

**MINUTES - REGULAR MEETING  
BOONE TOWN COUNCIL  
MAY 19, 2005**

A regular meeting of the Boone Town Council was called to order at 6:30 p.m., Thursday, May 19, 2005, in the Council Chambers, 1500 Blowing Rock Road. Mayor Velma. C. Burnley presided. Council members present were Mayor Pro-Tem Loretta Clawson, Graydon Eggers, Lynne Mason, Bunk Spann and Dempsey Wilcox. Town Attorney Sam Furgiuele was also present. Staff present were Town Manager Greg Young; Town Clerk Freida Van Allen; Development Services Director John Spear; Police Chief Bill Post; Human Resources Director Peri Moretz; Public Utilities Director Rick Miller; Facilities Maintenance Supervisor Eric Gustaveson; Fire Chief Reggie Hassler; Finance Director Amy Davis and Assistant to the Town Manager Jim Byrne.

**ANNOUNCEMENTS**

Mayor Burnley asked for a moment of silence in support of our troops and all the humanitarian groups serving around the world.

Mayor Burnley announced that the Town of Boone was recently awarded employer of the year by the NC Employment Security Commission.

Mayor Burnley announced that she received a letter from Secretary Tippet of the NC Department of Transportation agreeing to eliminate Alternative #8 from the TIP.

**TENTATIVE AGENDA ADOPTION**

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

- Item 6.D. - Deletion of Acceptance of North Hampton Street Deeds of Dedication.
- Addition of ASU Violations to Closed Session.

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

VOTE: Aye-All  
Nay-None

**CONSENT AGENDA ADOPTION**

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

Minutes: April 18, 2005, Special Meeting  
April 18, 2005, Special Meeting  
April 21, 2005, Regular Meeting  
April 25, 2005, Special Meeting  
Tax Releases: April, 2005

<b>AMOUNT</b>	<b>TAXPAYER DESCRIPTION</b>	<b>YEAR</b>
---------------	---------------------------------	-------------

SALLY S. ATKINS	2005	\$22.18	BOAT LISTED IN BURKE CO.
CHARLES ULERY	2005	295.20	RESIDENT OF TENNESSEE
TRIPLETT PLUMBING AND HEATING	2005	64.76	BUSINESS IN FIRE DISTRICT
ANTHONY Y. HUNTER	2005	23.24	LIVES IN AVERY CO.
EDWARD B. JOHNSON	2004	64.08	INCORRECT FIRE DISTRICT
JAMES B. BROWN	2004	108.00	INCORRECT FIRE DISTRICT
DREW K. & PAULA T. SIEGEL	2004	19.00	LIVES IN ALAMANCE
JAMES W. & GLENNA JOHNSEN	2004	3.20	CHARGED TOO MUCH ACREAGE
AMY L. & BLAKE D. JUSTICE	2004	60.12	INCORRECT SITUS
PAINTS AND PAINTS INC.	2004	48.96	INCORRECT FIRE DISTRICT
EVAN B. CRUTCHFIELD	2004	10.13	TURNED IN TAG
MARY D. BRITT	2004	59.00	DOES NOT LIVE IN TOB
ALAN D. FRANK	2004	4.66	TURNED IN TAG
DARLENE COLLAZO	2004	2.00	TURNED IN TAG
SIEW M. LAW	2004	44.07	INCORRECT BILLING
INTERCONNECT PRODUCTS & SERVICES	2004	36.48	BUSINESS LOCATED IN WILKES CO.
<b>TOTAL</b>		<b>\$865.08</b>	

Tax Refunds: April, 2005

<b>TAXPAYER</b>	<b>YEAR</b>	<b>AMOUNT</b>	<b>DESCRIPTION</b>
EGGERS, ELIZABETH BINGH	2004	\$3.20	TURNED IN TAG
CLEMENT, CHARLES EWING	2004	4.41	INCORRECT FIRE DISTRICT
CLEMENT, CHARLES EWING	2003	4.52	INCORRECT FIRE DISTRICT
CLEMENT, CHARLES EWING	2003	71.41	INCORRECT FIRE DISTRICT
CLEMENT, CHARLES EWING	2002	82.95	INCORRECT FIRE DISTRICT
TOYOTA MOTOR CREDIT CORP.	2002	115.99	INCORRECT FIRE DISTRICT
<b>TOTAL</b>		<b>\$282.48</b>	

Adoption of Resolution: NC Clean Cars Program

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BOONE  
CONCERNING THE NORTH CAROLINA CLEAN CARS PROGRAM**

WHEREAS, the Town Council of the Town of Boone, North Carolina strongly advocates clean air for the residents of Boone;

WHEREAS, the Town Council believes that clean air is necessary to ensure protection of public

health, environmental integrity, and a strong economy;

WHEREAS, automobiles contribute at least 37% of the state's ozone pollution, and 40% of the state's air toxic pollution;

WHEREAS, automobile contribution to ozone in some areas like Charlotte is as much as 90%;

WHEREAS, part or all of 32 counties in North Carolina, including Caldwell County, which borders Watauga County, are currently out of attainment with federal air quality standards;

WHEREAS, one in ten North Carolina children live with asthma;

