

**MINUTES - REGULAR MEETING
BOONE TOWN COUNCIL
APRIL 16, 2009**

A regular meeting of the Boone Town Council was called to order at 6:30 p.m., Thursday, April 16, 2009, in the Council Chambers, 1500 Blowing Rock Road. Mayor Loretta Clawson presided. Council members present were Mayor Pro-Tem Lynne Mason, Janet Pepin, Liz Aycock, Rennie Brantz, and Stephen Phillips. Town Attorney Sam Furgiuele was also present. Staff members present were Town Manager Greg Young, Deputy Town Clerk Kimberly Brown, Assistant to the Town Manager Jim Byrne, Police Chief Bill Post, Fire Chief Reggie Hassler, Public Works Director Blake Brown, Utilities Director Rick Miller, Finance Director Amy Davis, Human Resources Director Peri Moretz, Development Coordinator David Graham, and Planner Jane Shook.

ANNOUNCEMENTS

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

Mayor Clawson made the following announcement: "In conjunction with the statewide 'Spring Litter Sweep 2009' campaign issued by Governor Beverly Perdue for April 18th through May 2, 2009, the Town of Boone will hold a 'Spring Boone Clean-Up Day' on Saturday, April 18, 2009. Interested participants may come by the Town of Boone Public Works Department located at 321 East King Street between 9:00 a.m.-2:00 p.m. to pick up cleaning supplies. For more information, contact Shannon Isaacs at (828) 268-6230."

TENTATIVE AGENDA ADOPTION

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

1. Addition of Public Hearing on change of Mayor's term.
2. Deletion of Item 6.C. - Approval of Encroachment Agreement - The Open Door.
3. Addition of one additional ETJ vacancy on the Planning Commission (Item 6.J.)
4. Addition of Item 6.V. - Adoption of Ordinance - Amend Town Charter.
5. Deletion of Item 8.B. - NC Mudd LLC water & sewer request.
6. Deletion of Item 8.E. - Hollar & Greene water & sewer request.
7. Addition of Property Acquisition - Right-of-Way to Closed Session.

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

VOTE: Aye - All
 Nay - None

CONSENT AGENDA ADOPTION

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

Minutes: March 3, 2009 - Special Meeting.
 March 9, 2009 - Special Meeting.
 March 19, 2009 - Regular Meeting.

Tax Releases & Refunds - February 2009:

**TAX RELEASES
FEBRUARY 2009**

Taxpayer	Year	Amount	Description
TOSHIBA BUSINESS SOLUTIONS	2008	136.64	DOUBLE BILLED
INTEGRATED PENSIONS INC	2008	56.98	BUSINESS NOT IN TOB

WHITWORTH, STEFANIE FLYNT	2008	58.76	INCORRECT SITUS
WHITWORTH, THOMAS COKE IV WHITWORTH, STEFANIE FLYNT	2008	34.08	TURN IN TAG
SANCHEZ, ALISHA MICHELLE SANCHEZ, JUAN PABLO	2008	7.60	TURN IN TAG
BOARD OF TRUSTEES OF THE ENDOWMENT FUND FOR ASU	2008	733.34	EXEMPT
HAYES-PLYMALE, IAN WESLEY	2007	61.70	OVERLAPPING TAG
		1089.10	

**MSD
FEBRUARY 2009**

Taxpayer	Year	Amount	Description
TOSHIBA BUSINESS SOLUTIONS	2008	65.25	DOUBLEBILLED
		65.25	

**TAX REFUNDS
FEBRUARY 2009**

Taxpayer	Year	Amount	Description
COHEN, ZACHARY ROSS	2008	12.03	TURN IN TAG
SCANTLIN, WILLIAM BRETT	2008	6.25	TURN IN TAG
HONDA LEASE TRUST	2008	49.88	TURN IN TAG
		68.16	

**MSD
FEBRUARY 2009**

Taxpayer	Year	Amount	Description
		0.00	

Approval of Amended Rural Center Contract. **(Copy of amended contract permanently on file in Boone Housing Authority office.)**

Adoption of Ordinance - Grant Project Ordinance:

**GRANT PROJECT ORDINANCE
NORTH CAROLINA DIVISION OF COMMUNITY ASSISTANCE
CONTRACT REF #: 08-C-1854
ORDINANCE: #09-05**

BE IT ORDAINED by the Town Council of the Town of Boone, North Carolina, that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance is hereby adopted.

SECTION 1. The project authorized is to remove sediment from the Winkler's Creek raw water intake site.

SECTION 2. The anticipated date for expending all funds is September 12, 2011.

SECTION 3. The officers of this unit are hereby directed to proceed with the grant project within the terms of the grant agreement documents, and the budget contained herein.

