

**MINUTES - REGULAR MEETING
BOONE TOWN COUNCIL
MARCH 20, 2008**

A regular meeting of the Boone Town Council was called to order at 6:30 p.m. in the Council Chambers, 1500 Blowing Rock Road. Mayor Loretta Clawson presided. Council members present were Mayor Pro-Tem Lynne Mason, Liz Aycock, Rennie Brantz, Janet Pepin and Stephen Phillips. Town Attorney Sam Furgiuele was also present. Staff present were Town Manager Greg Young; Town Clerk Freida Van Allen; Finance Director Amy Davis; Public Utilities Director Rick Miller; Public Services Director Blake Brown; Police Chief Bill Post; Fire Chief Reggie Hassler; Development Services Director John Spear; Urban Design Specialist Brian Johnson and Assistant to the Manager Jim Byrne.

ANNOUNCEMENTS

Mayor Clawson presented the following statement:

In conjunction with the statewide “Spring Litter Sweep” campaign issued by Governor Mike Easley for April 19 – May 3, 2008, the Town of Boone will hold a “Spring Boone Clean-Up Day” on Saturday, April 19, 2008. Interested participants may come by the Town of Boone Public Works Department located on 321 East King Street between 9:00am – 2:00pm to pick up cleaning supplies. For more information, contact Marsha Story at 268-6230.

Mayor Clawson then presented a plaque to Kate Hardin in recognition of her husband, Lester, who served 21 years on the Town of Boone ABC Board. Mr. Hardin passed away in February 2008.

TENTATIVE AGENDA ADOPTION

There being no changes to the agenda, on a motion by Council member Mason, seconded by Council member Brantz, Council moved to adopt the agenda as presented.

VOTE: Aye-All
Nay-None

CONSENT AGENDA ADOPTION

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

Minutes: February 4, 2008, Special Meeting
February 14, 2008, Quarterly Public Hearing
February 15, 2008, Special Meeting
February 21, 2008, Regular Meeting

Tax Releases & Refunds: January & February 2008

**TAX REFUNDS
JANUARY 2008**

Taxpayer	Year	Amount	Description
VERGES-SAYLORS, ISSA MARTA	2007	12.88	TURN IN TAG
GREYSTONE INSURANCE ASSOC.	2007	25.36	TURN IN TAG
ELLIOTT, SETH REEVES	2007	4.79	TURN IN TAG
STIDHAM, RONALD	2007	8.20	TURN IN TAG
LINEBACK, KATIE STANLEY	2007	12.93	SOLD VEHICLE

EDMISTEN, HAROLD SHUFORD EDIMISTEN, MAXINE VANDERBURG	2007	24.85	INCORRECT VALUE
VILLAGE AT MEADOWVIEW OF BOONE	2007	8670.21	APPEAL ER/2007
VILLAGE AT MEADOWVIEW OF BOONE	2006	33413.59	PTC APPEAL
RWE PROPERTIES LLC	2007	513.19	PTC APPEAL
RWE PROPERTIES LLC	2006	513.19	PTC APPEAL
TOTAL		\$43199.19	

**TAX RELEASES
JANUARY 2008**

Taxpayer	Year	Amount	Description
GREENE, MILTON STEPHEN GREENE, MILTON STEPHEN JR	2007	105.34	TURN IN TAG
DAY, ROBERT CARL	2007	13.87	TURN IN TAG
W.J. OFFICE CITY CHANEY, NEVILLE ALSON	2007	12.88	INCORRECT FIRE DISTRICT
WEST JEFFERSON OFFICE EQUIPMENT	2007	35.08	INCORRECT FIRE DISTRICT
BOONE CRANE SERVICE INC	2007	300.44	INCORRECT FIRE DISTRICT
WELSHER, PATSY HENNERTY	2007	15.02	TURN IN TAG
HOWELL, DONNA RUTH	2007	29.05	INCORRECT FIRE DISTRICT
DAVIDSON, CALIN BENJAMIN	2007	4.84	TURN IN TAG
FREYLER, LINA DELOSANGELES	2007	51.73	LIVES IN ASHE COUNTY
CLAWSON, DANA C CLAWSON, CAROLYN M	2007	114.27	BILLED TO NEW OWNERS IN 2007
JOHNSON, BETTIE BROCK	2007	27.71	INCORRECT SITUS
CAVILL, MICHAEL JESS	2007	7.40	ADJ FOR DAMAGE AND MILES
CHANGES SALON	2007	4.22	FAILED TO REMOVE DELETED PERSONAL PROPERTY
COATNEY, CARSON JAMES COATNEY, MINDY MECO	2007	3.70	TURN IN TAG
TOTAL		\$725.55	

**TAX REFUNDS
FEBRUARY 2008**

Taxpayer	Year	Amount	Description
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TEMPLETON, PHYLLIS H TEMPLETON, PHILLIP A	2007	5.33	TURN IN TAG
DOUGLAS, MICHAEL ERIN DOUGLAS, SONYIA CESSNA	2007	12.47	TURN IN TAG
CRUTCHFIELD, KATHY GORE CRUTCHFIELD, BRIAN COLLINS	2007	5.40	TURN IN TAG
TOTAL		23.20	

VOTE: Aye-All
Nay-None

WATER AND SEWER USE ORDINANCE ARTICLE VII AMENDMENTS

Mayor Clawson opened the public hearing at 6:36 p.m. Public Utilities Director Rick Miller said Article VII of the Water and Sewer Code was originally developed in the late 1980's and that the proposed amendments include additional conservation methods and an increase in civil penalties. There being no public comment, the public hearing closed at 6:37 p.m.

CLOSED SESSION

On a motion by Council member Brantz, seconded by Council member Mason, Council moved to enter Closed Session at 6:37 p.m., pursuant to NCGS 143.318.11a)5) , in order to discuss property acquisition - Howard Street.

VOTE: Aye-All
Nay-None

On a motion by Council member Brantz, seconded by Council member Mason, Council moved to exit Closed Session at 7:17 p.m.