WHEREAS, counties that are out of attainment with federal air quality standards may lose federal highway dollars, and have less ability to recruit new industries and prepare for expected growth in vehicle miles traveled;

WHEREAS, the estimated per vehicle cost of implementing clean car standards averages \$107;

WHEREAS, more than half of all North Carolinians live in areas that are not in attainment with federal air quality standards;

WHEREAS, the Town Council finds and believes that adopting the Clean Cars standard would help areas reach or keep attainment with federal air quality standards, protect public health, and create opportunity for further economic development;

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF BOONE, NORTH CAROLINA, DOES HEREBY RESOLVE AS FOLLOWS:

1. That the foregoing is true, correct, and adopted.
2. That the Town Council of the Town of Boone urges the North Carolina General Assembly to pass the proposed Clean Cars Program.
3. That the Town Council of the Town of Boone directs the Town Clerk to distribute copies of this resolution to Governor Easley and the North Carolina General Assembly.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Boone, North Carolina, held on the 19<sup>th</sup> day of May, 2005.

---

Mayor

ATTEST:

---

Town Clerk

**(RESOLUTION TO BE TYPED IN BOOK 2, PAGE 290)**

VOTE: Aye-All

Nay-None

**WHITTINGTON ANNEXATION PUBLIC HEARING**

Mayor Burnley opened the public hearing at 6:36 p.m. Development Services Director John Spear said this public hearing is required as part of the annexation process and that the .452 acre parcel is located off Junaluska Road. There being no public comments, the public hearing closed at 6:36 p.m.

## **SOUTH STREET CLOSING PUBLIC HEARING**

Mayor Burnley opened the public hearing at 6:36 p.m. Town Manager Greg Young said this public hearing was required as part of the street closing process. There being no public comments, the public hearing closed at 6:37 p.m.

## **ADOPTION OF ZONING TEXT AMENDMENTS**

**CASE NO. RZ2005-7** Perkinsville Baptist Church has filed a general use district map amendment request for three tracts located on Highway 194. The request is to reclassify the property from R-1, Single Family Residential, to B-3, General Business. The properties are further identified as Watauga County PINs 2911-50-4180-000, 2911-50-4269-000 and 2910-59-7823-000. Development Services Director John Spear said the Planning Commission recommended denial of the request, with a 1-aye, 8-nay vote, and that they consider Conditional Use B-3 zoning in the future. Council agreed. On a motion by Council member Clawson, seconded by Council member Mason, Council moved to deny the rezoning request.

**CASE NO. RZ2005-8** Dean Critcher has filed a general use district map amendment request for portions of two lots located off George Wilson Road. The request is to reclassify a .97-acre portion of Lots 1 and 2 in the Ponderosa Estates subdivision from R-1, Single Family Residential, to B-3, General Business. The properties are further identified as Watauga County PINs 1991-90-2708-000 and 1991-90-1808-000. Development Services Director John Spear said the applicant withdrew his request.

**CASE NO. RZ2005-9** Catacorner Investments has filed a general use district map amendment request for a portion of property located on Highway 105. The request is to reclassify .36 acres of a 3.6-acre tract from R-1, Single Family Residential to B-3, General Business. The property is further identified as Watauga County PIN 2910-13-7852-000. Development Services Director John Spear said the Planning Commission recommended approval of the request, with a 5-aye, 4-nay vote. On a motion by Council member Clawson, seconded by Council member Mason, Council moved to hear additional public comments on this rezoning request.

VOTE: Aye-All  
Nay-None

Ms. Susan Owen of Wintergreen Lane said she was concerned about the petition to rezone the property from R-1 to B-3 citing from the UDO the criteria for R-1 and B-3 zoning. Ms. Owen felt this is a “win-win” situation by requesting another zoning designation other than B-3, such as B-1 or conditional use zoning.

Ms. Lynn White of Wintergreen Lane pointed out that any commercial building placed on the back of the property will not have privacy, nor will the residents of Wintergreen have privacy. Ms. White said the neighborhood would have noise and lighting problems and requested that Council deny the request because of the negative impact on our neighborhood.

Ms. Judith Phoenix, a resident of the Town, asked that Council not rezone the property citing that neighborhoods are important to keeping Boone a charming, attractive town.

Mr. Jeff Collins, co-owner of Catacorner Investments, apologized to Council for all the time this matter has taken. Mr. Collins felt they have met all the criteria for rezoning and have more than adequately protected the neighborhood with the preservation of 1.5 acres of greenspace.

Mr. Greg Parsons, co-owner of Catacorner Investments, said if the property remains R-1 he could grade to the lot line, without leaving buffers. Mr. Parsons said his company is proposing a building in the B-3 zone along Hwy. 105, not in a neighborhood.

Council member Mason asked how development on property with mixed zoning is regulated. Development Services Director John Spear said the land use intensity ratios would be combined but only R-1 uses could be placed in the R-1 and B-3 uses in the B-3. Council discussed at length buffer and grading permit requirements. Council member Mason summarized that she has

concerns about what future owners of the property may have for the 1.5 acres greenspace and about the precedent of encroachment on R-1 neighborhoods. Council member Mason said she was not satisfied that protections are in place and encouraged that Conditional Use zoning be requested once certain conditions can be placed. Council member Eggers agreed that Conditional Use zoning could work in this situation. Council member Spann agreed also. Council member Clawson suggested clarifying the language on the protest petition to make it clearer. Development Services Director Spear agreed. On a motion by Council member Mason, seconded by Council member Clawson, Council moved to deny the zoning request.

