MINUTES – REGULAR MEETING
BOONE TOWN COUNCIL
January 8, 2025

CALL TO ORDER

A regular meeting of the Boone Town Council was called to order at 9:00 a.m. on Wednesday, January 8, 2025 at the Town Council Chambers located at 1500 Blowing Rock Road in Boone. Mayor Tim Futrelle presided. Council members present included Mayor Pro-Tem Dalton George, Virginia Roseman, Todd Carter, Eric Plaag, and Edie Tugman. Staff present included Town Manager Amy Davis, Town Clerk Nicole Harmon-Church, Planning Director Jane Shook, Public Works Director Todd Moody, Downtown Boone Development Director Lane Moody, Human Resources Director Dale Presnell, Interim Police Chief Daniel Duckworth, Cultural Resources Director Mark Freed, Finance Director Guy Miller, and Finance Supervisor Becky Love. Town Attorney Allison Meade was also in attendance.

MOMENT OF SILENCE

ANNOUNCEMENTS

Mayor Futrelle welcomed all in attendance and announced the following board vacancies:

BOARD OF ADJUSTMENT
Two regular positions, three alternate positions

DOWNTOWN BOONE DEVELOPMENT ASSOCIATION
One Council-appointed position

HISTORIC PRESERVATION COMMISSION
Two regular positions

HUMAN RELATIONS COMMISSION
Eight regular positions

PLANNING COMMISSION
One student position

SUSTAINABILITY COMMITTEE
One student position

TENTATIVE AGENDA ADOPTION

Upon a motion by Council member Plaag, seconded by Mayor Pro-Tem George, Council voted unanimously to approve the agenda as presented.

APPROVAL OF PROCLAMATIONS AND RESOLUTIONS

Mayor Futrelle thanked former Chief Andy Le Beau and Sergeant Scott Mackler for their esteemed, loyal, and dedicated service over the decades. He added that he was proud of the support being offered for the hellbender's listing as an endangered species and thanked Mayor Pro-Tem George for his support and work on the proposed resolution. Mayor Pro-Tem George indicated that it was rare for a Town to make a statement regarding an endangered species, but was hopeful the resolution would gain the support needed.

Upon a motion by Council member Plaag, seconded by Council member Roseman, Council voted unanimously to approve the following resolutions granting service weapons and badges for A. Le Beau and S. Mackler.

RESOLUTION

The members of the Boone Town Council, meeting in regular session on January 8, 2025, do hereby adopt and pass the following resolution:

WHEREAS, Andy Le Beau retired on January 1, 2025, after serving the Boone Police Department in an exemplary fashion; and

WHEREAS, his contribution to the service of the Town of Boone and its citizens will always be appreciated;

NOW, THEREFORE, BE IT RESOLVED, that Chief Andy Le Beau shall be awarded his Police badge and a service weapon as follows:

Glock Model 19 9 MM Serial # BPXA831

Furthermore, a copy of this Resolution shall be given to Chief Andy Le Beau.

Adopted this on the 8th day of January 2025.

_____
Mayor Tim Futrelle

ATTEST:

_____(SEAL)
Nicole Harmon-Church, Town Clerk

RESOLUTION

The members of the Boone Town Council, meeting in regular session on January 8, 2025, do hereby adopt and pass the following resolution:

WHEREAS, Scott Mackler retired on January 1, 2025, after serving the Boone Police Department in an exemplary fashion; and

WHEREAS, his contribution to the service of the Town of Boone and its citizens will always be appreciated;

NOW, THEREFORE, BE IT RESOLVED, that Sergeant Scott Mackler shall be awarded his Police badge and a service weapon as follows:

Glock Model 19 9 MM Serial # BPXA847

Furthermore, a copy of this Resolution shall be given to Sergeant Scott Mackler.

Adopted this on the 8th day of January 2025.

_____
Mayor Tim Futrelle

ATTEST:

_____(SEAL)
Nicole Harmon-Church, Town Clerk

Mayor Futrelle thanked Finance Supervisor for her service to Town staff and the community in the finance department before reading the following resolution.

RESOLUTION OF APPRECIATION

WHEREAS, Rebecca Love will retire from the Town of Boone, North Carolina, on January 31, 2025; and,

WHEREAS, she served the citizens of Boone beginning on June 15, 1999, as an Accounting Technician. She was then promoted to Purchasing Agent in April 2001, then Interim Tax Collector in February 2006, before being reclassified as Accounting Supervisor later in 2006, and;

WHEREAS, she has always shown great dedication and genuine concern for the citizens of the town, town employees, and Town Council; and,

WHEREAS, she has been an honest, loyal, and committed public servant to the town.