SECTION 4. The following amounts are appropriated for the project:

Sediment removal at Winkler's Creek raw water intake:	
• Water Intake Improvements	\$540,000
• Administration	<u>\$ 60,000</u>
Total	\$600,000

SECTION 5. The following revenues are anticipated to be available to complete this project:

Community Development Block Grant	<u>\$600,000</u>
Total	\$600,000

SECTION 6. The Finance Officer is hereby directed to maintain within the Grant Project Funds sufficient specific detailed accounting records to satisfy the requirements of the grantor agency and the grant agreements. The terms of the grant agreement shall also be met.

SECTION 7. Copies of this grant project ordinance shall be furnished to the Clerk to the Town Council, to the Budget Officer, and the Finance Officer for direction in carrying out this project.

Adopted this 16th day of April, 2009.

Loretta Clawson, Mayor

Freida Van Allen, Town Clerk

Greg Young, Town Manager

Amy Davis, Finance Director

(ORDINANCE TO BE TYPED IN BOOK 3, PAGE(S) 368)

Adoption of CDBG Required Plans & Policies. (Copy of CDBG Required Plans & Policies permanently on file in Boone Housing Authority office.)

Council Member Pepin asked that the policy on Equal Opportunity Employment included in the CDBG Required Plans & Policies be replaced with the Town's current policy which was recently revised.

VOTE: Aye - All
 Nay - None

PUBLIC HEARING

Mayor Clawson opened a public hearing at 6:32 p.m. to hear public comment on the proposed change to the mayoral term of office. With no public input offered, Mayor Clawson closed the public hearing at 6:33 p.m.

PUBLIC COMMENT

Mayor Clawson noted that no one signed up to offer public comment.

DISCUSSION OF UDO TEXT AMENDMENT PROCEDURE

Council Member Phillips stated that he would like some clarification on the initiation of text amendments to the Unified Development Ordinance. Town Attorney Sam Furgiuele stated that the UDO does not grant the power to the Planning Commission or the Community Appearance Commission to initiate text amendments to the UDO. He stated that text amendments can be initiated only by the Town Council. Furthermore, he explained that any text amendment language should be drafted by the Town Attorney in consultation with Planning Staff. Council Member Mason agreed by stating that the language of Sections 378(a) and 379 be clarified in regard to the process of initiating text amendments to the UDO. Upon a motion by Council Member Mason, seconded by Council Member Phillips, Council moved to direct the Town Attorney, in consultation with the Planning Staff, to review the regulations contained in Article 21, Sections 378 and 379 and to draft language which clarifies any ambiguities contained in the text in regard to the initiation of text amendments to the UDO.

VOTE: Aye - All
 Nay - None

ADOPTION OF RESOLUTION - DIRECTING CLERK TO INVESTIGATE SUFFICIENCY OF PETITION OF ANNEXATION (SALDINO ANNEXATION)

Planner Jane Shook stated an application for non-contiguous (satellite) annexation had been submitted by Andrew Saldino and Winifred Morehouse in conjunction with a request for water and sewer service for property located outside of the Town's corporate limits. She stated this is the first step in the annexation process. Council Member Aycock asked to be excused from consideration of this request since she was excused from deliberating on the request for water and sewer service due to contact with the applicant. Upon a motion by Council Member Pepin, seconded by Council Member Mason, Council moved to excuse Council Member Aycock from consideration of this request.

VOTE: Aye - All
 Nay - None

Upon a motion by Council Member Phillips, seconded by Council Member Brantz, Council moved to adopt the following resolution:

**RESOLUTION DIRECTING THE CLERK TO INVESTIGATE
A PETITION RECEIVED UNDER G.S. 160A-58.1**

WHEREAS, a petition requesting annexation of an area described in said petition was received on April 16, 2009 by the Town Council; and

WHEREAS, G.S. 160A-58.2 provides that the sufficiency of the petition shall be investigated by the Town Clerk before further annexation proceedings may take place; and

WHEREAS, the Town Council of the Town of Boone deems it advisable to proceed in response to this request for annexation;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Boone that:

The Town Clerk is hereby directed to investigate the sufficiency of the above described petition and to certify as soon as possible to the Town Council the result of her investigation.

ATTEST:

Mayor

Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE(S) 104)

VOTE: Aye - All
 Nay - None

Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to reseal Council Member Aycock.

VOTE: Aye - All
 Nay - None

PLACEMENT OF RESTRICTIONS - BROWN PROPERTY

Town Attorney Sam Furgiuele explained that the restrictions contained in the easement are for the protection of the land in perpetuity. He explained that the restrictions are required as part of the contractual commitment to Richard and Mary Gray. The Gray's donated funds towards the purchase of the Brown property. He noted that the restrictions do not prohibit maintenance activity on the property for safety issues. The deed includes the following restrictions:

- § There shall be no structures located on the subject property other than (1) benches; and/or (2) improvements associated with trail maintenance and safety including, but not limited to, steps, ramps, bridges, posts, barriers, and public notices; and/or (3) improvements related to public underground utilities; and
- § There shall be no removal or destruction of trees, shrubs, or other natural vegetation, nor tree cutting nor clearing on the subject property except to the extent reasonably necessary to protect against personal injury, property damage, or other liability concerns, or except to the extent necessary to control invasive species such as rosa multiflora; and
- § There shall be no activities detrimental to drainage, flood control, water conservation, erosions control, or soil conservation; and
- § The use of the subject property shall be restricted for outdoor recreational purposes and purposes permitting the land and water area to remain predominantly in its natural condition; and
- § There shall be no excavation, dredging or removal of loam, peat, gravel, soil, rock or other mineral substance in such manner as to affect the surface except to the extent reasonably necessary to protect against personal injury, property damage or other liability concerns; and
- § There shall be no dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste or unsightly or offensive materials except to the extent reasonably necessary to protect against personal injury, property damage or other liability concerns.

Upon a motion by Council Member Brantz, seconded by Council Member Phillips, Council moved to approve the deed and restrictions for the Brown property. **(Copy of deed permanently on file in the Clerk's office and on file at the Watauga County Register of Deeds.)**

VOTE: Aye - All
 Nay - None

APPROVAL OF AGREEMENT - N.C. STATEWIDE EMERGENCY MANAGEMENT MUTUAL AID AND ASSISTANCE AGREEMENT

Fire Chief Reggie Hassler explained that this is an updated Mutual Aid and Assistance Agreement from the North Carolina Emergency Management office. He noted that the agreement has been reviewed by the Town Attorney. Upon a motion by Council Member Brantz, seconded by Council Member Aycock, Council moved to adopt the N.C. Statewide Emergency Management Mutual Aid and Assistance Agreement **(copy of agreement permanently on file in the Clerk's Office.)**

VOTE: Aye - All

Nay - None

GREENWAY, PARKS & GARDENS COMMITTEE RECOMMENDATION - EASEMENT FOR GREENWAY CONNECTOR

Public Works Director Blake Brown presented a recommendation from the Greenway, Parks & Gardens Committee to negotiate with the Boone Optimist Club and the Appalachian Regional Healthcare System for an easement for a greenway connector from the Wellness Center through the Optimist Park. Council Member Mason inquired as to the drainage area along the proposed route. Mr. Brown stated that the area to be used is out of the floodway but that the property will have to be surveyed prior to beginning work. Council Member Brantz asked about the costs anticipated for the project. Mr. Brown stated that there will be some cost to the Town in order to construct the project. He asked that the Town be allowed to negotiate the terms of the project and obtain an easement before bringing the proposed plan to the Council for consideration. Furthermore, he stated that there may be grants available for which the Town could apply in an effort to help with the cost of the project. Upon a motion by Council Member Pepin, seconded by Council Member Phillips, Council moved to direct the Public Works Staff and the Greenway, Parks & Gardens Committee to negotiate with the Boone Optimist Club and the Appalachian Regional Healthcare System a plan for this project to present to the Council.

VOTE: Aye - All
 Nay - None

GREENWAY, PARKS & GARDENS COMMITTEE RECOMMENDATIONS - MEMORIAL PROGRAM FOR GREENWAY TRAIL

Public Works Director Blake Brown presented a recommendation from the Greenway, Parks & Gardens Committee for a Memorial Program for the Greenway Trail. Mr. Brown explained that this request came to be after discussion of a memorial to honor Mr. Howard Love, the Town's first landscaper who passed away recently. He noted that the committee requested permission to place a memorial bust and plaque for Mr. Howard Love at the covered bridge on the Greenway Trail in a small garden area. Mr. Brown stated that a master plan should be created for this proposed program so that areas available for the program will be clearly designated. He also stated that the cost of the materials should be outlined as well as the type of bench, plaque, trees, etc. Council Member Brantz stated that this program should not be used as a fund-raising event. Council Member Aycock agreed and stated that the intent of the program is also not for advertising. Council Member Phillips suggested that honorary plaques also be included in the program. Council Member Mason advised that the committee devise a plan that includes these issues to present to the Council. Council Member Pepin asked that criteria be created to determine who is eligible for the program so as to limit the number of requests received and to limit the number of benches and plaques along the trail which could deter from the natural beauty of the trail. Upon a motion by Council Member Brantz, seconded by Council Member Aycock, Council moved to direct the Greenway, Parks & Gardens Committee to create a Master Plan for a memorial/honorary program for the Greenway Trail to present to the Council.

VOTE: Aye - All
 Nay - None

REQUEST PERMISSION TO APPLY FOR GRANT - URBAN & COMMUNITY FORESTRY GRANT

Assistant to the Manager Jim Byrne requested permission to apply for an Urban & Community Forestry Grant which will provide \$5,000 for the purchase of additional trees for the new park. He stated that the Town will need to provide a match of \$5,000 from funds already designated for this purpose. Council Member Brantz asked about the number of trees that this amount will purchase. Mr. Byrne answered that the funds should be able to provide for approximately 50 trees. Council Member Aycock asked about the type of trees to be planted. Mr. Bryne stated that he will be working with the Agricultural Extension to choose trees natural to this area. Upon a motion by Council Member Mason, seconded by Council Member Aycock, Council moved to

grant permission to apply for an Urban & Forestry Grant in the amount of \$5,000 for trees for the new park.