VOTE: Aye-All  
Nay-None

**CASE RZ2005-10** The Boone Community Appearance Commission has proposed an ordinance creating commercial development appearance standards applicable to new commercial, multi-family, institutional, and industrial uses. Proposed ordinance text is available for inspection in the Development Services office. Development Services Director John Spear said the Planning Commission continued this case and will meet jointly with the Community Appearance Commission on May 26<sup>th</sup>, hoping to have a recommendation by the June meeting. On a motion by Council member Clawson, seconded by Council member Spann, Council moved to table the case until the June 27<sup>th</sup> meeting.

VOTE: Aye-All  
Nay-None

#### **ADOPTION OF ORDINANCE - WHITTINGTON ANNEXATION**

Development Services Director John Spear said this ordinance is for a non-contiguous annexation of .452-acre off Junaluska Road, effective July 1, 2005. On a motion by Council member Eggers, seconded by Council member Clawson, Council moved to adopt the following annexation ordinance:

##### **AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE TOWN OF BOONE, NORTH CAROLINA (Whittington Annexation)**

WHEREAS, the Town Council has been petitioned under G.S. 160A-58.1 to annex the area described below; and

WHEREAS, the Town Council has by resolution directed the Town Clerk to investigate the sufficiency of the petition; and

WHEREAS, the Town Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at Council Chambers at 1500 Blowing Rock Road at 6:30 p.m. on May 19, 2005 after due notice by Watauga Democrat on May 4, 2005; and

WHEREAS, the Town Council finds that the area described therein meets the standards of G.S. 160A-58.1(b), to wit:

- a. The nearest point on the proposed satellite corporate limits is not more than three (3) miles from the corporate limits of the Town;
- b. No point on the proposed satellite corporate limits is closer to another municipality than to the Town;
- c. The area described is so situated that the Town will be able to provide the same services within the proposed satellite corporate limits that it provides within the primary corporate limits;
- d. No subdivision, as defined in G.S. 160A-376, will be fragmented by this proposed annexation;
- e. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, does not exceed ten percent (10%) of the area within the primary corporate limits of the Town, and

WHEREAS, the Town Council further finds that the petition has been signed by all owners of real property in the area who are required by law to sign; and

WHEREAS, the Town Council further finds that the petition is otherwise valid, and that the public health, safety and welfare of the Town and of the area proposed for annexation will be best served by annexing the area described;

NOW, THEREFORE BE IT ORDAINED by the Town Council of the Town of Boone, North Carolina that:

Section 1. By virtue of the authority granted by G.S. 160A-58.2, the following described non-contiguous territory is hereby annexed and made part of the Town of Boone, as of May 20, 2005.

Being all that tract of land containing 0.452 acres by coordinate geometry, lying on the West side of N.C.S.R. # 1102, commonly known as Junaluska Road in Brushy Fork Township, Watauga County, North Carolina bounded by natural boundaries and or\ lands owned by and / or in possession of persons as follows: On the South by David Vaughn Whittington ( Book of Records 801, Page 89), on the West by Robert Thomas Kampfer ( Book of Records 835, Page 466), on the East by the centerline of Junaluska Road and being more particularly described by courses and distances according to a survey performed February 11, 2005 by Skyline Surveyor's P.A. Job # S05007.2 under the direction and direction of C. Neal Bare, P.L.S L-2425 as follows:

BEGINNING on a 5/8 inch iron rebar set on the Southwest side of Junaluska Road, said point of BEGINNING located North 56 degrees 48 minutes 27 seconds West 110.97 feet from the Town of Boone, Town limits monument # 3, said point of BEGINNING being in the Northern boundary line of the aforesaid David Whittington Property; thence from the point of BEGINNING and along said Northern boundary line North 55 degrees 52 minutes 29 seconds West passing thru an existing 1/2 inch iron pipe at 176.54 feet continuing 14.55 feet for a total distance of 191.08 feet to a 5/8 inch iron rebar set on the West side of a small creek and in the Eastern boundary line of the aforesaid Kampfer Property ; thence along said Eastern boundary line the following (3) courses and distances: (1) North 41 degrees 37 minutes 21 seconds East 66.00 feet to a 5/8 inch iron rebar set on the West side of the aforesaid small creek, (2) North 62 degrees 07 minutes 31 seconds East 99.00 feet to a 5/8 inch iron rebar set on the East side of the creek and (3) North 45 degrees 07 minutes 31 seconds East passing thru a 5/8 inch iron rebar set at 113.81 feet continuing 10.00 feet for a total distance of 123.81 feet to a point in the center of Junaluska Road; thence along the center of said road the following ( 9) courses and distances: (1) South 11 degrees 49 minutes 32 seconds East 11.96 feet, (2) South 23 degrees 59 minutes 44 seconds West 31.43 feet, (3) South 34 degrees 05 minutes 12 seconds West 66.30 feet, (4) South 30 degrees 34 minutes 25 seconds West 33.22 feet , (5) South 18 degrees 04 minutes 21 seconds West 42.53 feet, (6) South 01 degrees 07 minutes 46 seconds East 41.21 feet, (7)South 10 degrees 57 minutes 23 seconds East 42.75 feet, (8) South 22 degrees 04 minutes 13 seconds East 25.40 feet and (9) South 43 degrees 29 minutes 05 seconds East 9.00 feet thence leaving the road, South 32 degrees 27 minutes 58 seconds West 14.90 feet to the point of BEGINNING.