VOTE: Aye-All
Nay-None

DISCUSSION OF HOWARD STREET PROJECT

Council member Mason updated the audience on the project and expressed appreciation to all property owners along Howard Street that have provided easements for the project. Council member Mason said there are four property owners remaining that need to provide easements to the Town and five rights-of-way to obtain before the Town can continue. Council member Mason hopes that the Town will be able to obtain the easements and rights-of-way within the next 30 days so the project can move forward.

APPROVAL OF LEASE EXTENSION - WATAUGA COUNTY

Town Manager Greg Young presented a request from Watauga County to extend the parking lease for 34 metered spaces on Queen Street. Mr. Young explained that the lease expired November 17, 2007; however, the County's parking lot is not yet complete, so the County is requesting a month-by-month extension until the lot is complete. On a motion by Council member Brantz, seconded by Council member Phillips, Council moved to extend the lease with Watauga County for 34 metered spaces on Queen Street on a month-by-month basis, at a cost of \$833.33 per month.

VOTE: Aye-All
Nay-None

ADOPTION OF RESOLUTION - DIRECTING CLERK TO INVESTIGATE

SUFFICIENCY OF ANNEXATION - RIVERSTONE CONDOMINIUMS

Development Services Director John Spear said this contiguous petition annexation request is made for a 12.01-acre site located adjacent to the Mega Builders project. In November 2007, Council approved a water and sewer request to property contingent upon annexation into the Town limits. Mr. Spear said this is the first step in the annexation process. On a motion by Council member Phillips, seconded by Council member Mason, Council moved to adopt the following resolution:

**RESOLUTION DIRECTING THE CLERK TO INVESTIGATE
A PETITION RECEIVED UNDER G.S. 160A-31
(Riverstone Annexation)**

WHEREAS, a petition requesting annexation of an area described in said petition was received on March 20, 2008 by the Town Council; and

WHEREAS, G.S. 160A-31 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 20th day of March, 2008.

Mayor

ATTEST:

Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE 49)

VOTE: Aye-All
Nay-None

**ADOPTION OF RESOLUTION - DIRECTING CLERK TO INVESTIGATE
SUFFICIENCY OF ANNEXATION PETITION FOR MICHAEL AND CYNTHIA KIRK**

Development Services Director John Spear said this contiguous petition annexation request is made for a .16-acre portion of a .309-acre lot located off Homespun Hill Road. The Kirks want to receive water and sewer service to the property in order to construct a single-family residence; therefore, the entire property must be within the Town's limits. Mr. Spear said this is the first step in the annexation process. On a motion by Council member Mason, seconded by Council member Aycock, Council moved to adopt the following resolution:

**RESOLUTION DIRECTING THE CLERK TO INVESTIGATE
A PETITION RECEIVED UNDER G.S. 160A-31
(Kirk Annexation)**

WHEREAS, a petition requesting annexation of an area described in said petition was received on March 20, 2008 by the Town Council; and

WHEREAS, G.S. 160A-31 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 20th day of March, 2008.

Mayor

ATTEST:

Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE 50)

VOTE: Aye-All

Nay-None

REQUEST PERMISSION TO APPLY FOR 2009 URBAN AND COMMUNITY FORESTRY GRANT

Urban Design Specialist Brian Johnson made the following request:

This grant will partially fund the creation of an overall Urban Forestry Master Management Plan. This Master Plan will serve as a long range document for the Town's overall urban forest. The cash match from the town will be partially funded through recent tree pruning violation funds with the remaining funds being budgeted in the 2008-2009 budget. After the review of RFP's, the Davey Resource Group was chosen for the project. The following is a breakdown of the proposed budget:

The total project cost is \$35,000. The maximum amount the NCDFR grant will fund is \$15,000. The \$15,000 is required to be matched with Town funds. The proposed cash match to meet the total project cost will be \$20,000. The \$20,000 Cash Match will be funded through two tree violations, one being \$9,600 which we have in hand, and another anticipated collection of \$7,400 from another violation. The remaining \$3,000 is anticipated to be appropriated from the general fund. The grant deadline is March 31, 2008.

BRIEF LIST OF PROJECT OBJECTIVES:

Review and analyze the Town's current urban forestry program, data, planning policies, development regulations, construction standards, various master plans, and other documents and info. Perform onsite surveys of public and private street and park trees, and assess current forested areas. Conduct interviews with town personnel, elected officials, various commission members, and other key stakeholders, and the public. Will produce a draft version of the master plan for review and comment, and present it in a public format. Produce a GIS canopy coverage assessment map of the Town's forested areas. Finally produce a final document that will include master plans for the planning Department as well as the Public Works Department. Council member Mason asked if this plan would be a part of the land-use master plan. Mr. Johnson said this is a long-range plan for tree preservation. Council member Mason asked when the grant is awarded. Mr. Johnson said the grant is awarded in July with contracts executed by Fall of 2008. On a motion by Council member Mason, seconded by Council member Phillips, Council moved to grant permission to apply for the grant.

VOTE: Aye-All
Nay-None

SCHEDULING OF SPECIAL MEETING - NC DEPARTMENT OF TRANSPORTATION

Council member Mason requested that Council schedule a special meeting with the NC Department of Transportation to discuss transportation issues affecting the Town of Boone. Council member Mason reviewed several of the traffic issues, such as left-turn placement on Highway 105 and crosswalk placement and re-evaluation of speed limits along all state-maintained roadways. Council member Mason felt that the issues are not being resolved through written correspondence. On a motion by Council member Mason, seconded by Council member Phillips, Council moved to propose a special meeting with DOT officials (Mike Pettyjohn, Dean Ledbetter, Michael Poe and Arnold Lakey) on April 25th or May 2nd, and to invite State Representatives Steve Goss and Cullie Tarleton, Watauga County Commissioners, Council of Government, ASU and Boone Chamber officials to attend.

