

**MINUTES – REGULAR MEETING
BOONE TOWN COUNCIL
December 17, 2019**

CALL TO ORDER

A regular meeting of the Boone Town Council was held on Thursday, December 17, 2019 at 6:00 p.m. in the Council Chambers located at 1500 Blowing Rock Road in Boone. Mayor Brantz presided. Council members present included Mayor Pro-Tem Loretta Clawson, Lynne Mason, Sam Furguele, Connie Ulmer and Marshall Ashcraft. Staff present included Town Manager John Ward, Town Clerk Nicole Harmon, Public Works Director Rick Miller, Deputy Public Works Director Todd Moody, Planning Director Jane Shook, Deputy Director/Chief Building Inspector Stacey Miller, Police Chief Dana Crawford, and Captain Andy LeBeau. Town Attorney Allison Meade was also in attendance.

SWEARING-IN CEREMONY

Mayor Rennie Brantz presided over the swearing-in ceremonies for Council Members Loretta Clawson and Dustin Hicks. Official oaths precede these minutes.

SEATING OF TOWN COUNCIL

The new Council members took their seats to move forward with the remainder of the organizational meeting.

APPOINTMENT OF MAYOR PRO-TEMPORE

Mayor Brantz stated that in accordance with North Carolina General Statute, a Mayor Pro-Tempore was to be appointed during the organizational meeting of new Council. He then asked for nominations. Mr. Furguele nominated Ms. Clawson and stated that she had done a great job in her role as Mayor Pro-Tem and has previous experience of being Mayor for several terms and knows the office and its duties very well. Ms. Ulmer seconded this nomination. There were no other nominations.

VOTE:	Aye:	All
	Nay:	None

ANNOUNCEMENTS

PRESENTATION OF RESOLUTION OF APPRECIATION - L. MASON

After being presented a resolution of appreciation for her service to the Town of Boone, Ms. Mason read the following statement:

Thank you Boone Community for your confidence and trust in allowing me to serve our community over the past 18 years! What an honor and privilege it has been. I have enjoyed working with many community members, Council Members and Town Staff during my time on Council. I have learned so much and appreciate our very dedicated town staff in making Council priorities happen. During my time on Council I have strived to make decisions that are in the community's best interest.

I am proud of my record of accomplishments during my five terms. As I reflect on the past 18 years, the accomplishments that I am most proud of include: adopting the Steep Slope Ordinance; securing the needed 3 votes for the Town to purchase the Appalachian Theatre preserving this historic downtown landmark; protecting our neighborhoods to keep them desirable places to live; making Boone more walkable and bikeable through sidewalk, bike lane and greenway expansion including the greenway connector behind the high school; making skateboards and other human powered transportation allowed uses; initiating the fare free bus system for all community members; seeing the water intake project to completion to meet the future water needs of Boone; supporting community sustainability initiatives to address climate change; preserving green space and natural areas including Town Parks; adopting the urban forest plan to insure we maintain an adequate tree canopy, advocating for our local businesses, and cultivating more collaborative relations with ASU, Watauga County and other local governments.

I wish the new council success as they continue the work to preserve and enhance the quality of life so unique to Boone. Like many communities, Boone is growing, increasing by over 6000 residents since I was first elected. The challenges are great as the new Council balances responsible development while protecting our

community character, neighborhoods and natural resources amid the realities of climate change.

This is not goodbye, as I will remain active in our community, and I am not closing the door to future opportunities to serve our great community, the community I have grown to love.

PRESENTATION OF RESOLUTION OF APPRECIATION - M. ASHCRAFT

Mr. Ashcraft echoed Ms. Mason's remarks about staff, and added that they were what made Council's work possible. Mr. Ashcraft hoped that members would listen to each other with respect, speak with restraint and remember that their first duty was to the citizens of Boone. He also thanked his family for their support and tolerance during his time on Council.