Section 2. Upon and after July 1, 2005, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the Town of Boone and shall be entitled to the same privileges and benefits as other parts of the Town of Boone. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the Town of Boone shall cause to be recorded in the office of the Register of Deeds of Watauga County and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described herein in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the County Board of Elections as required by G.S. 163-288.1.

---

Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

**(ORDINANCE TO BE TYPED IN BOOK 3, PAGES 266-267)**

VOTE: Aye-All  
Nay-None

**ADOPTION OF RESOLUTION - DIRECTING CLERK TO INVESTIGATE BLUST ANNEXATION PETITION**

Development Services Director John Spear said this petition for non-contiguous annexation is for a 4.346-acre parcel located off George Wilson Road. This is the first step in the annexation process. On a motion by Council member Wilcox, seconded by Council member Eggers, Council moved to adopt the following resolution:

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

WHEREAS, a petition requesting annexation of an area described in said petition was received on May 19, 2005 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.

Adopted this the 19<sup>th</sup> day of May, 2005.

\_\_\_\_\_  
\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

**(RESOLUTION TO BE TYPED IN BOOK 2, PAGE 291)**

VOTE: Aye-All  
Nay-None

**ADOPTION OF STREET CLOSING ORDER - A PORTION OF SOUTH STREET**

Town Manager Greg Young said this is the final procedure in the street closing process. On a motion by Council member Mason, seconded by Council member Wilcox, Council moved to adopt the following street closing order:

**STREET CLOSING ORDER FOR A PORTION OF SOUTH STREET.**

WHEREAS, on the 21<sup>st</sup> day of April, 2005, the Council of the Town of Boone directed the Town Clerk to publish the Resolution of Intent of the Council to consider closing a portion of South Street in the Watauga Democrat once each week for four successive weeks, such resolution

advising the public that a meeting would be conducted in the Council Chambers on May 19, 2005; and

WHEREAS, the Town Council on the 21<sup>st</sup> day of April, 2005, ordered the Town Clerk to notify all persons owning property abutting that portion of South Street as shown on county tax records by registered or certified mail, enclosing with such notification a copy of the Resolution of Intent; and

WHEREAS, the Town Clerk has advised the Council that she sent a letter to each of the abutting property owners advising them of the day, time and place of the meeting, enclosing a copy of the Resolution of Intent, and advising the abutting property owners that the question as to closing a portion of South Street would be acted upon, said letters having been sent by registered or certified mail; and

WHEREAS, the Town Clerk has advised the Council that adequate notices were posted on the applicable street as required by G.S. 160A-299; and

WHEREAS, after full and complete consideration of the matter and after having granted full and complete opportunity for all interested persons to appear and register any objections that they might have with respect to the closing of a portion of South Street in the public hearing held on May 19, 2005; and

WHEREAS, it now appears to the satisfaction of the Council that the closing of said street is not contrary to the public interest, and that no individual owning property, either abutting the street or in the vicinity of the street or in the subdivision in which the street is located, will as a result of the closing be thereby deprived of a reasonable means of ingress and egress to his property;

NOW, THEREFORE, subject to the reservation of easement to the Town of Boone for utility purposes as shown on a map recorded in the Book of Maps \_\_\_\_\_, page \_\_\_\_\_ in the office of the Watauga County Register of Deeds, a portion of South Street is hereby ordered closed and all right, title and interest that may be vested in the public to said area for street purposes is hereby released and quitclaimed to the abutting property owners in accordance with the provisions of G.S. 160A-299.

The Mayor and the Town Clerk are hereby authorized to execute quitclaim deeds or other necessary documents in order to evidence vesting of all right, title and interest in those persons owning lots or parcels of land adjacent to the street or alley, such title for the width of the abutting land owned by them, to extend to the centerline of the herein closed street (with provision for reservation of easements to the Town of Boone for utility purposes) in accordance with the provision of G.S. 160A-299 (c).

The Town Clerk is hereby ordered and directed to file in the Office of the Register of Deeds of Watauga County a certified copy of this order.

Upon a motion made by Council Member Lynne Mason, and duly seconded by Council member Dempsey Wilcox, the above order was adopted by the Town Council at a meeting held on May 19, 2005 in the Council Chambers.

---

Mayor

ATTEST:

---

Town Clerk

VOTE: Aye-All

Nay-None

**STEEP SLOPE DEVELOPMENT & MULTI-FAMILY HOUSING TASK FORCE**

## **APPOINTMENTS**

Development Services Director John Spear said Sean Krause and Larry Bordeaux from the Community Appearance Commission were nominated to serve on this task force. The Planning Commission nominated Gayle Turner and Mary Ruth McRae. Council member Eggers made a motion to appoint Council members Clawson and Wilcox to represent Town Council. Council member Wilcox seconded.