VOTE: Aye-All
Nay-None

APPROVAL OF WATERSHED CONCEPTS CONTRACT

Special Assistant to the Manager Jim Byrne said this contract with Watershed Concepts is for the development of a stormwater program and is being paid for with a grant from the Clean Water Management Trust Fund in the amount of \$50,000. The Town must provide a \$12,000 match. Council member Pepin explained that the stormwater program will include public outreach and education and illicit discharge detection and elimination measures. On a motion by Council member Pepin, seconded by Council member Phillips, Council moved to adopt the following contract:

CONTRACT

Scope of Services

Watershed Concepts Basic Services are identified on the attached "Scope of Services" Exhibit A.

Compensation

Watershed Concepts shall be compensated for the completion of the Basic Services in the attached "Scope of Services" Exhibit A, based on an hourly rate not to exceed cost payment as indicated based on the following information.

TASK DESCRIPTION	COST OF TASK
Develop a map of Boone's stormwater drainage infrastructure	\$22,000
Develop mechanisms for detecting and eliminating illicit discharges to Boone's surface waters	\$20,000
Conduct public outreach, education, and participation based on conditions and circumstances specific to Boone	\$14,000
Other Direct Cost	\$6,000
TOTAL COST	\$62,000

Schedule

We estimate that performing these tasks will take 9 to 12 months to complete from Notice to Proceed.

Standard Terms and Conditions

Watershed Concept's services will be provided in accordance with the "Standard Terms and

Conditions” already signed by the Town for previous services.

EXHIBIT A

SCOPE OF BASIC SERVICES

Proposal for Conducting a Drainage System Mapping Town of Boone, NC

Watershed Concepts, a division of HSMM, Inc. of North Carolina

Background

The Town of Boone requested \$50,000 of a \$62,000 effort to develop and implement a project for protecting and improving the quality of stormwater runoff in Boone (6.1 square miles). The project will inform and engage the public in managing the quality of stormwater runoff, develop a map of Boone’s stormwater runoff infrastructure, and develop mechanisms for detecting and eliminating illicit discharges to surface waters.

The CWMTF administratively approved a grant of up to \$50,000 on January 3, 2008, in accordance with the CWMTF Board of Trustees policy on mini-grant approvals adopted on February 19, 2007.

Proposed Effort

Watershed Concepts is proposing to perform the following tasks:

1. Develop a map of Boone’s stormwater drainage infrastructure:
 - a. Identify and mark locations of features of the stormwater system and locations of NPDES stormwater outfalls and record evidence of illicit discharges.
 - b. Assess, measure, and record materials, sizes, dimensions, and condition of features of the stormwater system.
 - c. Survey locations of the stormwater system’s features in three dimensions using total-station techniques.
 - d. Download survey data to a GIS database and prepare electronic and paper-copy maps of the stormwater system.
2. Develop mechanisms for detecting and eliminating illicit discharges to Boone’s surface waters:
 - a. Establish and maintain appropriate legal authorities.
 - b. Develop and implement procedures for detecting illicit discharges.
 - c. Cross-train employees for detecting, investigating, and reporting illicit discharges.
 - d. Develop and implement a mechanism for citizens’ reporting of illicit discharges.
 - e. Develop and implement a process whereby, once found, illicit discharges are aggressively eliminated through work with the responsible property owner or other responsible party.
3. Conduct public outreach, education, and participation based on conditions and circumstances specific to Boone:
 - a. Develop and implement a public education and outreach program.

Cost

TASK DESCRIPTION	COST OF TASK
Develop a map of Boone’s stormwater drainage infrastructure	\$22,000
Develop mechanisms for detecting and eliminating illicit discharges to Boone’s surface waters	\$20,000
Conduct public outreach, education, and participation based on conditions and circumstances specific to Boone	\$14,000
Other Direct Cost	\$6,000

TOTAL COST	\$62,000
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Schedule

We estimate that performing these tasks will take 9 to 12 months to complete from Notice to Proceed. Additional detail on schedule will be provided once a start date for activities is identified.

VOTE: Aye-All
Nay-None

JONES HOUSE ADVISORY BOARD APPOINTMENTS

On a motion by Council member Brantz, seconded by Council member Mason, Council moved to appoint Ross Cooper and Larry Keeter and re-appoint Beth Carrin to the Jones House Advisory Board. All terms will expire 2/28/11.

VOTE: Aye-All
Nay-None

ABC BOARD APPOINTMENT

Mayor Clawson noted three applications were received for one position on the ABC board. Those applications were from the following: Randall Beane, Bob Flannigan and Ray Howell. Council member Pepin nominated Ray Howell because of his experience in operating one of the first beer and wine stores established in Boone. Council member Mason requested that action on this matter be deferred until next month in order to allow for additional applications. Council member Mason noted that this board has a variety of financial responsibilities and felt it is important to have at least one member that resides within the Town of Boone limits. The other two members live outside the Town limits. Council member Pepin felt the Town should act on the nomination presented and review the membership rules for the ABC board in the future. The following vote was recorded on the appointment of Ray Howell to the ABC board.

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

APPROVAL OF PRECON CORPORATION CONTRACT

Public Utilities Director Rick Miller said that the Precon contract is for repairs to the Deck Hill water tank. Mr. Miller said to line the tank with a rubber boot and patch should last between five and ten years. Mr. Miller said the repairs will cost \$18,000 and can be allocated within the current budget. Council member Brantz asked how long the repairs will take to complete. Mr. Miller said the company has up to 30 days to complete the repairs but should be finished within a week. Council member Phillips asked if a performance bond will be required. Mr. Miller said the bonding work is guaranteed for a year. On a motion by Council member Mason, seconded by Council member Aycock, Council moved to adopt the following contract:

CONTRACT

Project: Existing cast-in-place water tank repair

Description: Floor crack repair

2. MATERIALS AND SERVICES TO BE FURNISHED BY PRECON CORPORATION
Precon proposes to furnish all labor, material, equipment, scaffolding, forms, and supervision required to complete the floor crack repair in accordance with Precon Corporation's standard prestressed concrete tank repair design and potable drinking water requirements. The services to be furnished by Precon Corporation are specifically:
 - a. Install rubber boot around entire floor/wall joint.
 - b. Install rubber patch over cracks on floor (250 LF included in price).
 - c. Sterilize tank.
2. MATERIALS AND SERVICES FURNISHED BY OTHERS

