative effort by all involved parties. Council member Ball questioned the deed restrictions for the property. Town Attorney Sam Furgiuele pointed out that the deed restrictions for this property expired in 2008. Council member Mason stated that she would like to have more information before making a decision about locating a temporary office for the DBDA in the Jones House. She asked that Town Manager Greg Young provide information on other viable locations for housing the new DBDA administrator. Mike Wise, president of the Watauga Arts Council Board, stated that he feels that the location of a DBDA employee in the Jones House will compromise the purpose of the Jones House. Council member Mason moved to table this item. Council member Phillips seconded this motion.

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

Absent - 1 (Brantz)

The motion failed. Council member Phillips moved to keep the location of the DBDA administrator's office at the current location until another suitable location can be established. Council member Mason seconded the motion.

VOTE: Aye - 2 (Phillips, Mason)  
Nay - 3 (Leigh, Ball, Clawson)  
Absent - 1 (Brantz)

The motion failed. Upon a motion by Council member Ball, seconded by Council member Leigh, Council moved to relocate the office of the DBDA director to the second floor of the Jones House Community Center in a room to be decided within the next two weeks and for this relocation to be effective July 1, 2011.

VOTE: Aye - 3 (Leigh, Ball, Clawson)  
Nay - 2 (Phillips, Mason)  
Absent - 1 (Brantz)

### **APPOINTMENT OF TDA CHAIRPERSON**

Upon a motion by Council member Mason, seconded by Council member Ball, Council moved to appoint Doug Uzelac as the Chairperson of the Boone Tourism Development Authority,

VOTE: Aye - All  
Nay - None  
Absent - 1 (Brantz)

### **SCHEDULING OF SPECIAL MEETING - WATER USE COMMITTEE**

Public Utilities Director Rick Miller explained that the Water Committee is requesting a special meeting in order to discuss two recommendations from the Water Use Sub-Committee:

1. Requesting a text amendment to both the Water & Sewer Ordinance and the UDO requiring individual water meters on all multi-family projects.
2. Requesting an amendment to the Water and Sewer Ordinance allowing for gray water systems to be utilized as a conservation method in accordance with current NC building codes.

It was the consensus of the Council to add these agenda items to a meeting in July to be scheduled at the June regular meeting.

### **WATER COMMITTEE RECOMMENDATIONS**

Public Utilities Director Rick Miller presented the following recommendations from the Water Use Committee:

1. To remove the additional 50,000 gallons per day from 2011 allocation allotment that was added into the totals when the old high school property received its additional 80,000 gallons per day
2. To add back 15,000 gallons per day to the 2011 allocation allotment for the amount of ASU accounts that were addressed in the inter-connect agreement.

Upon a motion by Council member Ball, seconded by Council member Leigh, Council moved to approve the above-referenced recommendations from the Water Use Committee.

VOTE: Aye - All  
Nay - None  
Absent - 1 (Brantz)

### **MONTHLY WATER USE STATUS REPORT**

Public Utilities Director Rick Miller presented the monthly water-use status report. **(Permanently on file in the May 2011 Boone Town Council meeting packet.)**

**APPROVAL OF BUDGET AMENDMENTS**

On a motion by Council member Ball, seconded by Council member Leigh, Council moved to adopt the following budget amendments:

| <b>DESCRIPTION</b>                             | <b>ACCOUNT #</b>   | <b>TO:</b> | <b>FROM:</b> |
|--|--------------------|------------|--------------|
| PUBLIC SAFETY VEHICLE EQUIPMENT - POLICE DEPT. | 010-500-300-516400 |            | \$7,500      |
| APPROPRIATED FUND BALANCE-GENERAL FUND         | 010-000-000-499900 |            | (\$7,500)    |
| MAINTENANCE & REPAIR VEHICLES-POLICE DEPT.     | 010-500-000-525301 |            | \$1,938      |
| MISCELLANEOUS REVENUE-GENERAL FUND             | 010-000-000-489900 |            | (\$1,938)    |
| MAINTENANCE & REPAIR EQUIPMENT-FIRE DEPT.      | 010-500-350-525201 |            | \$1,755      |
| MISCELLANEOUS REVENUE-GENERAL FUND             | 010-000-000-489900 |            | (\$1,755)    |
| CAPITAL OUTLAY-OTHER IMPROVEMENTS              | 030-700-805-574001 |            | \$25,000     |
| TRANSFER FROM SEWER CAPITAL RESERVE            | 030-000-000-498032 |            | (\$25,000)   |

VOTE: Aye - All  
 Nay - None  
 Absent - 1 (Brantz)

**RECESS**

On a motion by Council member Ball, seconded by Council member Phillips, Council moved to recess the meeting at 11:31 p.m. until Thursday, May 19, 2011 at 6:00 p.m.