ANNOUNCEMENT OF BOARD VACANCIES

Mayor Brantz announced the following board vacancies:

BOARD OF ADJUSTMENT

Two alternate positions

COMMUNITY APPEARANCE COMMISSION

Four positions

CULTURAL RESOURCES ADVISORY BOARD

Four positions

DOWNTOWN BOONE DEVELOPMENT ASSOCIATION

One Board appointed position, One Council appointed position

HISTORIC PRESERVATION COMMISSION

Two positions

OUTSIDE AGENCY FUNDING REVIEW COMMITTEE

One position

PLANNING COMMISSION

One position

SUSTAINABILITY COMMITTEE

Two positions

WATER ADVISORY COMMITTEE

Two positions

CONSIDERATION OF APPROVAL OF RESOLUTION OF APPRECIATION - L. MASON

Upon a motion by Mayor Pro-Tem Clawson, seconded by Ms. Ulmer, Council voted to approve the Resolution of Appreciation for Lynne Mason.

VOTE:	Aye:	All
	Nay:	None

SERVICE APPRECIATION RESOLUTION

WHEREAS, Lynne Mason has served this community well in numerous capacities during her time as Council Member; and,

WHEREAS, this time of service has been marked by exemplary dedication to the best interest of the community as she has worked constantly for the betterment of its economic, cultural, and aesthetic development; and,

WHEREAS, the Town has benefitted greatly because of her particular interest and work in the areas of the Downtown Boone Development Authority, Transportation Committee, and Tourism Development Authority and,

WHEREAS, through the performance of her duties and responsibilities as a member of the Town Council, she has made excellent and constructive contributions to municipal government in our Town; and,

WHEREAS, she has earned the admiration and high regard of those with whom she has come into contact and the affection of her fellow public servants, who are proud to call her a friend; and,

NOW, THEREFORE, BE IT RESOLVED that the Town Council for the Town of Boone does hereby express our sincere appreciation and thanks, as well as that of our citizens to Lynne Mason for her distinguished service to the community.

BE IT FURTHER RESOLVED that a copy of this resolution shall be given to Lynne Mason with sincere best wishes for continued success and many happy years ahead.

Adopted by unanimous vote of the Town Council on the 17th day of December, 2019.

Mayor Rennie Brantz

Town Clerk

CONSIDERATION OF APPROVAL OF RESOLUTION OF APPRECIATION - M. ASHCRAFT

Upon a motion by Mayor Pro-Tem Clawson, seconded by Ms. Ulmer, Council voted to approve the Resolution of Appreciation for Marshall Ashcraft.

VOTE: Aye: All
 Nay: None

SERVICE APPRECIATION RESOLUTION

WHEREAS, Marshall Ashcraft has served this community well in numerous capacities during his time as Council Member; and,

WHEREAS, this time of service has been marked by exemplary dedication to the best interest of the community as he has worked constantly for the betterment of its economic, cultural, and aesthetic development; and,

WHEREAS, the Town has benefitted greatly because of his particular interest and work in the area of the Sustainability Committee; and,

WHEREAS, through the performance of his duties and responsibilities as a member of the Town Council, he has made excellent and constructive contributions to municipal government in our Town; and,

WHEREAS, he has earned the admiration and high regard of those with whom he has come into contact and the affection of his fellow public servants, who are proud to call him a friend; and,

NOW, THEREFORE, BE IT RESOLVED that the Town Council for the Town of Boone does hereby express our sincere appreciation and thanks, as well as that of our citizens to Marshall Ashcraft for his distinguished service to the community.

BE IT FURTHER RESOLVED that a copy of this resolution shall be given to Marshall Ashcraft with sincere best wishes for continued success and many happy years ahead.

Adopted by unanimous vote of the Town Council on the 17th day of December, 2019.

Mayor Rennie Brantz

Town Clerk

TENTATIVE AGENDA ADOPTION

Upon a motion by Mr. Furgieue, seconded by Mayor Pro-Tem Clawson, Council voted to approve the agenda.