It is understood that the following services are not included and are to be provided by others:

- a. Uninterrupted water for construction (3/4" line at 40 psi) 15 feet from tank.
 - b. Bacteriological testing.
 - c. Drain the tank prior to arrival of Precon Corporation.
3. QUOTATION
We are prepared to carry out this work in accordance with the foregoing for the lump sum price of:
\$18,000.00 (Add \$20/LF for any additional floor cracks over 250 LF)
Payment is to be received by us in our office at 115 SW 140th Terrace, Newberry, Florida 32669, within thirty (30) days after completion of work.
 4. COMMENCEMENT AND COMPLETION
We are prepared to furnish sufficient labor, materials, and equipment to complete the work within approximately one week after a mutually agreeable start date, and to be completed no more than thirty (30) days from agreed start date.
 5. SHOP DRAWINGS AND DESIGN DATA
We will submit all data required prior to starting work.
 6. BOND
The cost of a payment-performance-maintenance bond, issued for a one-year period, is to be added to the bid price if required. The price for this bond is \$12.00 per \$1,000.00. If utilizing sub-guard, any bonds required will be added to the tank price. Any bond will name the Town of Boone as recipient of funds if needed.
 7. LABOR
Precon will complete this work using our own personnel.
 8. SAFETY
This proposal is based on performing the work in accordance with Precon Corporation's Safety Program, which meets or exceeds CFR 1926 OSHA Standards.
 9. BACKCHARGES AND CLAIMS FOR EXTRAS
No claim for extra services rendered or materials furnished will be valid by either party unless written notice thereof is given during the first ten days of the calendar month following that in which the claim originated.
 10. DELAYS
It is agreed that we shall be permitted to prosecute our work without interruption. If delayed at any time for a period of 24 hours or more by an act or neglect of the owner, his representative or other contractor employed by him, or by reason of any changes ordered in the work, we shall be reimbursed for our actual additional expense caused by such delay, including loss of use of our equipment, plus overhead and profit.
 11. INSURANCE
Precon will furnish an insurance certificate showing coverage of liability, property, and worker's compensation insurance.
 12. GUARANTEE
Precon Corporation shall guarantee workmanship and materials on the patches installed. We will repair all observed cracks in the floor and at the floor-wall joint.
 13. ACCEPTANCE
This proposal if offered for your acceptance within 30 days.

VOTE: Aye-All

Nay-None

ADOPTION OF WATER AND SEWER USE ORDINANCE ARTICLE VII AMENDMENTS

Town Attorney Sam Furgiuele explained the amendments are a complete revision or rewrite of Article VII. Council member Phillips asked who will enforce the ordinance. Public Utilities Director Rick Miller said either he or another designee will be in charge of enforcement. Council discussed at length criminal and civil penalties and surcharges. Council member Phillips felt there should be some guidelines or basis for surcharges. Public Utilities Director Miller said those guidelines are not yet in place within the document and will be added at a later date. On a motion by Council member Phillips, seconded by Council member Pepin, Council moved to adopt the following ordinance amendments:

**AN ORDINANCE PROVIDING FOR CONSERVATION
OF WATER DURING DECLARED DROUGHT CONDITIONS
OR A WATER SHORTAGE, AND FOR RESTRICTIONS
ON THE USE OF WATER DURING SEVERE SHORTAGES**

BE IT ORDAINED by the Boone Town Council that a water shortage shall be deemed to exist when **the quantity of water flowing from water demand by customers connected to the Town water system, or an expected increase in that level of water flow, reaches the point where continued or increased demand will be equal to or greater than exceed the Town's raw water supply and/or transmission capabilities. The water flow quantity may be the result of demand for finished water from the Town of Boone's water system customers or a serious malfunction in the water transmission system.** When the water outflow pattern is expected to result demand results in a condition whereby customers cannot be supplied with sufficient water to protect their health and safety, then **the customer demand for water** must be substantially curtailed.

**ARTICLE VII
WATER CONSERVATION REGULATIONS**

Section 7-1. Applicability of Water Conservation Regulations.

In the event it appears to the Director of Public Utilities that **outflow from water demand on the Town water system may exceed its raw water supply or transmission capabilities, the Director of Public Utilities shall notify the Town Manager. The Town Manager, following consultation with the Town Council, may declare a Stage I Water Shortage requesting voluntary water conservation by customers. In the event that If** voluntary conservation measures fail to adequately ~~relieve demand on~~ **decrease outflow from** the system, or ~~where if~~ conditions exist that make it likely in the opinion of the Town Manager that voluntary measures will be inadequate; the Town Manager may, after consultation with the Director of Public Utilities or following consultation with the Town Council, declare a Stage II or Stage III Water Shortage. In exercising this authority, the Town Manager shall consider water storage levels and available sources of supply, ~~available usable storage on hand,~~ draw-patterns and availability of water from other sources. However, this Article is not intended to supersede or amend the Town's responsibilities under ~~any~~ **another** interconnect agreement with another water system.

Section 7-2. Reserved.

Section 7-3. Announcement of Water Shortage

If a Water Shortage is declared, the Director of Public Utilities shall initiate an extensive publicity campaign, using public media and ~~such other measures as the Director may conclude to~~ maximize the Town's ability to inform the public's **of knowledge about** an impending or existing water shortage. ~~The Director of Public Utilities shall also inform, by e-mail and otherwise, as he may determine, all employees of the Public Utilities Department and Town Staff of the impending or existing shortage.~~ All such publicity campaigns shall at a minimum inform the public of the existing or anticipated level of the shortage and the implications of a shortage, in terms of voluntary and involuntary restrictions on the use of water, and the campaign shall encourage and recommend specific conservation measures. **The Director of Public Utilities shall also inform all employees of the Public Utilities Department and Town of the impending or existing shortage.**

Section 7-4. Goals for Each Water Shortage Stage.