VOTE: Aye - All  
 Nay - None  
 Absent - 1 (Brantz)

**CALL TO RECONVENE**

A recessed meeting from Tuesday, May 17, 2011 was called to order at 6:00 p.m., Thursday, May 19, 2011 in the Council Chambers, 1500 Blowing Rock Road. Mayor Loretta Clawson presided. Council members present were Mayor Pro-Tem Lynne Mason, Stephen Phillips, and Andy Ball. Town Attorney Sam Furgiuele was also present. Staff members present were Town Manager Greg Young, Deputy Town Clerk Kimberly Brown, Assistant to the Town Manager Jim Byrne, Police Chief Dana Crawford, Fire Chief Jimmy Isaacs, Public Works Director Blake Brown, Public Utilities Director Rick Miller, Finance Director Amy Davis, Human Resources Director Peri Moretz, Planning Director Bill Bailey, and Planner Jane Shook.

**ANNOUNCEMENTS**

Mayor Clawson stated that any persons wishing to address the Council should sign in to speak during the Public Comment period. Public Utilities Director Rick Miller and Program Coordinator Lane Weiss presented prizes to the winners of the annual Water Conservation Poster Contest:

First Place - Ruby Pond from Mrs. Shaw's class at Hardin Park School. She won a new bicycle plus a \$75 savings bond.

Second Place - Riwa Ali from Mrs. Shaw's class at Hardin Park School. She won a \$40 gift card and a \$50 savings bond.

Third Place - Zeb Scott from Mrs. Hale's class at Two Rivers Community School. He won a \$20 gift card and a \$25 savings bond.

Honorable Mention - Maddey Street from Mrs. Shaw's class at Hardin Park School. She received a Poster Contest t-shirt and water bottle.

### **TENTATIVE AGENDA ADOPTION**

Town Manager Greg Young announced that there were no changes to the agenda. Upon a motion by Council member Ball, seconded by Council member Mason, Council moved to adopt the agenda, as presented.

VOTE:Aye - All

Nay - None

Absent - 2 (Leigh, Brantz)

### **DISCUSSION WITH DBDA BOARD OF DIRECTORS**

DBDA Board of Directors President Dempsey Wilcox, Board member Andy Stallings, and DBDA Interim Director Pilar Fotta were present to discuss the interim contract and DBDA By-Laws with the members of the Town Council. Mr. Wilcox began by asking that the provision in the interim contract be amended regarding the accounting of the time of the interim director. He stated that it was difficult for Ms. Fotta to keep track of every minute of her day in regard to all the tasks that she is handling, and he asked the Council for suggestions on changes to that language. After discussion, it was suggested that since the majority of the interim director's time is dedication to functions related to the MSD, she should focus on accounting specifically for her time and activities not related to the functions of the MSD. Mr. Wilcox also questioned the term of the interim contract. It was suggested that the term of the interim contract might end on January 1, 2012. Furthermore, he stated that there are some logistical issues that need to be addressed in the interim contract such as the location of the office, phone service, storage, etc. Town Attorney Sam Furguele advised that the Council should be thinking of the contract that will come after the expiration of the interim contract. Regarding the DBDA By-Laws, Mr. Wilcox stated that the Board of Directors is still working on incorporating all of the requested changes by the Council. Mayor Clawson and the members of the Council thanked Mr. Wilcox, Mr. Stallings, and Ms. Fotta for their attendance at this meeting.

Mayor Clawson left the meeting at 6:37 p.m.

### **PUBLIC COMMENT**

Mr. Steve Canipe appeared before the Council to request a letter of support from the Town of Boone to Appalachian State University to distribute items listed in the *Tatum Collection* to the Southern Appalachian Historical Association, Inc.-Hickory Ridge Museum. Upon a motion by Council member Phillips, seconded by Council member Ball, Council moved to amend the agenda to take action on Mr. Canipe's request.