VOTE: Aye-All  
Nay-None

On a motion by Council member Wilcox, seconded by Council member Clawson, Council moved to appoint Steve Owen, Harvard Ayers, Loren Raymond, Patricia Wilke, Bob de Camara, Richard Campbell, Judy Humphrey and Sarah Bond to the Task Force. Before voting, Council member Eggers commented that, whenever regulations are being developed for the Town, they should be developed by citizens of the Town.

VOTE: Aye-All  
Nay-None

## **BOARD OF ADJUSTMENT APPOINTMENTS**

Development Services Director John Spear said three positions on the Board of Adjustment expire in June: Fred Hay's regular position, Karen Byerly's ETJ position and James Sanders' Alternate ETJ position. Mr. Hay and Mr. Sanders are willing to serve again if appointed. Ms. Byerly does not wish to serve again. Council member Wilcox made a motion to nominate Lee Stroupe for the ETJ position. Council member Clawson seconded.

VOTE: Aye-All  
Nay-None

Council member Clawson then made a motion to appoint Fred Hay to another 3-year term and to send the ETJ nominations to the County Commissioners for appointment. Council member Mason seconded.

VOTE: Aye-All  
Nay-None

## **PLANNING COMMISSION APPOINTMENTS**

Development Services Director John Spear said that two terms on the Planning Commission will expire in June: those of Gregory Reck and the ASU student representative. Mr. Reck is willing to serve again, and the ASU Planning and Geography Department recommended Stacy Yates be appointed the ASU representative. On a motion by Council member Clawson, seconded by Council member Mason, Council moved to appoint Gregory Reck to a 4-year term and Stacy Yates to a 1-year term.

VOTE: Aye-All  
Nay-None

## **COMMUNITY APPEARANCE COMMISSION APPOINTMENTS**

Development Services Director John Spear indicated that two terms on the Community Appearance Commission will expire in June: those of Larry Greene and John Bond. Mr. Greene is willing to serve again if appointed. Mr. Bond is not willing to serve again; however, Mr. William Bake asked that his name be put into nomination. On a motion by Council member Mason, seconded by Council member Spann, Council moved to appoint Larry Greene and William Bake to a three-year terms on the Community Appearance Commission.

VOTE: Aye-All  
Nay-None

## **CABLE TV ADVISORY COMMITTEE APPOINTMENTS**

On a motion by Council member Eggers, seconded by Council member Clawson, Council moved to appoint Ian Mance to a 3-year term on the Cable TV Advisory Committee.

VOTE: Aye-All  
Nay-None

## **SCHEDULING OF JUNE COUNCIL MEETINGS**

On a motion by Council member Eggers, seconded by Council member Clawson, Council moved to schedule the following meetings in June:

Monday, June 13<sup>th</sup> - 10:00 a.m. to 4:00 p.m.

Tuesday, June 14<sup>th</sup> - 1:00 p.m. to 5:00 p.m.

Tuesday, June 21<sup>st</sup> - 6:30 p.m. (Budget Public Hearing)

Monday, June 27<sup>th</sup> - 6:30 p.m. (Regular Meeting)

VOTE: Aye-All  
Nay-None

## **MONTHLY WATER USE STATUS REPORT**

Public Utilities Director Rick Miller Rick presented the following status report:

As requested by Town Council, staff and I have compiled the following information concerning water use for the month of April. The Water Treatment Plant recorded a maximum daily demand of 2.369 million gallons on Saturday, April 30, 2005, and the average daily demand was 1.803 million gallons for the entire month. The Public Utilities Department experienced a 6" water leak that occurred in late hours of April 29, contributing to this amount.

As adopted in Ordinance 05-01, the Town of Boone Council has appropriated for 25,000 gallons per day usage for year 2004 and 25,000 gallons per day usage for year 2005 to be combined for a total of 50,000 gallons per day for allocation to customers. The Utilities Department approved three projects for water service in April, 2005 before reaching the sixty percent threshold. The projects approved by staff were as follows:

- f. Baxter's Sports Bar (Old Pizza Hut) was approved for an additional 11 seats. Per the North Carolina Discharge Rate Schedule this will create an additional 330 gpd usage on the water system.
- g. Watauga County Courthouse expansion was approved for the additional facilities based upon the estimate they provided. The total estimated usage on the water system is 2,200 gpd. After removing the actual usage on the existing Courthouse it was determined only an additional 1,214 gpd usage will be required.
- h. Mr. Scott Setterfield was approved for a three bedroom residence which is located inside the corporate limits in the New Market Estates subdivision. This project is calculated to utilize 270 gpd usage.

As you can see in the attached chart, once these and the Council approvals are removed as projected usages from our yearly allotment, the Public Utilities Department has 12,083 gallons per day remaining for allotment. All calculations are based on the North Carolina Discharge Rate Schedule. The total allotment remaining for the year has now broken the sixty percent threshold and is less than 20,000 gpd, and all future water service requests will be forwarded to Town Council as required in Ordinance 05-01.

If you have any questions, or require any additional information, please feel free to contact me.