- A. The water use reduction goal for a Stage I Water Shortage is 10 % **average daily demand for the same calendar month each of the previous three calendar years.**
- B. The water use reduction goal for a Stage II Water Shortage is 25 % **average daily demand for the same calendar month each of the previous three calendar years**
- C. The water use reduction goal for a Stage III Water Shortage is 50 % **average daily demand for the same calendar month each of the previous three calendar years..**

Section 7-5. Specific Conservation Methods and Recommendations Applicable to All Water Shortages.

A. During Stage I, Stage II and Stage III Water Shortages, the following non-exclusive conservation methods shall be encouraged or required. Each method shall be voluntary unless it is superseded explicitly by the mandatory provisions of Sections 7-7 or 7-9:

1. Reusing water whenever possible unless such reuse is prohibited under this code, e.g., black water or grey water;
2. Minimizing vehicle washing;
3. Limiting lawn, garden and plant watering to the minimum necessary for such vegetation to survive;
4. Refraining from washing down outside areas such as sidewalks, patios, parking lots, service bays or aprons, etc.;
5. Refraining from allowing faucets to run while shaving or rinsing dishes;
6. Limiting the use of washing machines and dishwashers, and when used, operating only fully loaded;
7. Taking showers instead of baths, and limiting showers to no more than four (4) minutes;
8. Avoiding flushing toilets with each single use;
9. Using disposable and biodegradable dishes ~~to the extent~~ **as much as possible**;
10. Using flow restrictive and water saving devices ~~to the extent~~ **as much as possible**;
11. Limiting hours of operation of water-cooled air conditioners;
12. Delaying new landscape work until the water shortage has ended; and
13. Taking all other measures which the customer or Director recognizes will conserve water use.

Section 7-6. Reserved.

Section 7-7. Stage II Water Shortage Restrictions.

A.....During a Stage II Water Shortage, it shall be unlawful and prohibited for any Town customer, including residential, commercial and institutional users, or any other entity, to use or permit the use of water from the Town water system for the following purposes:

1. Watering an athletic field, golf course, park, lawn, grass, shrubbery, tree, flower, outside plant or garden except in accordance with a schedule approved by the Director of Public Utilities, who, in the Director's sole discretion, shall ordinarily only allow such watering by hand-held hose or container or by drip irrigation system, ~~and who but may, in the Director's sole discretion,~~ prohibit such activities entirely;
2. Filling or refilling a swimming or wading pool, hot tub or spa;
3. Washing an automobile, truck, trailer, boat, airplane or any other type of mobile equipment or motor vehicle unless a permitted water reclamation or reuse system is ~~utilized~~ **used**;
4. Washing down an outside area including but not limited to a street, driveway,

service station apron, parking lot, office building, exterior of existing or newly-constructed home or other building, sidewalk, or patio, except ~~if~~ pursuant to specific authorization by the Town of Boone;

5. Using water from a public or private fire hydrant for any purpose other than fire suppression, testing, maintaining water quality, or similar public emergency;
6. Operating or inducing water into any ornamental fountain, pool, or pond or other structure making similar use of water;
7. Serving drinking water in a restaurant, cafeteria, or other food establishment, except upon request.
8. Operating a water-cooled air conditioner or other equipment that does not recycle cooling water, except when the user has a diagnosed and legitimate health need for the equipment;
9. Using **in commercial eating establishments** utensils and plates ~~in commercial eating establishments~~ that must be washed ~~to the extent~~ **if** disposable and/or biodegradable utensils and plates can be effectively used;
10. Using water for any unnecessary purpose after being warned by the Director or his designee to discontinue such use; and
11. ~~Intentionally~~ ~~W~~wasting water **intentionally**.

B. During a Stage II Water Shortage:

1. **All commercial and institutional customers are encouraged to undergo a water audit by the Director or his designee, and following such audit, come into full compliance with the audit recommendations.**
2. **Total water consumption may be limited and a surcharge imposed upon water system customers by specific action of the Town Council.**

Section 7-8. Reserved.

Section 7-9. Stage III Water Shortage Restrictions and Measures.

A. During a Stage III Water Shortage, medical facilities shall be the highest priority for available water. ~~and T~~ ~~to therefore~~ protect the water supply for that and other essential purposes, it shall be unlawful and prohibited for any Town customer, including residential, commercial and institutional users, or any other entity, to use or permit the use of water from the Town water system for the following purposes:

1. Using water in a way prohibited by Section 7-7, *supra*, ~~to the extent not~~ **unless** superseded by this section;
2. Using water for any outdoor use other than in an emergency, **or**
3. ~~Using water for fire protection except when drafting from ponds, rivers, or other natural water source is not reasonably available; or~~
43. Using **in commercial eating establishments** utensils and plates ~~in commercial eating establishments~~ that must be washed;

B. During a Stage III Water Shortage:

1. All commercial and institutional customers must fully cooperate with a water audit requested and scheduled by the Director or his designee. ~~and F~~ following such audit, or if the customer has been previously audited, **the customer** must come into full compliance with the audit recommendations within ten days of the

declaration of the water shortage or the audit, whichever is later, unless due to the cost of full compliance the Director, in writing, extends the time for full compliance to another date certain.

2. ~~Water system customers'~~ Total water consumption may be limited and ~~surcharged~~ **a surcharge imposed upon water system customers** by specific action of the Town Council.

Section 7-10. Reserved.

Section 7-11. Penalties.