VOTE:Aye - All

Nay - None

Absent - 2 (Leigh, Brantz)

Upon a motion by Council member Ball, seconded by Council member Phillips, Council moved that a Resolution of Support be drafted for the request made by Mr. Steve Canipe for the distribution of items listed in the *Tatum Collection* to the Southern Appalachian Historical Association, Inc.-Hickory Ridge Museum by ASU.

VOTE:Aye - All

Nay - None

Absent - 2 (Leigh, Brantz)

### **ANNOUNCEMENT OF BOARD VACANCIES**

Mayor Pro-Tem Mason announced the following board vacancies:

**Affordable Housing Task Force** - Position open due to the resignation of Terrence Milstead. A member of the Planning Commission will need to be selected to fill this position.

**Board of Adjustment** - Several positions on this board will become open at the end of June: one resident position, two resident (alternate) positions, one ETJ position, and two ETJ (alternate) positions.

**Planning Commission** - Several positions on this board will become open at the end of June: two resident positions (one of which will expire on June 30, 2013), one ASU student position, and two ETJ positions.

**Community Appearance Commission** - Several positions on this board will become open at the end of June: four positions (must reside within TOB planning jurisdiction and one position which will expire on June 30, 2013).

**Historic Preservation Commission** - One resident position opening up at the end of June.

**Greenway Committee** - Committee Chair Mike Curcio is recommending removal of Dominique Piscopo due to her lack of attendance. Her term will expire July 31, 2012.

**Sustainable Development Task Force** - Kelly Jo Drey-Houck has resigned her position. Her term will expire March 31, 2013.

**Tree Board** - Resignation of Adrian Tait whose term will expire on October 31, 2011.

Mayor Pro-Tem noted that with these openings and current openings, there are 30 vacancies on various town boards and that the Town Clerk will continue to advertise these vacancies frequently in the newspapers this month.

### **BOARD APPOINTMENT - AFFORDABLE HOUSING TASK FORCE**

There were no applications submitted for consideration.

### **BOARD APPOINTMENT - DBDA BOARD OF DIRECTORS**

It was the consensus of the Council to defer appointments to this board until after nominations are received from the current DBDA Board of Directors. Appointments will be made at the regular meeting in June 2011.

### **BOARD APPOINTMENT - OUTSIDE AGENCY FUNDING COMMITTEE**

There were no applications submitted for consideration.

### **BOARD APPOINTMENT - PEDESTRIAN PLAN STEERING COMMITTEE**

There were no applications submitted for consideration.

### **BOARD APPOINTMENT - WATER STUDY COMMITTEE**

There were no applications submitted for consideration.

### **APPROVAL OF ZONING MAP AMENDMENT - CASE 20110133 WATAUGA COUNTY**

**Case 20110133** - Watauga County has filed a Zoning Map Amendment Petition for Conditional District Zoning for property located at 300 Go Pioneers Drive (2910-88-3456-000) to modify the existing site specific plan for the Conditional District O/I Office Institutional zoning to the

existing high school site to include the addition of an alpine tower (to be located to the south of the soccer field) and an indoor training facility (located to the north of the softball field.) In addition, the proposed modification triggers the requirements for Transitional Zones in accordance with Unified Development Ordinance Section 198. Planner Jane Shook stated that the Planning Commission has recommended approval of the request with conditions. Upon a motion by Council member Ball, seconded by Council member Phillips, Council moved to re-open the public hearing at 6:56 p.m. to received additional public comment regarding this request.

VOTE: Aye - All

Nay - None

Absent - 2 (Leigh, Brantz)

John Turner, speaking as an agent of the applicant, addressed the service access by referencing a letter submitted on April 19, 2011 to the Planning & Inspections office (**copy of letter permanently on file in the May 2011 meeting information file.**) He stated that the road will be used only sporadically, mainly during the construction process. He explained that the mitigation of the driveway site will be through the relocation of any landscaping disturbed by the construction of the service driveway into the additional buffering location of the side of the driveway nearest Cecil Miller Road. Planner Jane Shook pointed out the proposed changes as depicted on a site map (in pink) (**copy of site plan permanently on file in the May 2011 meeting information file.**) Mike Trew, project engineer, stated that the building and driveway will not be visible from the single-family property located across the street from the site. He reiterated that the displaced landscape buffering will be relocated along the drive to minimize the visual impact of the project. With no other public comment, Mayor Pro-Tem Mason closed the hearing at 7:02 p.m.