VOTE: Aye - All
 Nay - None

APPROVAL OF CONTRACT - ADMINISTRATIVE CONTRACT WITH BOONE HOUSING AUTHORITY FOR CDBG PROJECT

Assistant to the Manager Jim Byrne requested approval of the administrative contract with Boone Housing Authority for the CDBG project #08-C-1854. He reiterated that no local funds will be spent on the CDBG project or its administration. Upon a motion by Council Member Brantz, seconded by Council Member Aycock, Council moved to approve the following contract:

CONTRACT

STATE OF NORTH CAROLINA
COUNTY OF WATAUGA

THIS CONTRACT, made and entered into this 16th day of April, 2009, by and between the Town of Boone, a body politic, organized and existing under virtue of the laws of the State of North Carolina, party of the first part, and the Boone Housing Authority, a component unit of the Town of Boone, organized and existing under the virtue of the laws of the State of North Carolina, party of the second part.

WITNESSETH:

WHEREAS, the party of the first part is recipient of a Rural Center Grant #08-C-1854; and

WHEREAS, it is the desire of the party of the first part to contract with the party of the second part to provide technical assistance functions of said CDBG Grant for a fee of \$60,000; and

NOW, THEREFORE, in consideration of the mutual promises contained herein, as well as other good and valuable consideration flowing between parties, it is mutually agreed as follows:

GENERAL PROVISIONS:

1. The party of the second part shall assist in the performance of the following services:
 - a.) Prepare the project release of funds and conduct the public hearings.
 - b.) Should the project mandate the submission of an amendment, prepare the amendment in accordance with guidelines established by the CDBG Grant.
 - c.) Assist in preparation of proposals and bids, contract preparations and awards, project work inspections, and general administration duties.
 - d.) Provide assistance to the town with monitoring visits, annual audits, and general program compliance.

Perform all duties necessary to satisfactory complete all grant activities. The duties will include, but are not limited to: cost estimates, supervision, and general administrative duties in accordance with North Carolina and Federal regulations. This contract can be terminated without cause by either party giving 10-days written notification. The party of the first part will compensate the party of the second part for the percentage of project completion at termination. The contract can also be terminated if the party of the second part fails to comply with the terms of the contract.

IN WITNESS WHEREOF, the parties of this Contract have executed it in duplicate originals, the day and year first written above.

Town of Boone

Boone Housing Authority

Mayor

Director

VOTE: Aye - All
 Nay - None

ANNOUNCEMENT OF PLANNING COMMISSION VACANCY

Development Coordinator David Graham announced that Planning Commission members Sheri Baker and Gayle Turner have resigned their positions as ETJ representatives on the Planning Commission. He stated that the Clerk will advertise the two vacant positions and Council can consider applications to forward to the Watauga County Board of Commissioners for appointment at the May meeting. Mayor Clawson directed the Clerk to draft letters of appreciation for Sheri Baker and Gayle Turner for their service to the citizens of Boone.

APPOINTMENT OF ABC BOARD CHAIRPERSON

Mayor Clawson announced that the Town Council needs to appoint a chairperson to the ABC Board. She noted that a resume was received by Board Member Ray Howell. Board Member Candy Winebarger, in attendance at the meeting, also indicated an interest in serving as ABC Board Chairperson. Mayor Clawson called for nominations for chairperson for the ABC Board. Council Member Mason nominated Candy Winebarger. She noted that she has served on the Board for many years, is ethical, possesses good judgment, and has considerable business experience. Council Member Pepin nominated Ray Howell and noted that he also has considerable business experience. With no other nominations, Mayor Clawson called for a vote on the nomination of Candy Winebarger.

VOTE: Aye - 3 (Aycock, Mason, Brantz)
 Nay - 2 (Phillips, Pepin)

Mayor Clawson called for a vote on the nomination of Ray Howell.

VOTE: Aye - 2 (Phillips, Pepin)
 Nay - 3 (Aycock, Mason, Brantz)

By majority vote, Candy Winebarger was appointed to serve as chairperson for the Boone ABC Board. Mayor Clawson noted that the Council would like to receive a status report from the ABC Board on a quarterly basis.

WATER COMMITTEE APPOINTMENTS

Public Utilities Director Rick Miller stated that four positions are currently open on the Water Committee. Mr. Miller stated that there are no residency requirements for this committee. He informed the Council that an application was received from Gabrielle Micale. Upon a motion by Council Member Phillips, seconded by Council Member Mason, Council moved to appoint Gabrielle Micale to serve on the Water Committee. Council Member Pepin reiterated that she feels it is important to have representation from the business/development community and agreed to continue advertising for the three vacant positions.