- A. **The Director or the Director's designee may impose the following civil penalties for** ~~v~~ violation of the **mandatory** provisions of Section 7-7 of this Article (Stage II) ~~shall be subject to the following penalties:~~

- | | | |
|----|------------------------------------|-----------|
| 1. | First Offense | Warning; |
| 2. | Second Offense | \$100.00; |
| 3. | Third Offense | \$250.00; |
| 4. | Fourth and Each Subsequent Offense | \$500.00. |

- B. **The Director or the Director's designee may impose the following civil penalties for** ~~v~~ violation of the **mandatory** provisions of Section 7-9 of this Article (Stage III) ~~shall be subject to the following penalties:~~

- | | | |
|----|--|-------------|
| 1. | First Offense | \$200.00; |
| 2. | Second Offense | \$500.00; |
| 3. | Third Offense and Each Subsequent Offense | \$1,000.00. |
| 4. | In addition to these civil penalties, violation of a prohibition or requirement of a Stage III Water Shortage shall be a misdemeanor, pursuant to N.C. Gen. Stat. § 14-4, punishable by a fine equal to the stated civil penalty up to a maximum of \$500.00, and imprisonment for each offense of up to thirty (30) days. | |

- C. When a civil penalty has been imposed pursuant to this section, it must be paid within ten days following receipt of notification of the imposition of the penalty. Receipt is presumed three days after mailing by regular, first class mail. Thereafter, the penalty is automatically doubled and shall be added to the customer's monthly water bill.

- D. In addition to the aforesaid civil and criminal penalties, the Town may disconnect a customer from the Town's water supply ~~for~~ **after** two or more violations of Section 7-7 or 7-9 during any thirty-six month period or the duration of a water shortage declaration, whichever is longer. Should service be disconnected pursuant to this Article, a one hundred (\$100.00) dollar reconnect fee shall be imposed before service is restored. ~~For~~ **If** three or more violations of Section 7-7 or 7-9 **occur** during any thirty-six month period or the duration of a water shortage declaration, whichever is longer, the Town may also, pursuant to the discretion of the Director ~~of Public Utilities~~, remove the customer's water meter, and in that event, all previously paid tap fees and deposits shall be forfeited. Reconnection thereafter shall only be made with the approval of the Town Manager. ~~but~~ **Before** service is restored after removal of the customer's water meter, in addition to the one hundred (\$100.00) dollar reconnect fee, the customer shall also be required to pay new tap fees and availability fees, and a deposit equal to twice the usual service deposit.

Section 7-12. Appeals.

- A. ~~Customers do not have the right to appeal a citation or a surcharge imposed by this section, but may only appeal action by the Town to disconnect the customer's service.~~ A customer whose service is disconnected or who receives a notice of termination shall have the right to appeal as set forth in Article III, Section 3-10, of the Town of Boone Water and Sewer Use Ordinance. In the event of a timely appeal, the termination order will be suspended until an appeal decision has been issued.

- B. **Customers do not have the right to an Article III, Section 3-10 appeal of a citation,**

civil penalty or fee imposed by this section. When service is not terminated, but a customer contends that a citation, or civil penalty, or fee was issued or imposed in error, the customer may **dispute the violation which gave rise to the citation, civil penalty or fee by submitting to the Director information which shows that the customer did not violate the pertinent section of this Article.** ~~to the Director of Public Utilities disputing the violation.~~ If the citation, **civil penalty or fee** is thereafter determined by the Director ~~of Public Utilities~~ to have been issued in error, ~~he~~ **the Director** shall take appropriate action to recall ~~it any penalties.~~

Section 7-13. Lifting of Restrictions Imposed During a Water Shortage.

A declared Water Shortage Stage ends only when the Town Manager, after consultation with the Town Council and upon recommendation of the Director of Public Utilities, deems that the conditions which caused the shortage have abated. The termination of a Water Shortage declaration shall be promptly and extensively publicized.

VOTE: Aye-All
Nay-None

MONTHLY WATER USE STATUS REPORT

Public Utilities Director Rick Miller presented the following report:

As requested by Town Council, staff and I have compiled the following information concerning water use for the month of February. The Water Treatment Plant recorded a maximum daily demand of 2.199 million gallons on Tuesday, February 12, 2008, and the average daily demand was 1.894 million gallons for the entire month. The total amount of water treated was 54.91 million gallons. This is a 5 percent decrease over the total amount of water treated in February 2007.

Attached you will find a chart that depicts a comparison of the maximum daily demands for the month of December since 1995. Included is an average trend line that illustrates the extent the maximum daily demand has increased during the last thirteen years.

Originally the Boone Town Council appropriated for 25,000 gallons per day usage for allocation to customers over a five year period. In November 2007 the Water Use Committee met and after careful review of predicted vs actual water usage numbers, recommended to Council that the allocation amount be increased to 50,000 gallons per day until 2012.

At the last Town Council meeting, Council chose to allocate 7,425 gallons per day from the 2008 allotment and 20,350 gallons per day from the 2009 allotment to one project, and 8,418 gallons per day from the 2009 allotment to another. Since the 8,418 gallons per day had previously been allocated and included in the previously approved project amounts, it was removed from that category and added to the 2008 allotment total.

Since the last Town Council meeting the Public Utilities Department has approved four projects that subtracted 165 gallons per day from the 2008 allotment. The total water allotment remaining for the year 2008 has broken the sixty percent threshold and all future water service requests in excess of 500 gallons per day will be forwarded to Town Council as required in Ordinance 05-01.

As you can see in the attached “Approved Water Connections” chart, the Public Utilities Department now has 13,763 gallons per day remaining for allotment in 2008 and 8,907 gallons remaining for 2009.

Staff Approved	Date	Projected Usage	2008 Council Approved	Date	Projected Usage	Remaining Gallons
						50000
			Mega Builders	11/15/2007	14400	35600
			Anne Henning	11/15/2007	795	34805
			Katrina Callio	11/15/2007	90	34715

Brad Moretz	1/2/2008	916				33799
Park Street Subdivision	1/2/2008	810				32989
Bob Buyce	1/2/2008	2043				30946
James Bates	1/2/2008	270				30676
Beth Postlewait	1/2/2008	270				30406
John Winkler	1/2/2008	252				30154
Pat Carroll	1/2/2008	936				29218
WWWC LLC	1/2/2008	2682				26536
Carroll Companies	1/2/2008	2730				23806
WWWC LLC	1/2/2008	936				22870
WWWC LLC	1/2/2008	2982				19888
			Oscorp Investment	1/717/2008	6750	13138
Salvation Army	1/7/2008	176				12962
			Adam Upchurch	2/21/2008	7452	5510
			Jamus FLP	2/16/2006	4209	9719
			Jamus FLP	2/16/2006	4209	13928
Thomas McGowan	1/24/2008	90				13838
Phillip Cresman	2/8/2008	30				13808
John Winkler	2/11/2008	30				13778
Den-Mac	3/4/2008	15				13763
			2009			
Staff Approved	Date	Projected Usage	Council Approved	Date	Projected Usage	Remaining Gallons
						50000
			Leanord Soloman	11/15/2007	8100	41900
			Oscorp Investment	1/717/2008	4225	37675
			Adam Upchurch	2/21/2008	20350	17325
			Boone Five LLC	2/21/2008	8418	8907