#### **Vote #1**

Upon a motion by Council member Phillips, Council moved that the proposed amendment to the Town's zoning map is consistent with the Town's Comprehensive Plan and other applicable adopted plans of the Town which relate to this application because it meets the recreational objectives of the high school and the comprehensive plan; the project is designed to minimize any negative impacts on the surrounding area, and it is in congruence with the land use master plan for recreational space. Council member Ball seconded the motion with a friendly amendment to include the following conditions:

1. Approval is subject to the site plan and supplemental information submitted bearing the received date of April 1, 2011 (Building Elevation received date April 18, 2011.) Insignificant deviations may be permitted to comply with the requirements of the UDO or State Building Code.
2. Applications and final plans shall be submitted that are in compliance with the provisions of the UDO, Town Code and State Building Code.
3. The letter bearing the received date of April 19, 2011 from John Turner must be included.
4. The HVAC/mechanical equipment shall be oriented, as much as practical, away from the existing R-1 neighbors to the NE of the indoor training facility.

Council member Phillips accepted the friendly amendment.

VOTE: Aye - All

Nay - None

Absent - 2 (Leigh, Brantz)

#### **Vote #2**

Upon a motion by Council member Phillips, seconded by Council member Ball, Council moved to approve the proposed amendment to the Town's zoning ordinance with the following conditions and believe approval is both reasonable and in the public interest because it meets the recreational objectives of the high school and the comprehensive plan; the project is designed to minimize any negative impacts on the surrounding area, and it is in congruence with the land use master plan for recreational space:

1. Approval is subject to the site plan and supplemental information submitted bearing the received date of April 1, 2011 (Building Elevation received date April 18, 2011.) Insignificant deviations may be permitted to comply with the requirements of the UDO or State Building Code.
2. Applications and final plans shall be submitted that are in compliance with the provisions of the UDO, Town Code and State Building Code.
3. The letter bearing the received date of April 19, 2011 from John Turner must be included.
4. The HVAC/mechanical equipment shall be oriented, as much as practical, away from the existing R-1 neighbors to the NE of the indoor training facility.

VOTE: Aye - All

Nay - None

Absent - 2 (Leigh, Brantz)

### **REQUESTED APPEARANCES - JIM ROBERTS**

Attorney Alan Moseley appeared on behalf of Jim Roberts to request a special public hearing on a proposed text amendment to add a “recurring temporary use” category for a proposed mobile medical unit at an existing medical office. He explained that the unit will consist of a trailer that is to be located on the property of the offices of Boone Orthopedic off Doctor’s Drive. Mr. Moseley further explained that the mobile medical unit is proposed to be open only one day per week. Town Attorney Sam Furgiuele advised that there are several other issues that need to be considered for this request. Upon a motion by Council member Ball, seconded by Council member Phillips, Council moved to direct the Planning Staff in consultation with the Town Attorney to prepare a proposed text amendment on recurring temporary uses with some specificity, subject to transition zones, to be presented at the budget workshop meeting on June 8, 2011 at 12:30 p.m.; to give the planning staff latitude if it is determined that broader coverage should be given to temporary but recurring uses beyond this request; and to schedule a public hearing, a special meeting of the Planning Commission, and to add to the regular Town Council meeting agenda the proposed text on temporary recurring uses on June 23, 2011.

VOTE: Aye - All

Nay - None

Absent - 2 (Leigh, Brantz)

Upon a motion by Council member Ball, seconded by Council member Phillips, Council moved to amend the June 8, 2011 budget workshop agenda to include the presentation of proposed text amendment for temporary recurring uses.