			<i>Approved Water Connections</i>			
			2005			
<b>Staff Approved</b>	<b>Date</b>	<b>Projected Usage</b>	<b>Council Approved</b>	<b>Date</b>	<b>Projected Usage</b>	<b>Remaining Gallons</b>
						50000
<i>Cookout Grill</i>	<i>Jan-05</i>	<i>1500</i>				<i>50000</i>
			<i>Tom Adams</i>	<i>Feb-05</i>	<i>270</i>	<i>49730</i>
<i>Doug Hanks</i>	<i>Feb-05</i>	<i>600</i>				<i>49130</i>
<i>John Roberts</i>	<i>Feb-05</i>	<i>360</i>				<i>48770</i>
<i>David Styron</i>	<i>Feb-05</i>	<i>270</i>				<i>48500</i>
			<i>WMC Wellness Center</i>	<i>Mar-05</i>	<i>17250</i>	<i>31250</i>
			<i>Dan Minton</i>	<i>Mar-05</i>	<i>7200</i>	<i>24050</i>
			<i>David Blust</i>	<i>Mar-05</i>	<i>165</i>	<i>23885</i>
<i>David Blust</i>	<i>Mar-05</i>	<i>360</i>				<i>23525</i>
<i>Eddie Greene</i>	<i>Mar-05</i>	<i>270</i>				<i>23255</i>
<i>David Nicklaw</i>	<i>Mar-05</i>	<i>270</i>				<i>22985</i>
			<i>Hunter Nichols</i>	<i>Apr-05</i>	<i>360</i>	<i>22625</i>
			<i>VIA LLC/Ed Street Co.</i>	<i>Apr-05</i>	<i>5000</i>	<i>17625</i>
			<i>Watauga County Detention</i>	<i>Apr-05</i>	<i>3728</i>	<i>13897</i>
<i>Baxters Sport Bar</i>	<i>Apr-05</i>	<i>330</i>				<i>13567</i>
<i>Watauga Courthouse</i>	<i>Apr-05</i>	<i>1214</i>				<i>12353</i>
<i>Scott Setterfield</i>	<i>Apr-05</i>	<i>270</i>				<i>12083</i>

**DISCUSSION OF FUTURE WATER ALLOCATION**

Council member Spann felt that Council should make it clear to the public if we intend to allocate water into future years or stop the allocation process until January, 2006. Council member Spann raised the issue since Council is quickly distributing the 50,000 gallon allocation for 2004/2005. Council member Eggers felt the Town should not deny water this year knowing that some of the projects previously approved would not come on line this calendar year. Council member Wilcox suggested having the Water Supply Committee meet again to review actual usage versus the Discharge Rate Schedule. Public Utilities Director Rick Miller said the water sub-committee has met once, with plans for two more meetings, and afterwards present water conservation measures to the full Water Supply Committee.

**ADOPTION OF BUDGET AMENDMENTS**

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

<b>DESCRIPTION</b>	<b>ACCOUNT #</b>	<b>TO:</b>	<b>FROM:</b>
Misc. Expense - Admin.	010-401-000-539901		14, 554.00
Expendable Equip. - Fire	010-500-350-514110		390.00
Overtime - Fire	010-500-350-501201		6,807.00
FICA - Fire	010-500-350-508101		521.00
Retirement - Fire	010-500-350-508211		334.00
401(k) - Fire	010-500-350-508222		340.00

Overtime - Street	010-600-401-501102	4,487.00	
FICA - Street	010-600-401-508101	343.00	
Retirement - Street	010-600-401-508211	220.00	
401(k) - Street	010-600-401-508222	224.00	
Overtime - Fleet Maintenance	010-600-404-501102	672.00	
FICA - Fleet Maintenance	010-600-404-508101	51.00	
Retirement - Fleet Maintenance	010-600-404-508211	33.00	
401(k) - Fleet Maintenance	010-600-404-508222	34.00	
Overtime - Facilities Maintenance	010-600-405-501201	4,945.00	
FICA - Facilities Maintenance	010-600-405-508101	378.00	
Retirement - Facilities Maint.	010-600-405-508211	242.00	
401(k) - Facilities Maintenance	010-600-405-508222	247.00	
County Landfill Charges - Facilities Maintenance	010-600-405-525901	2,963.00	
Contracted Services - Facilities Maintenance	010-600-405-577000	4,265.00	
Overtime - Water Ops	030-700-802-501201	399.00	
Overtime - Sewer Ops	030-700-803-501201	400.00	
FICA - Water Ops	030-700-802-508101	30.00	
FICA - Sewer Ops	030-700-803-508101	31.00	
Retirement - Water Ops	030-700-802-508211	19.00	
Retirement - Sewer Ops	030-700-803-508211	20.00	
401(k) - Water Ops	030-700-802-508222	19.00	
401(k) - Sewer Ops	030-700-803-508222	20.00	
Miscellaneous Revenue	010-000-000-489900		42,988.00
Transfer to Water/Sewer Fund	010-490-000-598030	938.00	
Transfer from General Fund	030-000-000-498010		938.00
Horn in the West	010-411-000-549122	30,000.00	
Appropriated Fund Balance	010-000-000-499900		30,000.00
Professional Services - Dev. Srv.	010-500-360-509100	37,500.00	
Appropriated Fund Balance	010-000-000-499900		37,500.00
Capital Outlay - Lines - Wtr. Ops	030-700-802-575000	5,226.00	
Water Sys. Capital Rsv. Contrib.	030-000-000-498031		5,226.00