APPROVAL OF BUDGET AMENDMENTS

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

DESCRIPTION	ACCOUNT #	TO:	FROM:
Watauga County-Coordination of Election	010-405-000-577111	\$14,510.00	
Fund Balance Appropriated-General Fund	010-000-000-499900		(\$14,510.00)
Jones House Centennial Celebration	010-409-000-549136	\$5,700.00	
Appropriated Fund Balance-General Fund	010-000-000-499900		(\$5,700.00)
Maintenance & Repair-Vehicles Police Dept.	010-500-300-525201	\$1,264.00	
Miscellaneous Revenue-General Fund	010-000-000-489900		(\$1,264.00)
Capital Outlay-Large Trucks Fire Dept.	010-500-350-573300	\$2,340.00	
Loan Proceeds-General Fund	010-000-000-492000		(\$2,340.00)
Contracted Services-Public Utilities	030-700-801-577000	\$6,385.00	

Appropriated Fund Balance-Water & Sewer	030-000-000-499900		(\$6,385.00)
Chemical Supplies-Water Treatment Plant	030-700-804-517201	\$21,000.00	
Appropriated Fund Balance-Water & Sewer	030-000-000-489900		(\$21,000.00)

VOTE: Aye-All
Nay-None

On a motion by Council member Mason, seconded by Council member Aycock, Council moved to amend the agenda to include discussion of an initiation of a charter amendment to hold municipal elections within the Town of Boone in November.

INITIATION OF CHARTER AMENDMENT TO SCHEDULE MUNICIPAL ELECTIONS IN NOVEMBER

Council discussed requesting a charter amendment to schedule the upcoming municipal election on the second Tuesday of November beginning with the 2009 election. With a November election the Town will not have run off elections any longer. On a motion by Council member Pepin, seconded by Council member Mason, Council moved to have the Mayor execute a letter of support for this charter amendment.

VOTE: Aye-All
Nay-None

Mayor Clawson declared a break at 8:10 p.m. Council reconvened at 8:20 p.m.

REQUESTED APPEARANCE - KENT GRAHAM

Mr. Seth Norris appeared before Council to request approval of a special events permit for the 2008 Emergency Fest scheduled for Saturday, June 14, 2008. Mr. Norris requested that Howard Street (from Depot to Appalachian) and a portion of Appalachian Street be closed to vehicular traffic from 8:00 a.m. to 5:00 p.m. Mr. Norris said the Watauga County Firefighters Association hosts the event, which has previously been held in Blowing Rock. Mr. Norris explained that various vendors will be placed along the closed streets, with static displays being placed in the Raley Hall parking lot. Mr. Norris requested waiver of the \$1500 fee. Council member Mason asked what services Town staff will provide. Public Services Director Blake Brown said barricades will be placed on both ends of the street closures. On a motion by Council member Phillips, seconded by Council member Mason, Council moved to approve the special events permit and waive the \$1500 fee.

VOTE: Aye-All
Nay-None

REQUESTED APPEARANCE - MARCUS ROYAL

Mr. Marcus Royal appeared before Council to request a transfer of the Boone Taxi permit from Nate Simmons to Marcus Royal. Mr. Royal said he is currently a driver for Boone Taxi. Council member Brantz asked if any changes are planned for the taxi service. Mr. Royal said no, that Boone Taxi is the only service that runs during the week. Mr. Royal has one taxi and carries about 15 riders per day and double on the weekends. On a motion by Council member Aycock, seconded by Council member Brantz, Council moved to grant the taxi permit transfer.

VOTE: Aye-All
Nay-None

REQUESTED APPEARANCE - STEPHEN SINANIAN

Mr. Stephen Sinanian, owner and operator of the Boone Saloon, appeared before Council, to

request that the Town Council research and discuss the possibility of calling for a mixed-drink referendum in the near future. Mr. Sinanian said he formed a task force to discuss the pros and cons of having mixed drinks in Boone and that his research shows the benefits of having mixed drinks in Boone as increased safety, expanding clientele for local restaurants, and more revenues for the Town of Boone. Mr. Sinanian said both the DBDA and Boone Chamber have endorsed having a mixed-drink referendum. Mr. Sinanian requested that the Council research the issue and vote to request a mixed- drink referendum at the May 15th meeting so the referendum can be held in September 2008. Town Attorney Sam Furguele presented the following information:

A mixed-drink election is conducted by the County Board of Elections either upon a written request from the Town Council or a petition signed by at least 35% of the registered voters at the time the petition is initiated. N.C. Gen. Stat. § 18B-601.

The date of the election has to be set by the Board of Elections between 60 and 120 days after receipt of the request from the Town Council or the petition is verified, N.C. Gen. Stat. § 18B-601(f), but it cannot be held on the Tuesday after the first Monday in November in an even-numbered year, so for this year can't be on the regular presidential election day.

North Carolina law, § 18B-602(h), prescribes the form of the ballot itself, which is supposed to read:

"To permit the sale of mixed beverages in hotels, restaurants, private clubs, community theaters, and convention centers.

R FOR
R AGAINST"

After little discussion Council decided to hold a public hearing on a proposed referendum for mixed-drinks in Boone on Thursday, April 24, 2008 at 6:30 p.m. in the Commissioners Board Room, Watauga County Administration Building.

REQUESTED APPEARANCE - JOHN WINKLER

On a motion by Council member Mason, seconded by Council member Aycock, Council moved to excuse Council member Stephen Phillips from voting on this request since he had contact with the applicant prior to the meeting.