VOTE: Aye: All
 Nay: None

PUBLIC COMMENT

No one was signed up to speak during public comment.

APPROVAL OF ITEMS ON CONSENT AGENDA

Upon a motion by Ms. Ulmer, seconded by Mayor Pro-Tem Clawson, Council voted to approve the following items on the Consent Agenda:

1. Annual Meeting Notice
2. St. Patrick's Day Parade Ordinance
3. 2020 Rail Jam License Agreement

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PUBLIC NOTICE

The public will take notice that the Boone Town Council holds its regularly scheduled meetings at 6:00 p.m. at the Council Chambers, 1500 Blowing Rock Road, Boone, NC, on the following dates:

THIRD THURSDAY and the IMMEDIATELY PRECEDING TUESDAY OF EACH CALENDAR MONTH

The Town Clerk shall provide notice each month of the deadline for submission of items requested to be placed on the agenda. Such notice shall be posted on the Town's website and on the Town's principal bulletin board at least seven (7) calendar days in advance of the deadline. No agenda item will be added for action after this time, unless approved by a unanimous vote of the Boone Town Council membership present.

Agendas are posted on the Town Hall bulletin board. Agendas and accompanying materials are also published to www.boonenc.igmp2.com as soon as prepared.

NOTE: Special meetings are called as necessary and are posted and delivered to local news media forty-eight (48) hours in advance.

Adopted: December 17, 2019

Amended: 3/88, 3/90, 12/91, 9/98, 11/03, 12/09, 6/10, 3/14, 2/15, 12/15, 12/17, 4/18

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AN ORDINANCE DECLARING A ROAD CLOSURE FOR A HOLIDAY CELEBRATION

WHEREAS, The Boone Town Council acknowledges a long tradition of providing holiday parades for its citizens which are open to everyone and is provided as a benefit to the community; and

WHEREAS, the Boone Town Council acknowledges that its citizens realize a financial benefit from holding annual events; and

WHEREAS, the Boone Town Council wishes to ensure the health and safety of all participants and spectators; and

WHEREAS, the Boone Town Council acknowledges that the annual St. Patrick's Day parade requires approximately thirty (30) minutes to install signage, and traffic control, and also requires approximately thirty (30) minutes for removing signs, traffic control, and litter;

NOW THEREFORE BE IT ORDAINED by the Town of Boone pursuant to the authority granted by G.S. 20-169 that they do hereby declare a temporary road closure for a St. Patrick's Day parade during the day(s) and times set forth below on the following described portion of a State Highway System route:

Date(s): Saturday, March 14, 2020

Times: 2:00 p.m. – 4:00 p.m.

Route Description: King Street (U.S. Route 421) between Hardin Street
and Poplar Grove Connector, and SR 1102
(Water St. / North Water St.)

This ordinance to become effective when signs are erected giving notice of the limits and times of the parade, and implementation of adequate traffic control to guide through vehicles around the parade route.

Adopted this _____ day of _____, 2020

Attest:

The Honorable Rennie Brantz, Mayor

Nicole Harmon, Town Clerk

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STATE OF NORTH CAROLINA

LICENSE

COUNTY OF WATAUGA

THIS LICENSE is granted this ~~18th~~ _____ day of ~~January~~ ~~December~~ ~~September~~, 201~~9~~~~8~~~~7~~, by the Town of Boone, a North Carolina Municipal Corporation (hereinafter referred to as "Town" or "Licensor") and We Can So You Can, Inc., a North Carolina non-profit corporation (hereinafter referred to as "Licensee"), collectively referred to as the "parties." ~~The Southern Appalachian Historical Association ("SAHA"), a North Carolina nonprofit corporation, also signs this license to acknowledge its approval of Licensee's use of areas as to which SAHA has rights pursuant to its license with the Town dated December 15, 2016.~~ The term "Licensee" shall include, but is not limited to, Licensee's officers, agents, employees, participants, patrons, invitees and contractors. The term "person" as used herein includes any natural person or entity.