VOTE: Aye - All

Nay - None

Absent - 2 (Leigh, Brantz)

### **REQUESTED APPEARANCES - PILAR FOTTA/DBDA**

DBDA Interim Director Pilar Fotta appeared before the Council to request approval of a Special Event Permit for the Doc Watson Celebration and concert on Friday, June 24, 2011. She stated that the event is slated to begin at 3:00 p.m. and end by 7:00 p.m. Ms. Fotta added that she is modifying her request to include the closure of King Street from the intersection with Linney Street to the intersection with Appalachian Street. She requested that the Town of Boone apply for the closure of King Street with the NC Department of Transportation on behalf of the event sponsor. She also stated that she will discuss the insurance requirements with Cherry Johnson, director of the Jones House, which is hosting the Concert on the Lawn that evening. Upon a motion by Council member Ball, seconded by Council member Phillips, Council moved to approve the Special Event Permit, to direct the Town Manager to apply on behalf of the event sponsor to the NC DOT for the closure of King Street from Linney Street to Appalachian Street on the date of the event from 3:00-8:00 p.m., to waive the permit fee of \$1,500.00, and to provide support from the Town of Boone Police and Public Works Departments.

VOTE: Aye - All

Nay - None

Absent - 2 (Leigh, Brantz)

Upon a motion by Council member Ball, seconded by Council member Phillips, Council moved to approve a contingency plan for the closure of Queen Street, from Depot Street to Water Street, if the NC DOT does not permit the closure of King Street and subject to all other conditions listed in the previous motion.

VOTE: Aye - All

Nay - None

Absent - 2 (Leigh, Brantz)

### **REQUESTED APPEARANCES - BETH CARRIN/JONES HOUSE ADVISORY BOARD**

Beth Carrin, chair of the Jones House Advisory Board, appeared before the Council to present the annual committee report (**copy of power-point report permanently on file in the May 2011 meeting information file.**)

Mayor Pro-Tem Mason declared a break at 8:16 p.m. Council reconvened at 8:21 p.m.

Before deliberating on the water and sewer request, Town Attorney Sam Furgiuele questioned the members of the Council on whether or not they had contact with any of the applicants requesting water and sewer service. All Council members stated that they had not had any significant contact with any of the applicants submitting requests for water and sewer service.

### **WATER & SEWER REQUESTS - FAISON KUESTER**

Town Attorney Sam Furgiuele opened a public hearing at 8:23 p.m. to hear sworn testimony from Faison Kuester, Tom McCreary, Planning Director Bill Bailey, Public Utilities Director Rick Miller, Sheila Yost, Dr. Charles Yost, and Shirley Bentley on a request for water and sewer service to property located on Winkler's Meadows. Mr. Faison Kuester, applicant, explained the request for 10,258.5 gallons per day for a 28-unit multi-family housing complex with a total of 72 bedrooms. Mr. Faison entered into evidence as **Kuester Attachment 1 (copy of attachment permanently on file in the May 2011 meeting information file)** a packet of information containing a cover letter; a letter from the property owners, Lloyd and Shirley Bentley; a letter from Christ Turner of Appalcart; building elevation and site plans; and a market analysis. He also entered into evidence as **Kuester Attachment 2 (copy of attachment permanently on file in the May 2011 meeting information file)** a depiction of the zoning adjacent to the property; **Kuester Attachment 3 (copy of attachment permanently on file in the May 2011 meeting information file)** a site plan for the project; and **Kuester Attachment 4 (copy of attachment permanently on file in the May 2011 meeting information file)** a color depiction of the proposed complex. Mr. Faison indicated that the results of the market analysis show that this area is 96% for a strong and healthy market. He stated that this project will provide for an increase in property value and property taxes and will also provide for jobs for local construction and other vendors. Tom McCreary, landscape architect for the project, stated that the project will provide for pedestrian safety with a continuous sidewalk from the project to Winkler's Creek Road. In regard to noise, lighting and visual impacts, Mr. McCreary stated that the project will not have balconies and will have interior corridors. He stated that the exterior lights will be full, cut-off fixtures that will be downward-projected. He stated that the building is situated so that the visual impact to properties across the road is minimized and that besides the mature, existing trees, new tree plantings are planned. Regarding the impact of additional traffic, Mr. McCreary indicated the following for peak traffic for the project:

- Entering the project during the peak p.m. hours - 20 vehicles per hour
- Exiting the project during the peak p.m. hours - 10 vehicles per hour
- Entering the project during the peak a.m. hours - 6 vehicles per hour
- Exiting the project during the peak a.m. hours - 22 vehicles per hour.