VOTE: Aye-All
Nay-None

Town Attorney Sam Furguele opened a public hearing at 8:52 p.m. to hear sworn testimony from John Winkler, Kimberly Marland, Public Utilities Director Rick Miller, and Public Services Director Blake Brown on a request for an additional water allocation to property located at the Old Heilig Meyers building on West King Street. Mr. Winkler said he plans to reconfigure the building as a mixed-use development. Mr. Winkler testified that he received in January a water allocation of 2,900 gallons per day for 17 bedrooms. Since that time Mr. Winkler has decided to construct an additional 23 bedrooms which would require 3,450 more gallons of water per day. Council member Aycock asked if there are plans for a retail space on King Street. Mr. Winkler said yes. Council member Mason asked how many units are planned for the building. Mr. Winkler said there will be 10 four-bedroom units. Council member Brantz asked about the time frame for starting the project. Mr. Winkler said he is ready to start in two to three weekends. Council member Aycock asked how the units will be marketed. Mr. Winkler said this is high-end student housing and that he has leased 48 parking spaces from the Town of Boone. Mr. Winkler presented drawings of the proposed apartment units (**on file permanently**). Council member Aycock asked where the parking is located and whether or not the cost for parking will be included in the rent. Mr. Winkler said the parking is located on Queen Street and yes it is included in the rent. Kimberly Marland, Architect for the project, presented conceptual facade drawings of the project. Council member Aycock asked if a sidewalk is planned for the building on Water Street. Public Services Director Blake Brown said yes, that his department is securing encroachment agreements at this time. There being no further comments, the public hearing closed at 9:05 p.m. Council member Aycock made a motion to grant the additional 3,450 gallons of water per day from the 2008 allocation as long as a retail presence is maintained

along King Street. Council member Mason seconded.

VOTE:Aye-All
Nay-None
Excused-1 (Phillips)

REQUESTED APPEARANCE - MICHAEL BROWN

Town Attorney Sam Furgiuele opened a public hearing at 9:09 p.m. to hear sworn testimony from Michael Brown, Rod Angle, Public Utilities Director Rick Miller, and Development Services Director John Spear on a request for water and sewer service to property located at the corner of Candy Lane and Bamboo Road. Mr. Michael Brown, Manager with Summit Rentals, said he plans to construct an eight-unit, 16-bedroom apartment building on the property and will need a water allocation of 2,400 gallons per day. Council member Mason asked what the zoning designation is for the property and if the property is prone to flooding. Development Services Director John Spear said the property is zoned B-3 and that it is located in a special flood hazard and watershed area. Mayor Clawson asked what type of housing is planned. Mr. Rod Angle said it will be student housing. There being no further comments, the public hearing closed at 9:14 p.m. Council member Mason made a motion to grant the water and sewer request of 2,400 gallons per day out of the 2008 water allocation. Council member Aycock seconded.

VOTE:Aye-All
Nay-None

CLOSED SESSION

On a motion by Council member Brantz, seconded by Council member Mason, Council moved to enter Closed Session at 9:15 p.m. pursuant to NCGS 143-318.11a)3)5)6) in order to discuss personnel matters, ASU violations, community garden property lease, property acquisition for water, CHS/ASU LLC litigation and discussion of the Town of Boone/Blowing Rock interconnect agreement.

VOTE:Aye-All
Nay-None

On a motion by Council member Brantz, seconded by Council member Mason, Council moved to exit Closed Session at 10:53 p.m.

VOTE:Aye-All
Nay-None

POSSIBLE ACTION FOLLOWING CLOSED SESSION

On a motion by Council member Mason, seconded by Council member Brantz, Council moved to drop all penalties against current violations, since ASU is withdrawing all appeals to the Board of Adjustment, as indicated by ASU's attorney.

VOTE:Aye-All
Nay-None

On a motion by Council member Mason, seconded by Council member Brantz, Council moved to schedule a special meeting on March 31, 2008 at 1:30 p.m. at the Town Hall conference room in order to enter into Closed Session to discuss the community garden property lease.

VOTE:Aye-All
Nay-None

On a motion by Council member Pepin, seconded by Council member Mason, Council moved to empower Mayor Clawson to sign the Blowing Rock Interconnect agreement provided that changes as discussed are included in the agreement.

VOTE:Aye-All

Nay-None

On a motion by Council member Mason, seconded by Council member Brantz, Council moved to adopt the following Rural Center grant resolution:

RESOLUTION

WHEREAS, in the summer of 2007, the North Carolina General Assembly included a \$100 million appropriation to the North Carolina Rural Economic Development Center in the FY 2007-2009 state budget, for the purpose of making grants to rural communities in need of water and wastewater infrastructure improvements; and

WHEREAS, the Town of Boone has need for and intends to construct or rehabilitate a publicly-owned treatment works or an alternate wastewater system for wastewater collection systems or for water supply and distribution systems, project described as the Town of Boone-Blowing Rock water inter-connect project; and

WHEREAS, the Town of Boone intends to request grant assistance from the Supplemental Grants Program for the project;

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

That the Town of Boone will arrange by contract with the Town of Blowing Rock for all remaining costs of the project if approved for a grant.

That the Town of Boone will provide for efficient operation and maintenance of the project on completion of construction thereof.

That Mayor Loretta Clawson, and successors so titled, is hereby authorized to execute and file an application on behalf of the Town of Boone with the NCREDC (Rural Center) for a grant to assist in the construction of the project described above.

That Mayor Loretta Clawson, and successors so titled, is hereby authorized and director to furnish such information as the Rural Center may request in connection with such application or the project; to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the Town of Boone has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations and ordinances applicable to the project and to the grants pertaining thereto.

This resolution adopted this the 20th day of March, 2008.

Mayor

ATTEST:

Clerk

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE 51)

VOTE: Aye-All
Nay-None

ADJOURNMENT

On a motion by Council member Pepin, seconded by Council member Brantz, Council moved to adjourn at 10:56 p.m.

VOTE: Aye-All
Nay-None

Town Clerk

Mayor