1. **Express Limitations:** This license is not intended to restrict in any way Licensor's use of the premises, nor to restrict Licensor's access to any part of the premises as it sees fit, including, but not limited to inspection to determine compliance by Licensee with the limitations and requirements of this License; maintenance, repair, alterations to the premises; safety inspections of any and all improvements as Licensor may deem necessary; and use of the premises as it sees fit.
2. **License Area:** As detailed on Attachment "A," and shown on Attachment "B" attached hereto and incorporated by reference herein, Licensee shall be entitled to the use of the described portions of "Daniel Boone Park," that certain piece, parcel or lot of land situated, lying and being in Boone Township, Watauga County, North Carolina, and the described improvements thereto, hereinafter collectively referred to as "the License area," during the times described and for the purposes provided herein.
3. **Term:** This License authorizes the described uses by Licensee during the times specified in Attachment "A". Additional dates for preparation or clean up may authorized by written approval of the Town Manager or his or her designee. As used in this agreement, "written approval" includes approval communicated via email.
4. **Scope of License:**
 - A. The license area may be used by Licensee for the primary purposes of: hosting the 2020 ~~187 Haunted Horn: "Curse of the Wendigo"~~ Daniel Boone Rail Jam.
 - B. This license includes and authorizes other and secondary activities conducted in association with the allowed uses as well as the use of such other and secondary facilities which are integral and necessary to support the authorized uses, so long as they are integral to the approved uses or constitute only an incidental and insubstantial part of the total activity; they are commonly associated with the use; and they are confined to the License areas and terms of use authorized in Attachment "A". Associated support activities shall include use of the parking lot in appropriate locations during appropriate times and use of restrooms on the property, as further described in Attachment "A".
 - C. Any specific uses beyond the primary ones listed are permitted only with the advance written approval of the Town Manager.
 - D. When not in use by Licensee during the term and at the conclusion of each authorized period permitted by this license, Licensee shall properly:
 - i. Clean and make safe all structures to which it is entitled to only non-exclusive use;
 - ii. Clean, secure and make safe all structures to which it is entitled to exclusive use; and
 - iii. Remove any portable structures, or, if they do not interfere with potential use by other licensees, secure and make them safe.