VOTE: Aye - All
 Nay - None

CABLE TV ADVISORY COMMITTEE APPOINTMENTS

Mayor Clawson noted that there are two vacant positions on the Cable TV Committee. She pointed out that an application had been received from Tim Wilson, who has served on the committee for a number of years. Upon a motion by Council Member Mason, seconded by Council Member Brantz, Council moved to reappoint Tim Wilson to serve on the Cable TV Advisory Committee. His term will expire on April 30, 2012.

VOTE: Aye - All
 Nay - None

Council directed the Clerk to continue to advertise the remaining vacant position.

GREENWAY, PARKS & GARDENS COMMITTEE APPOINTMENT

Public Works Director Blake Brown announced that a vacant position is still open on the Greenway, Parks & Gardens Committee and that no applications have been received. He noted that there are no residency requirements for serving on this committee. Council directed the Clerk to continue to advertise the vacant position.

APPOINTMENT OF MEMBERSHIP - COORDINATED RECYCLING COMMITTEE

Council Member Phillips requested to be appointed to a Coordinated Recycling Committee which consists of representatives from the Town of Boone, ASU, Watauga County, and Mountain Keepers. He informed the Council of the mission statement of the group: "To coordinate recycling opportunities and educational outreach among the Town of Boone, Watauga County, and Appalachian State University." He also requested that the Town's Recycling Coordinator be appointed to serve on this committee. He explained that he has been participating in the meetings of the committee and would like to be officially appointed by the Council. Council Member Brantz, who is the Town Council liaison to recycling and zero waste, stated that he would like to be involved with the committee also. Council Member Mason asked that more emphasis be directed to composting and the encouragement of zero waste events. Town Attorney Sam Furguele stated that, in his opinion, if recommendations are presented to the Council from this committee, then the committee should adhere to the open-meetings law. Upon a motion by Council Member Mason, seconded by Council Member Aycock, Council moved to appoint Council Members Phillips and Brantz and the Town's Recycling Coordinator to serve on the Coordinated Recycling Committee.

VOTE: Aye - All
 Nay - None

FORMATION OF DOWNTOWN PARKING TASK FORCE

Council Member Phillips explained that he would like to see a Downtown Parking Task Force appointed which would study parking problems in the downtown and determine solutions to these problems. He anticipated that the Task Force could create recommendations to present to the Council by September 2009. He suggested that the meetings be coordinated by the DBDA and facilitated by McLaurin Parking. Council Member Mason suggested an analysis of the parking situation be undertaken and that once that is accomplished, strategies can then be recommended. Council Member Brantz stated that a more neutral facilitator would be appropriate since McLaurin has an interest in the situation. Council Member Aycock agreed and suggested an outside company or facilitator; however, she did agree that McLaurin Parking should be involved in the process. Town Attorney Sam Furguele reminded the Council that appointees for the Task Force would have to complete an application to serve and be appointed by the Council. Council Member Mason suggested that the Town be responsible for the coordination of the Task Force. Council Member Pepin pointed out the success of the charrette process used last fall and offered that this could be a project accomplished in the same fashion without forming a new task force. Upon a motion by Council Member Pepin, seconded by Council Member Mason, Council moved to direct the Town Manager to investigate the charrette

process or other appropriate methods of addressing the issues regarding parking in downtown Boone.

VOTE: Aye - All
 Nay - None

REQUEST PERMISSION TO APPLY FOR GRANT - BOONE POLICE DEPARTMENT

Police Chief Bill Post requested permission to apply for a federal grant in the amount of \$12,596. He explained that the grant will be used to relocate a radio antenna to address issues with coverage on police officers' portable radios. He noted that no Town funds are needed to match the grant. Upon a motion by Council Member Brantz, seconded by Council Member Aycock, Council moved to grant permission to the Police Department to apply for a federal grant in the amount of \$12,596.

VOTE: Aye - All
 Nay - None

SCHEDULING OF INTERGOVERNMENTAL RETREAT DATES

Mayor Clawson announced that two dates have been proposed for the next intergovernmental retreat meeting: Monday, June 1st and Monday, September 28th. After a brief discussion of scheduling conflicts, Council Member Brantz moved to schedule a special meeting on Monday, September 28th for an intergovernmental retreat and that the time and location will be determined and announced at a later date. Council Member Mason seconded the motion.