THEREFORE, THE TOWN COUNCIL OF THE TOWN OF BOONE, NORTH CAROLINA, HEREBY EXPRESSES ITS sincere appreciation and gratitude to Rebecca Love for her contributions to the Town of Boone.

BE IT FURTHER RESOLVED that the Town Council extends to Rebecca Love and her family blessings for good health and best wishes for the future.

Adopted by unanimous vote of the Town Council on the ___ day of January 2025.

_____
Mayor Tim Futrelle

ATTEST:

_____(SEAL)
Town Clerk Nicole Harmon-Church

Council member Roseman made a motion, which was seconded by Mayor Pro-Tem George, to approve the remaining resolutions, including the resolution of appreciation for B. Love and the resolution supporting the eastern hellbender's endangered listing. The motion carried unanimously.

RESOLUTION IN SUPPORT OF THE EASTERN HELLBENDER'S ENDANGERED LISTING

WHEREAS, on December 12th, 2024, the U.S. Fish and Wildlife Service announced a proposal to list the eastern hellbender as an endangered species throughout its range under the Endangered Species Act.; and,

WHEREAS, as part of that process, the U.S. Fish and Wildlife Service will begin to accept public comments for a 60-day period as a part of that listing; and,

WHEREAS, the Town of Boone views the Endangered Species Act and the listing of species as key to the preservation of biodiversity across the country and believes in its core purpose; and,

WHEREAS, the impacts of Hurricane Helene have damaged the natural environment across Appalachia, destroying and polluting essential habitat, which will require governmental investment and intervention to repair and stabilize; and,

WHEREAS, the Town of Boone is home to eastern hellbender populations and tributaries of the New River, and has consistently sought to improve water quality, streambanks, and conserve the natural environment to safeguard habitat for the wildlife in our town; and,

WHEREAS, the eastern hellbender has become a symbol for the Town, region, and community, representing our identity, resilience, and commitment to environmental action; and,

WHEREAS, the Town of Boone is the elected representative body of the 20,000+ citizens in Town, many of which are committed to the preservation and protection of the natural world and the creatures that inhabit it; and,

WHEREAS, the Town Council has the duty to express its full and unwavering support for the endangered listing proposal for the eastern hellbender, so we can preserve this important species for future generations; and,

NOW, THEREFORE, BE IT RESOLVED that the Town Council of Boone, North Carolina submits this resolution to the U.S. Fish and Wildlife Service as an official public comment and stance of a major Town that is home to eastern hellbenders; and,

BE IT FURTHER RESOLVED that this resolution is sent to our Members of Congress, Representative Foxx and Senators Budd and Tillis displaying our support for this federal policy and listing as key for successful conservation.

Adopted by unanimous vote of the Town Council on the day of _____January, 2025.

_____
Mayor Tim Futrelle

ATTEST:

_____(SEAL)
Nicole Harmon-Church, Town Clerk

PUBLIC COMMENT

Andy Hill of Watauga River Keeper thanked Council for its support of the hellbender and noted that it was rare for a town to take this kind of action. He added that, though rare, it was very important action, and believed it would set precedent for other towns to take similar action to protect wildlife. Mr. Hill applauded the good news coming out of this Council for projects like this and the Northern Peaks Trail addition. Council member Roseman noted that new drivers licenses had hellbenders on it and applauded the recognition being given in this format.

WORK SESSION

WORK SESSION DISCUSSION - SYSTEM DEVELOPMENT FEES

Council began its work session by discussing the ongoing interest in System Development Fees (SDFs). Mayor Pro-Tem George noted the widespread concern and attention the issue has received, including coverage in the local press. He stated that he had recently met with gym owners Seth and Staci Norris to explore potential paths forward to ease the impacts of SDFs on small businesses. Attorney Meade clarified that the Town could not create carve-outs or exemptions specific to certain businesses regarding SDFs, but could consider generally applicable changes across the board. She explained that SDFs, like other utility rates and fees, are strictly authorized and limited by state law. Attorney Meade emphasized that there was little flexibility in how SDFs are applied but that the Council might have authority in other areas, such as economic development capacity, where it could seek to ease the burden on small businesses and/or start-ups. Mayor Pro-Tem George suggested exploring potential solutions, such as a rebate program or alternative categorizations for businesses leasing rather than owning property. However, Attorney Meade noted that the Town had no legal authority to alter the application of SDFs based on tenancy and could not dictate how costs were distributed between property

owners and tenants. Council member Plaag raised a concern about whether property owners received credits for SDFs already paid when new tenants moved in. Attorney Meade confirmed that additional fees are only assessed when new or different development increased capacity requirements.