- iv. For purposes of this section, the term “make safe” shall include remediation of hazards which do not involve alterations of facilities or repair work which requires a permit or an expert to perform; and removal of litter, debris, scrap materials, junk, trash, and other items which could cause injury to a person, promote rodent infestation, or the like.
 - v. For purposes of this section, “clean” shall mean restoring all interior and exterior surfaces and floors of structures and facilities to a condition of cleanliness and sanitation which will allow a subsequent or intermittent licensee to utilize the structure and facilities with no more than a minimal amount of cleaning.
- E. Licensee shall not use or knowingly permit any part of the license area to be used for any purpose which violates any law, and Licensee shall familiarize itself and comply with all Town ordinances, including the Town’s “Noise Control” ordinance, and the North Carolina State Building Code.
- F. Licensee acknowledges that Licensor may authorize other licensees to use portions of the license area in ways which do not unduly interfere with Licensee’s licensed use and that Licensor shall be the sole arbiter of what constitutes undue interference. Licensor itself may also use, as it deems appropriate, any portion of the License area.
- G. During an emergency, as determined by Licensor, Licensor may utilize the License area to its full extent even if it substantially interferes with this License.
- H. Licensee will take no action(s) which are in any way inconsistent with Licensor’s ownership interest in the property.
- I. Licensee will take no action(s) which is not in accordance with the procedures mandated by its duly adopted by-laws.
- 5. **Rules for Operation:** In addition to any rules adopted by Licensor for the use of the License area, which rules shall be effective when adopted even if they are adopted during the term of this license, Licensee shall have the right to promulgate such rules and regulations as it may deem appropriate for the behavior of its employees, participants, patrons and invitees during its authorized use of the License area so long as they are not inconsistent with any rules promulgated by Licensor and are otherwise consistent with this License. Licensee shall provide Licensor with a copy of its rules and regulations, if any, sufficiently prior to their effective date to be kept on file with the signed copy of this license agreement.
- 6. **Licensing Fee; Consideration to Licensor; Disclosure Obligations:** In consideration of Licensor granting this license, Licensee agrees that (i) the Town will be granted all rights and privileges as a main sponsor of the event being hosted; and (ii) Licensee shall pay to Town eight percent (8%) of its gross ticket sales, to be paid within 10 business days of termination of the activities authorized by this License. Within the same time frame, Licensee also will provide to Licensor’s Cultural Resources Director such financial information as is reasonably necessary to explain and document gross ticket sales as well as its net income for the event, including gross revenues, the nature and amount of expenses, and its overhead charges. Licensee further understands and acknowledges its obligations under N.C.G.S. § 55A-16-24.
- 7. **Utilities:** Licensee shall be responsible for paying directly or reimbursing Licensor or SAHA, as applicable, all utility costs incurred in connection with its use of the license area. If more than one licensee is authorized to use all or a portion of the license area concurrently, Licensor may apportion these costs in an equitable way in proportion to the relative use of the license area by different licensees, and Licensee shall promptly reimburse Licensor for its share of these costs. Should Licensee fail to pay its share of utility costs within the time set by Licensor, this License shall terminate. To the extent Licensee’s use of the Licensed area is exclusive and the utilities used relative to that exclusive use can be placed in an account in Licensee’s name by the relevant utility

company, Licensor may require that Licensee obtain such utility service in its own name. If Licensee obtains utility service in its name, it must keep its account in good standing and notify Licensor immediately if it receives any notice of the possible disconnection of service or if service is actually disconnected.

8. **Maintenance:** During and after its use of the License area, Licensee shall provide all maintenance necessary to keep and restore the license area to a good and sanitary condition as the result of its use. Such maintenance shall be performed as often as necessary to insure that any other licensee authorized to use the license area will find the license area in a sanitary and orderly state. For purposes of this section, "maintenance" shall include collection and removal of trash, garbage, and litter, regular cleaning of facilities and structures, which should be cleaned after every event, and other activities required to conserve the condition of the property while minimizing wear and tear. Should Licensee fail to properly maintain the License area, Licensor may terminate the License or itself provide maintenance, but if Licensor provides such maintenance, it will be at the expense of Licensee, which shall promptly reimburse Licensor for its expenses in doing so.
9. **Repairs:** Licensee must notify Licensor, in writing, of any and all conditions in need of correction or repair which it discovers, whatever the origin of the conditions (caused by Licensee, its employees, contractors, invitees, or others). Licensee shall make no repairs, and no person will be hired to evaluate, assess or undertake any repairs without first notifying Licensor in writing, at least ten days in advance, of Licensee's intention to evaluate, assess, undertake or make such repairs, or in the event of an emergency, without first notifying Licensor by telephone at (828) 268-6200 of the condition and repairs contemplated. Repairs may only be performed by Licensee with express authorization of the Boone Town Manager. Any repairs made to the license area shall be done in a workmanlike manner and shall become the property of Licensor. In making any authorized repairs, Licensee shall comply with the North Carolina State Building Code, as applicable, all ordinances of the Town of Boone and Watauga County, as pertinent, and all relevant federal and state laws relating to its operation of a facility and enterprise open to the public, and to its use of paid employees therein. Should Licensee be given permission to make repairs to the License area, for repairs requiring skilled workers, such as electrical repairs, plumbing repairs, structural repairs, and the like, Licensee shall only employ appropriately licensed workers to make the repairs. If Licensor itself undertakes needed repairs of conditions which are the result of Licensee's failure to discharge its maintenance responsibility; Licensee's negligence; an intentional act of destruction by Licensee's participants, employees, patrons, invitees, agents or contractors; or other breach of its responsibilities under this License; Licensee shall be responsible for reimbursing Licensor the cost of such repairs, and its failure to promptly reimburse Licensor shall constitute a basis for the termination of this License. For purposes of this section, "repairs" shall refer to fixing something which has been damaged, broken, or is not working correctly, so that it is in good condition and working properly.
10. **Alterations:** Licensee agrees to neither make nor arrange for any alterations to the license area without the advance written approval of Licensor. Should any alterations be approved by Licensor, they shall be done in a workmanlike manner, and they shall become the property of Licensor. Should Licensee be given permission to make alterations to the License area, for alterations requiring skilled workers, such as electrical installations, plumbing installations, construction activities, and the like, Licensee shall only employ appropriately licensed workers to make the alterations. In making any alterations, Licensee shall comply with the North Carolina State Building Code, as applicable, all ordinances of the Town of Boone and Watauga County, as pertinent, and all other relevant Federal and State laws. For purposes of this section, "alterations" includes, but is not limited to: removal of vegetation, other than weeds removed as part of normal maintenance, permanent modification of any existing structures, and construction of new structures.
11. **Compliance with Laws:** In particular, and not by way of exclusion, in any and all its actions and activities, Licensee will comply and hereby certifies its compliance with the Americans with Disabilities Act, as amended, Title VII of the Civil Rights Act of 1964, as amended, the Fair Labor Standards Act, as amended, the Occupational and Health Safety Act, as amended, the North Carolina Employment Security Act, as amended, and the North Carolina Worker's Compensation Act, as amended, to the extent each such law applies to Licensee or any of its activities. Should Licensee's corporate status be revoked by the North Carolina Secretary of State, this license shall immediately