VOTE: Aye - All
 Nay - None

DISCUSSION OF SPECIAL MEETING - FOR WATER REQUESTS

Council Member Mason proposed scheduling a special meeting each month in order to hear water requests. She noted that several requests are scheduled each month, and that most of the time, the cases are heard late in the meeting after a full list of other agenda items. Council Member Pepin suggested a meeting that would combine the discussion of water issues, as well as the water requests. She noted that Ordinance #05-01 is in need of review. Council Member Brantz voiced a concern that if separate meetings for water requests are scheduled, the Council might lose input from other issues being considered throughout the meeting. Council Member Aycock agreed with Council Member Brantz's comment but suggested that Ordinance #05-01 does need to be reviewed. Council Member Pepin suggested that review and updating Ordinance #05-01 might result in a decrease in the number of requests that are required to come before Council. Upon a motion by Council Member Pepin, seconded by Council Member Brantz, Council moved to schedule a special meeting of the Water Committee for Tuesday, June 16, 2009, at 5:30 p.m. in the Council Chambers in order to review Ordinance #05-01.

VOTE: Aye - All
 Nay - None

MONTHLY WATER USE STATUS REPORT

Public Utilities Director Rick Miller presented the monthly water status report (**copy permanently on file in April 2009 Town Council packet**).

APPROVAL OF BUDGET AMENDMENTS

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

CAPITAL OUTLAY - LAND	010-411-000-575021	\$873,720.00	
BOONE HOUSING AUTHORITY	010-411-000-549101	\$10,000.00	
TRANS FOR RAW WATER ACQUISITION FUND	010-000-000-498018		(\$458,720.00)
NC RURAL CENTER FOR ECONOMIC DEVELOP (GRANT)	010-000-000-448029		(\$425,000.00)
CAPITAL OUTLAY - LAND	010-411-000-525021	\$49,035.00	
TRANSFER FROM PARK/GREENSPACE FUND	010-000-000-498014		(\$49,035.00)
CAPITAL OUTLAY - OTHER IMPROVEMENTS (USPS)	010-417-000-574001	\$229,000.00	
TRANSFER FROM TOWN FACILITIES CAPITAL RESERVE	010-000-000-498017		(\$229,000.00)
MISCELLANEOUS SUPPLIES - NARCOTICS	012-500-303-519900	\$3,700.00	
APPROPRIATED FUND BALANCE- NARCOTICS	012-500-303-499900		(\$3,700.00)

VOTE: Aye - All
 Nay - None

ADOPTION OF ORDINANCE - AMEND TOWN CHARTER

Mayor Clawson stated that the Council will need to adopt an ordinance to amend the Town's Charter

to change the term of the Mayor from two years to four years. She stated that, if adopted by the Council, this change will take effect during the next mayoral term. Upon a motion by Council Member Pepin, seconded by Council Member Brantz, Council moved to adopt the following ordinance:

ORDINANCE #09-06

PURSUANT to N.C. Gen. Stat. §160A-102, following resolution and public hearing duly advertised in accordance therewith, the Charter of the Town of Boone, North Carolina is hereby amended to change the term of the Mayor of the Town of Boone from two years to four years, as authorized by N.C. Gen. Stat. §160A-101(8)(a), effective at the next election of Mayor.

Adopted this the 16th day of April, 2009.

ATTEST:

Mayor

Town Clerk

(ORDINANCE TO BE TYPED IN BOOK 3, PAGE(S) 369)

VOTE: Aye - All
 Nay - None

Mayor Clawson declared a break at 8:02 p.m. Council reconvened at 8:14 p.m.

REQUESTED APPEARANCES - JOE MARTIN

Joe Martin appeared before the Council to introduce himself as the new president of the Watauga County Farmer's Market, a position in which he will serve for the next two years. He informed the Council that this is the 35th anniversary of the Watauga County Farmer's Market and the market includes 110 members from three states. Mr. Martin announced the opening date of the 2009 season as May 2, 2009. Mayor Clawson noted the 2009 4th of July parade will be held later in the day this year so as to not conflict with the operation of the Farmer's Market.

REQUESTED APPEARANCES - DENISE JARVIS

Denise Jarvis, vice-president of Biodiesel Logic Inc. appeared before the Council to present a power-point regarding WVO Recycling/Biodiesel Initiatives for Boone. **(A copy of the power-point presentation permanently on file in the Clerk's office.)**

REQUESTED APPEARANCE - LISA REDMAN/W.A.M.Y. COMMUNITY ACTION

Lisa Redman and Cole Setzer, graduates students from Appalachian State University, appeared before the Council to make the following presentation: "Bridging the Gap: Hispanic/Latino Disparities in the Town of Boone." They pointed out facts such as the Hispanic or Latino population comprises 2% of the population of Watauga County and that there are approximately 275 Latino/Hispanic migrant farmworkers in Watauga County. Ms. Redman and Mr. Setzer indicated a couple of ways in which the Town of Boone can help in bridging the gap with the Hispanic/Latino population:

- § Encourage local agencies to submit funding proposals that fulfill the needs of Boone's Latino population and help "bridge the gap" for Spanish-speaking Latino individuals and families.
- § Identify barriers to success and create models to better serve Boone's Latino population.