Council discussed the impact of SDFs on small businesses and the need for better communication to reduce surprises for business owners. Attorney Meade pointed out that reducing SDFs would require offsetting the lost revenue through user rates, as the fees funded infrastructure development. Public Works Director Todd Moody agreed, explaining that SDFs supported new infrastructure necessary to accommodate growth. Attorney Meade added that new developments should bear the cost of their impact on infrastructure, as it is a fair way to allocate expenses.

Council member Tugman expressed concern that SDFs acted as a constraint on future development by limiting infrastructure capacity, which could hinder business growth. She referenced past cases, including a brewery, to illustrate the issue. Public Works Director Moody mentioned that developers were typically informed about SDFs during the planning process, but more outreach could improve awareness. Mayor Futrelle suggested collaborating with the Chamber of Commerce to assist in addressing these concerns. Mayor Pro-Tem George voiced frustration that many business owners felt the fees did not reflect actual usage and suggested that Council advocate for legislative changes to provide tools for supporting small businesses.

Attorney Meade proposed that she be allowed to conduct further legal research before drafting a formal letter to the legislature, which Mayor Pro-Tem George supported despite concerns about public confidence. Mayor Futrelle and Council member Plaag agreed that additional investigation was necessary. Council member Plaag proposed directing the town attorney to prioritize the issue and include it as an agenda item for the second January or first February meeting. Town Manager Davis suggested tying the discussion to the budget retreat in mid-February, while Mayor Futrelle recommended placing this item back on the February work session. Council member Plaag emphasized the importance of taking formal action in late January or during the first February meeting instead.

The discussion concluded with a consensus to have Attorney Meade investigate the legal implications further and for staff to collaborate with lobbyists to explore additional options. Attorney Meade noted that statutory requirements mandated hiring an expert to review SDF calculations if changes were pursued. Council acknowledged that their current fees were below the maximum rate suggested by the Town's contracted expert, Raftelis. Council member Tugman cautioned against disproportionate fees for small businesses, noting that fees were calculated per square foot and could often vary based on business size and demand. She also reminded Council that SDFs were tax-deductible, balancing sympathy for businesses with governmental responsibility.

In closing, it was the consensus of Council to direct Attorney Meade to continue researching legal and procedural options and report back in February with actionable recommendations, and for staff to collaborate with lobbyists to explore additional options.

APPROVAL OF ITEMS ON CONSENT AGENDA

Upon a motion by Council member Carter, seconded by Council member Roseman, Council voted unanimously to approve the following items on the consent agenda:

1. Budget Amendment:
2.

   Fire Department:
   TO: Maintenance to Equipment 010-500-350-525201 $12,118.99
   FROM: Miscellaneous Revenue 010-000-000-489900 ($12,118.99)
   Money received from the reimbursement from ASU for football fireworks coverage.

2. Minutes
   a. December 11, 2024 Regular Town Council Meeting

PLANNING MATTERS

CONSIDERATION OF BOONE NEXT WORK SESSION

It was the consensus of Council to hold the next Boone Next work session on January 27, 2025 after the Public Hearing and Planning Commission meeting.

MAYOR'S REPORT

Mayor Futrelle reported that the High Country Council of Governments recently engaged in a robust discussion with state representatives regarding the ongoing efforts for Hurricane Helene disaster relief. Council emphasized the urgent need to lobby the state legislature and General Assembly to expedite the release of disaster relief funding. Council member Carter expressed frustration over the representatives' decisions, noting that the area did not receive full funding as expected. He called the decisions disingenuous and felt the representatives did not uphold their commitments.

Council member Tugman questioned whether COG members felt comfortable addressing the apparent disparity between the allocation of $654 million in private school vouchers and the lack of sufficient disaster aid. Mayor Futrelle confirmed that such concerns were discussed but were not publicly aired, emphasizing the need to work in good faith while continuing dialogue.

Council member Plaag highlighted personal efforts to advocate for the community, including attending an Economic Development Council (EDC) meeting where concerns were raised directly with Representative Pickett. He expressed disappointment that promises made during those discussions were not fulfilled, emphasizing that both COG and constituents had a responsibility to hold representatives accountable for unfulfilled commitments.