Planning Director Bill Bailey stated that approximately one-half to one-third of the property is located in the G-2 Sector. Public Utilities Director Rick Miller stated that the project is adjacent to existing water and sewer mains, that he anticipates an adequate flow to the project and that the project is located in the main pressure zone. Sheila Yost, who resides at 130 Winkler's Meadows, presented into evidence as **Yost Attachment 1 (copy of attachment permanently on**

**file in the May 2011 meeting information file)** a letter listing concerns about the project from Sheila and Chuck Yost; **Yost Attachment 2 (copy of attachment permanently on file in the May 2011 meeting information file)** a picture of the stream behind the Greenway Commons project; **Yost Attachment 3 (copy of attachment permanently on file in the May 2011 meeting information file)** a picture of the site noting the tree line; **Yost Attachment 4 (copy of attachment permanently on file in the May 2011 meeting information file)** a petition containing numerous signatures of persons opposing the construction of a 72-bed apartment complex on Winkler's Meadow; and **Yost Attachment - Un-numbered Pictures (copy of attachment permanently on file in the May 2011 meeting information file)** two pictures of the stream and area behind the Greenway Commons project. Mr. Kuester objected to the submission of the evidence by Sheila Yost. Upon a motion by Council member Ball, seconded by Council member Phillips, Council moved to overrule Mr. Kuester's objection to the evidence submitted by Sheila Yost.

VOTE:Aye - All  
Nay - None  
Absent - 2 (Leigh, Brantz)

Ms. Yost voiced her concern about an increase in traffic along Winkler's Meadow and an increase in trash along the stream. She stated that she feels the project is too extensive for that area. Dr. Charles Yost stated that he feels the project will have too many people on a very small space. Mr. Faison stated that during construction of the Greenway Commons complex, the fence line was not disturbed. He also stated that Mrs. Bentley's daycare provided service for up to 138 children. Additionally, he stated that the proposed complex will limit one person per bedroom. Ms. Shirley Bentley verified that her daycare serviced up to 138 children at one point. With no other public comment, Mr. Furguele closed the public hearing at 9:50 p.m. Council member Phillips stated that he is concerned about the scale of the project and the impact on traffic. Council member Ball stated that although he feels that this would be a quality project, he, too, is concerned about the site, the number of occupants, traffic, and the effect on the stream and wild life. Council member Mason agreed with both sets of concerns and stated that she feels the proposed project is not in conformity with the Boone 2030 Plan. Upon a motion by Council member Ball, seconded by Council member Phillips, Council moved to deny the request from Faison Kuester for water and sewer service to property located on Winkler's Meadow.

VOTE:Aye - All  
Nay - None  
Absent - 2 (Leigh, Brantz)

### **CLOSED SESSION**

Upon a motion by Council member Ball, seconded by Council member Phillips, Council moved to table the following Closed Session item until the June regular meeting: Legal Advice - Ron Darbo LLC Settlement Offer.

VOTE:Aye - All  
Nay - None  
Absent - 2 (Leigh, Brantz)

Upon a motion by Council member Ball, seconded by Council member Phillips, Council moved to enter into Closed Session at 9:55 p.m. pursuant to G.S. 143-318.11(a)(3) in order to discuss the following:

- A. Legal Advice - County Appointments to Board of Adjustment and Planning Commission.
- B. Legal Advice - Raw Water Intake.

VOTE:Aye - All  
Nay - None  
Absent - 2 (Leigh, Brantz)

Upon a motion by Council member Ball, seconded by Council member Phillips, Council moved to exit Closed Session at 10:39 p.m.

VOTE: Aye - All  
Nay - None  
Absent - 2 (Leigh, Brantz)

**POSSIBLE ACTION FOLLOWING CLOSED SESSION**

Upon a motion by Council member Phillips, seconded by Council member Ball, Council moved to send a proposed UDO text amendment (**Exhibit A, attached**) regarding board appointments to a public hearing scheduled for Monday, June 13, 2011, at 6:30 p.m. at the Council Chambers, 1500 Blowing Rock Road.

VOTE: Aye - All  
Nay - None  
Absent - 2 (Leigh, Brantz)

**ADJOURNMENT**

On a motion by Council member Ball, seconded by Council member Phillips, Council moved to adjourn the meeting at 10:41 p.m.

VOTE: Aye - All  
Nay - None  
Absent - 2 (Leigh, Brantz)

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Deputy Town Clerk

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Mayor