REQUESTED APPEARANCE - GARY HICKS

Gary Hicks appeared before the Council to request approval of the "Free to Breathe 5K" Special Event permit to be held on Saturday, October 31, 2009 from 9:00 a.m. until 10:00 a.m. He explained that the event is sanctioned by the National Lung Cancer Partnership and the North Carolina Lung Cancer Partnership and is sponsored by the Susan Hicks Hope Charities and Chi Omega Sorority at ASU. He informed the Council that the event is a way to raise funds for lung cancer research and to raise awareness of the rise in cases of lung cancer. Mr. Hicks pointed out the route will begin at the Raley parking lot on the ASU campus and proceed on Rivers Street, Depot Street, King Street, Poplar Grove Connector, Highway 321, and Faculty Street, a route which will require police and public works assistance at several intersections. Furthermore, he stated that he anticipates around 500-600 participants. Council Member Pepin asked if Mr. Hicks has secured the use of Raley parking lot since there is construction work occurring at the lot currently. Mr. Hicks stated he has discussed the availability of the parking lot and has been assured that it will be ready to use for the event. Police Chief Bill Post and Public Works Director Blake Brown agreed that the Town will be able to provide assistance for the event; however, several Police Officers and Public Works personnel must be called in to help with traffic control for the event. Upon a motion by Council Member Brantz, seconded by Council Member Phillips, Council moved to approve the "Free to Breathe 5K" Special Events permit for Saturday, October 31, 2009, from 9:00 a.m. until 10:00 with the condition that the applicant pay the \$250 permit fee.

VOTE: Aye - All
 Nay - None

REQUESTED APPEARANCE - PASTOR MARK CHENEY

Pastor Mark Cheney of the Howard's Creek Baptist Church appeared before the Council to discuss the upcoming Kingdom Builders events in Boone. He explained this program as a faith-based initiative in which youth from across the country participate in community projects, as

well as worship events. Pastor Cheney listed examples of the types of projects undertaken as community service projects, light construction projects, community clean-ups, and Backyard Bible Clubs. He asked the members of the Council to please inform him if the Town has a need for these types of projects that can be undertaken during this event. Furthermore, he inquired as to any suggestions for possible housing options for the youth involved in the program. Pastor Cheney stated that he anticipates at least 125 students to be involved and that housing for the participants will include sleeping accommodations and a commercial kitchen set-up. Finally, Pastor Cheney stated that any amount of funding donations from the Town of Boone will be greatly appreciated since this event is funded entirely through donations. He invited the Mayor and members of the Council to the opening ceremony scheduled for July 6, 2009 to welcome the participants to Boone and to participate in any of the service projects during the event. Council Member Aycock asked about liability issues involved with the service projects. Pastor Cheney stated that each participating organization involved is required to have liability insurance. Council Member Brantz commented that this event presents a worthwhile opportunity for the Town of Boone and participants involved in the event. Members of the Council suggested contacting the Valle Crucis Conference Center to inquire about possible housing for event participants and contacting local groups including the ASU ACT group and W. A. M. Y. Community Action for suggestions for service projects.

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

WATER & SEWER REQUEST - CATHY KOSTERMAN

Town Attorney Sam Furgiuele reopened a public hearing at 9:08 p.m. to hear sworn testimony from Cathy Kosterman on a request for water and sewer service to property located off Park Street. Ms. Kosterman explained that this request was tabled from last month so that documentation could be provided regarding the question as to whether the property is under contract with a potential buyer. She reminded the Council that the request is for an allocation of 22,500 gallons per day from the 2009 and 2010 allotments. Ms. Kosterman entered into evidence (**Exhibit A**) a letter from her attorney, Rob Angle, which confirms that the 12-acre parcel located off Park Street owned by Joseph and Cathy Kosterman is not under contract to purchase and that the prior contract between Infinity Builders and Joseph and Cathy Kosterman has expired. With no other public comment, Mr. Furgiuele closed the public hearing at 9:17 p.m. Council Member Pepin asked the status of the special-use permit which was applied for and granted to the developer. Mr. Furgiuele stated that the special-use permit rights stay with the property so that, if the developer's rights are terminated, the special-use permit rights revert to the property owner. Furthermore, he noted that the water rights stay with the land also and whoever holds the development rights for the property. Upon a motion by Council Member Aycock, seconded by Council Phillips, Council moved to grant the request for water and sewer service to property located off Park Street owned by Joseph and Cathy Kosterman in the total amount of 22,500 gallons per day with 11,250 gallons per day from the 2009 allotment and 11,250 gallons per day from the 2010 allotment with the two conditions:

1. The project must adhere to secondary pressure zone requirements.
2. All development must be constructed in the portion of the property that is inside the Town of Boone's corporate limits.

VOTE: Aye - All
 Nay - None

WATER & SEWER REQUEST - BELLE OAKS MILLWORK INC.

Town Attorney Sam Furgiuele opened a public hearing at 9:24 p.m. to hear sworn testimony from David Dillenbeck, Public Utilities Director Rick Miller, and Planner Jane Shook on a request for water, sewer, and fire protection services to property located on Archie Carroll Road.