Capital Outlay - Lines - Wtr. Ops	030-700-802-575000	7,399.00	
Capital Outlay - Lines - Swr. Ops	030-700-803-575000	5,400.00	
Water Sys. Capital Rsv. Contrib.	030-000-000-498031		7,399.00
Sewer Sys. Capital Rsv. Contrib.	030-000-000-498032		5,400.00
Capital Outlay - Lines - Wtr. Ops	030-700-802-575000	16,085.00	
Capital Outlay - Lines - Swr. Ops	030-700-803-575000	30,050.00	
Water Sys. Capital Rsv. Contrib.	030-000-000-498031		16,085.00
Sewer Sys. Capital Rsv. Contrib.	030-000-000-498032		30,050.00
Sludge Dryer Heat - WWTP	030-700-805-523122	25,000.00	
Appropriated Fund Balance	030-000-000-499900		25,000.00

VOTE: Aye-All  
Nay-None

Mayor Burnley declared a break at 8:05 p.m. Council reconvened at 8:20 p.m.

**REQUESTED APPEARANCE - JOHN COOK**

Town Attorney Sam Furgiuele opened the public hearing at 8:21 p.m. to hear sworn testimony from John Cook, Ashok Patel, Mark Jackson, Mac Forehand, Susan Curtis and Rick Miller on a water request for property located off Hwy. 105 Extension. Mr. Cook said he has owned the property and paid Town taxes for 34 years. Mr. Cook said plans include construction of two hotels with a total of 159 rooms, two pools, using approximately 11,668 gallons per day, according to the NCDR schedule. Mr. Cook said this project will promote various tax revenues and asked Council to consider the request. Mr. Patel said one of the hotels will be a 77-room La Quinta or Baymont Inn and the other hotel an 82-room Sleep Inn. Mr. Patel said most of the land is zoned B-3 and all trees at the rear of the property will remain. Council member Spann asked how close to Wood Circle the project will be. Mr. Jackson said the La Quinta/Baymont would be 75-80' from Wood Circle. Mr. Forehand pointed out that the actual number of hotel rooms has declined since 1988 and that hotels are an integral part of Boone's tourism economy. Mr. Forehand said that, even though occupancy tax revenues have increased since 1988, the number of hotel rooms has declined. Mr. Forehand said these two planned hotels will replace the number of rooms being lost when the Quality Inn is sold later this month. Mr. Patel again pointed out that there was a 121% increase in occupancy tax revenues but only a 4% growth in the number of hotel rooms over the past 18 years. Ms. Curtis offered that, with the closure of the Quality Inn early in 2006, over 30 employees will be jobless. Ms. Curtis also responded to a previous question by answering that the Quality Inn has a 72% occupancy rate. Mr. Patel requested that Council grant the water request since the project will not be completed until 2006; or, if Council decides not to grant the request at this time, allow him to continue his development by utilizing a well on the property that produces 26,000 gallons of water per day. Council member Spann asked if the well has been tested and if it is a viable alternative. Mr. Jackson said yes. Public Utilities Director Miller presented actual water usage figures from hotels/motels in Town, and said that even though their well may flow test at 26,000 gallons per day, it would not meet fire sprinkler requirements unless there is a storage tank. Mr. Jackson agreed and said the sprinkler system must be connected to the Town water system. Council member Spann again asked if the well is a viable option. Mr. Jackson said the well must be tested for contaminants, but that Mr. Patel would prefer Town water. Mr. Patel agreed to use the well for construction purposes but indicated that he will request using Town water when the hotels open in 2006. Council member Mason noted that actual figures are much lower than the NCDR schedule. Council member Wilcox asked if 2006 water could be allocated now. Town Attorney Furgiuele said the ordinances do not reference that issue so the ordinance could be amended. Public Utilities Director Miller read Section 1 of Ordinance 05-01 and stated it would be September,

2005 before he could predict actual useage for water allocations previously approved. Council member Mason suggested allocating water from both the 2005 and 2006 reserves. There being no further comments, the public hearing closed at 9:21 p.m. After a lengthy discussion about allocating 2006 reserves and payment of availability fees, Council member Wilcox made a motion to approve this water allocation out of the 2006 reserves, while allowing the well to be used for construction. There was no second, so the motion failed. Council member Mason made a motion to allocate 5,000 gallons per day from the 2005 reserves and 4,165 gallons per day from the 2006 reserves, due to the economic impact of the project and the projected loss of jobs. Council member Clawson seconded. Town Attorney Furguele questioned when the one-year time-frame on obtaining development permits would begin. Council member Mason said today.