Mayor Futrelle stated that he would bring the Council's concerns to COG but doubted that there would be sufficient support for a formal statement addressing these issues. Council member Plaag reiterated this as a fundamental problem, stressing that constituents and COG members needed to be made aware of how decisions were being made and how promises were abandoned. Council member Tugman emphasized the importance of ensuring that information about these failures was communicated transparently to the public, noting that representatives' actions have left many without the necessary assistance to recover from Hurricane Helene.

TOWN MANAGER REPORT

Town Manager Davis updated Council members on the following topics:

1. Staff has submitted a letter of intent for a BRIC grant for Hurricane Helene recovery funding. The grant will require a match (though could possibly be leveraged with other grant funds) and if awarded would result in $1.695 million in funding. She reported that staff would present a formal application during an upcoming meeting for Council's consideration and approval.
2. Explore Boone is working on a magazine article with Forbes to highlight sustainable tourist communities. Sustainability and Special Projects Manager George Santucci has submitted information to be included.
3. Sustainability Committee members will be holding a tree planting event at Hardin Creek in February.
4. Staff from police, public works, fire, cultural resources and downtown Boone development met yesterday to discuss the recent night time holiday parade. Overall, feedback was positive and the recommendation was to the hold the 2025 holiday parade on the evening of December 13.
5. Manager Davis indicated that she would be working with Council member Carter on the marketing of the Bolick Farm site and would work with Fire Department staff to fly a drone to obtain arial photographs to assist in the sell of the property.
6. Finance staff is currently working on the application to the LGC for the interim finance package for the Howard Street project.
7. Finance staff and auditors project a completion date of January 31, 2025 for the FY23/24 audit, though, she noted that western NC Counties were given grace due to the hurricane. Manager Davis added that the target date for staff to present to the LGC was March 4, 2025.
8. Western Youth Network has vacated the property on Junaluska Road.
9. Staff has begun exploring the conservation easement for the Winkler's reservoir property.

TOWN ATTORNEY REPORT

Attorney Meade began her update with a discussion regarding the Junaluska easement issue. Because the Town had formally abandoned the Old Junaluska Road, the Town no longer had a right to use it as part of a trail system. She noted that the property owners on the eastern side likely did not realize the land in question belonged to them, as the tax map incorrectly identified the strip as still being a separate parcel and might, therefore, be more amenable to working with the Town to grant a trail easement. Mr. Moody indicated that he would be following up.

Next, in response to a prior request made by Council member Plaag, Attorney Meade outlined a case that took place in Surf City involving a scooter accident in a bike lane. The incident occurred when the rider encountered an unpaved patch where the pavement had been cut away for repairs and refilled but not yet fully restored, resulting in a noticeable drop. There was a dispute whether the drop was one to two inches or as much as six inches. The scooter, operating at a maximum speed of 15 mph in the dark, crashed, leading to a lawsuit by the scooter operator against the Town of Surf City. While the NCDOT owned the road in question, the town's public works department was responsible for the sewer work resulting from the road patch. Initially, summary judgment was granted, absolving the town of liability, but the Court of Appeals reversed this decision, citing long-standing liability precedents. Attorney Meade indicated this case did not present any unexpected or new basis of liability for the Town of Surf City. She was frankly surprised that the trial court would have granted summary negligence. She stated that a municipality's liability for improperly maintained streets and sidewalks and for improperly repaired utility work were both well-established under state law. Boone's Public Works Department was aware of these responsibilities and worked to avoid such circumstances. The town's insurance policies covered such circumstances as among the town's core insurance risks. Council member Plaag expressed concerns about construction practices and noted the lack of signage warning pedestrians or vehicles to avoid the construction of the new hotel at the old Portofino site. Attorney Meade stressed that liability rested with the developer in that and similar situations and not the town. With respect to the Portofino development, Attorney Meade expressed concern that the mandatory limited setback requirement made it difficult to impossible for sidewalk passage to be maintained during construction and reconstruction. Mayor Pro-Tem George emphasized the importance of developers being required to create sidewalk plans with clear timelines for repair or replacement, as the Town expected developers to act swiftly and do everything within their power to address these issues. Finally, Council member Tugman briefly raised shared liability concerns regarding Frontier Natural Gas.

BOARD LIAISON REPORT

Council member Plaag indicated that the parking group met recently and would bring recommendations to Council in February.

Council member Roseman stated that the Historic Preservation Commission was working on the Civil War Trail/Stoneman's Raid marker.

ADJOURNMENT

Upon a motion by Mayor Pro-Tem George, seconded by Council member Plaag, Council voted unanimously to adjourn at 10:36 a.m.

Nicole Harmon, Town Clerk

Tim Futrelle, Mayor