David Dillenbeck stated that he is the president and owner of Belle Oaks Millwork, Inc. and is requesting

180 gallons per day for a manufacturing plant located outside of the Town of Boone's limits. Mr. Dillenbeck stated that he has been in business since 1985 and employs ten people. He stated that water service is needed for fire suppression since a sprinkler system is required for his type of business. Furthermore, he stated that his business does not use water in its operations but only for the needs of the employees. Council Member Brantz questioned Mr. Dillenbeck about annexing the property and adhering to the Town's appearance standards. Mr. Dillenbeck stated that he would not object to annexation or adherence to the Town's appearance standards. Council Member Mason inquired about noise and emission issues in regard to the business. Mr. Dillenbeck stated that he is currently in business and has had no problems with these issues. He explained that he wants his own building in which to house his business. Council Member Pepin asked if Mr. Dillenbeck has an easement. He stated that he does already have an easement to lines located on Archie Carroll Road. Mr. Dillenbeck stated that he is unsure whether the property is part of a subdivision but that the property is not contiguous to the Town's limits. In answer to a question from Council Member Brantz, Public Utilities Director Rick Miller stated that the property is within the main pressure zone. He explained that a previous request for sewer service in 2005 and a sprinkler connection in 2006 was granted but that neither of the connections was completed. In regard to the issue of annexation, Planner Jane Shook testified that she has reviewed the plat and cannot determine whether the property is within an exempt subdivision since it is not clearly represented on the plat. Council Member Mason asked about the current status of the property. Mr. Dillenbeck stated the property is currently vacant. With no other testimony, Mr. Furgiuele closed the public hearing at 9:37 p.m. Council Member Brantz stated that he is supportive of the request since it meets the planning goal of growth in the corridor and since sprinkler service was previously approved for the property. Council Member Mason stated that the proposed Land Use Master Plan, which has not been adopted by Council, designates that area as low-intensity residential use. Council Member Brantz pointed out that Carroll Leather Goods company is a light-industrial business and is already located in the area. Council Member Pepin voiced a concern with the issue of whether or not the property can be annexed. Brief discussion ensued regarding the question of annexation of the property and what conditions could be placed on the property for development. Council Member Mason stated that standards other than appearance, such as stormwater regulations would need to be considered for the property. Upon a motion by Council Member Phillips, seconded by Council Member Aycock, Council moved to table deliberation of this case so that the applicant can request that an attorney investigate the question of annexation of the property and provide this information to the Council for consideration.

VOTE: Aye - 4 (Phillips, Aycock, Mason, Pepin)
 Nay - 1 (Brantz)

WATER & SEWER REQUEST - WALMART

Town Attorney Sam Furgiuele opened a public hearing at 9:47 to hear sworn testimony from Amanda Stokes and Public Utilities Director Rick Miller on a request to extend water allocation for an expansion project located at 1812 Blowing Rock Road. Amanda Stokes introduced herself as an attorney from Troutman Sanders Law Firm representing Wal Mart. She began by explaining that the request is for an extension of the allocation of 1,198 gallons per day which was granted on June 19, 2008 and that is due to expire on June 19, 2009. She stated that a special-use permit for the expansion project was granted in October 2008 with a two-year vested right. Council Member Mason asked if the applicant is willing to pay the non-refundable availability fee. Ms. Stokes indicated that the applicant is agreeable to paying the availability fee for the project. Public Utilities Director Rick Miller stated that the property is located in the Town of Boone's corporate limits and is in the main pressure zone. Council Member Mason asked when construction of the project is anticipated to begin. Ms. Stokes answered that the project is currently being reviewed in the development permit process. With no other testimony, Mr. Furgiuele closed the public hearing at 9:51 p.m. In regard to the question as to how long to grant an extension, Mr. Furgiuele suggested a period that coincides with the vesting period of the special-use permit. Upon a motion by Council Member Mason, seconded by Council Member Phillips, Council moved to grant an extension of the 1,198 gallons per day water allocation for

property located at 1812 Blowing Rock Road for a time period coinciding with the vesting period of the special-use permit granted for the property in October 2008.

VOTE: Aye - All
 Nay - None

CLOSED SESSION

Upon a motion by Council Member Brantz, seconded by Council Member Mason, Council moved to enter Closed Session at 9:53 p.m. pursuant to NCGS 143-318.11a)6 to hear the following items:

- Property Acquisition - Pump station property.
- Property Acquisition - Right-of-way.

VOTE: Aye - All
 Nay - None

Upon a motion by Council Member Pepin, seconded by Council Member Mason, Council moved to exit Closed Session at 10:39 p.m.

VOTE: Aye - All
 Nay - None

ADJOURNMENT

Upon a motion by Council Member Pepin, seconded by Council Member Aycock, Council moved to adjourn at 10:40 p.m.

VOTE: Aye - All
 Nay - None

Deputy Town Clerk

Mayor