VOTE:Aye-All

Nay-None

#### **REQUESTED APPEARANCE - SAMARITAN'S PURSE**

Town Attorney Sam Furguele opened the public hearing at 9:35 p.m. to hear sworn testimony from Sam Erby, Hugh Elder and Rick Miller on a water request for property located at the corner of Milton Brown Heirs and Bamboo Road. Mr. Erby said Samaritan's Purse plans to construct a 520-seat dining facility on the property which will use about 3,640 gallons of water per day. Mr. Elder said the facility will provide meeting space also. Council member Spann asked how much water the current dining facility uses per day. Mr. Elder said he was unsure since it only facilitated 45-50 employees at a time. Council member Wilcox inquired about water pressure in the area. Public Utilities Director Miller reported that both he and Fire Department representatives agreed that the tap should come from the 12" line even though Samaritan's Purse must obtain an encroachment agreement from DOT. Council member Mason asked if the facility is inside the corporate limits. Mr. Miller responded no. There being no further comments, the public hearing closed at 9:44 p.m. Council member Mason said she could not support the request since the organization is not in the corporate limits. Council member Wilcox reminded Council that annexation did not occur because Samaritan's Purse is a non-profit organization. Council member Mason felt that during a time of prosperity, the Town is very generous, but at this time Council must protect the water for our citizens. Having said that, Council member Mason made a motion to deny the request. Council member Clawson seconded.

VOTE:Aye-4 (Clawson, Eggers, Mason, Spann)

Nay-1 (Wilcox)

#### **REQUESTED APPEARANCE - BLUE RIDGE PLASTIC SURGERY GROUP**

Town Attorney Sam Furguele opened the public hearing at 9:54 p.m. to hear sworn testimony from Madge Anagnos and Rick Miller on a water request for property located off University Hall Drive. Ms. Anagnos said her husband, Dr. Damon Anagnos, plans to construct a 10,000-square-foot office building which will house 15 employees and use 225 gallons of water per day. Public Utilities Director Miller apologized for his oversight and commented that this property is one that has already been allocated water, one of the 550 vacant lots in Town. There being no further comments, the public hearing closed at 9:56 p.m. On a motion by Council member Wilcox, seconded by Council member Clawson, Council moved to grant the water request.

VOTE:Aye-All

Nay-None

#### **REQUESTED APPEARANCE - CHARLES HESTER**

Town Attorney Sam Furguele opened the public hearing at 9:56 p.m. to hear sworn testimony from Charles Hester and Rick Miller on a water request for property located off Highway 105. Mr. Hester said he plans to construct a 9,000-square-foot building which will use about 450 gallons of water per day. Mr. Hester said the building will be leased to the regional office of the NC Children Developmental Services Agency, which will operate with 30 employees, Monday through Friday. Council member Wilcox asked what business is located on the property now. Mr. Hester said it is currently a used-car lot. There being no further comments, the public hearing closed at 10:02 p.m. On a motion by Council member Eggers, seconded by Council

member Mason, Council moved to grant approval of the water request.

VOTE: Aye-All  
Nay-None

**REQUESTED APPEARANCE - AMERICA'S HOME PLACE**

Town Attorney Sam Furgiuele opened the public hearing at 10:03 p.m. to hear sworn testimony from Mark Arnott and Rick Miller on a water request for property located off Highway 105. Mr. Arnott said America's Home Place is composed of homebuilders and that the company would like to place a model home on the outparcel at the Highland Commons Shopping Center. Mr. Arnott said four full-time employees will work at the location and estimated using 60 gallons of water per day. Public Utilities Director Miller again apologized for his oversight and commented that this property is one that has already been allocated water, one of the 550 vacant lots in Town. There being no further comments, the public hearing closed at 10:06 p.m. On a motion by Council member Eggers, seconded by Council member Clawson, Council moved to grant the water request.

VOTE: Aye-All  
Nay-None

**REQUESTED APPEARANCE - YOGI COLLINS**

Ms. Yogi Collins appeared before Council to discuss the development of a dog park. Ms. Collins thought the property near the National Guard Armory would provide adequate space and estimated the cost of a new one-acre park to be between \$6-\$8,000. Council member Clawson felt it was a wonderful idea. Council member Mason agreed but was unsure about the location since the Town and County are considering developing a park in that area. Council member Spann suggested that Ms. Collins pursue support for the idea throughout the community.

Mayor Burnley declared a break at 10:15 p.m. Council reconvened at 10:25 p.m.

**CLOSED SESSION**

On a motion by Council member Wilcox, seconded by Council member Clawson, Council moved to enter Closed Session at 10:25 p.m., pursuant to NCGS 143-318.11(a)(3)(6) in order to discuss K-Mart sign violations, ASU violations and personnel matters.

VOTE: Aye-All  
Nay-None

On a motion by Council member Clawson, seconded by Council member Mason, Council moved to exit Closed Session at 11:15 p.m.

VOTE: Aye-All  
Nay-None

**POSSIBLE ACTION FOLLOWING CLOSED SESSION**

On a motion by Council member Wilcox, seconded by Council member Clawson, Council agreed to the settlement payment of \$2,500 as proposed by K-Mart.

VOTE: Aye-All  
Nay-None

On a motion by Council member Eggers, seconded by Council member Wilcox, Council moved to request the Town Attorney draft a letter to Appalachian State University, along with a payment of \$186,184.53, requesting resolution of easement and meter problems.

VOTE: Aye-All  
Nay-None

**ADJOURNMENT**

On a motion by Council member Eggers, seconded by Council member Clawson, Council moved to adjourn at 11:17 p.m.

VOTE: Aye-All  
Nay-None

---

Town Clerk

---

Mayor