terminate. Licensee commits that it will act in accordance with all laws related to its status as a North Carolina Corporation.

- ~~12. **Keys and Locks:** Licensee must provide duplicate keys to all structures in the License area to Licensors at the inception of this License. Should Licensee change any of the locks or add any locks to any of the doors, windows or other locked feature of the License area, Licensee shall, at its own expense, immediately provide duplicate keys to all such locks to Licensors. At the end of the License, Licensee shall return or turn over all keys which relate to the License area to Licensors. Not applicable.~~
- ~~13.~~ **12. Information Required to be Furnished:** Licensee shall provide Licensors with its current by-laws at any time requested. Within ten days of any change, Licensee shall provide to Licensors any change to its by-laws, shall notify Licensors of any change to its management staff, and at the execution of this license and any time such composition changes, upon request shall advise Licensors of the names and addresses of each member of its board of directors.
- ~~14.~~ **13. Termination or Expiration:** This license is terminable at will by either party. Upon termination or expiration of this license, Licensee shall remove its personal property from the license area and shall surrender the license area to Licensors in good order and repair, reasonable wear and tear excepted.
- ~~15.~~ **14. Abandoned Property:** Following the termination or expiration of this license, any property left by Licensee on the license area shall be considered abandoned and may be retained by or disposed of by Licensors as it sees fit. However, Licensee shall have a ten day period following the termination of this lease to remove any building(s) which it owns. Thereafter, such building(s) will be deemed donated to Licensors. Licensee shall not leave, place, or store any personal property unrelated to the scope of the License in the License area, and any such property shall be considered abandoned and may be disposed of by Licensors.
- ~~16.~~ **15. Waiver and Exculpation, Indemnification:** Licensors shall not be liable for, and Licensee hereby waives all claims against Licensors for damage to its property, or for injury, illness or death of any person in, upon or about the License area arising from any act or neglect of Licensee or caused to or suffered by any person using the license area pursuant to Licensee's authority.
- In addition, Licensee shall indemnify, defend, protect and hold harmless Licensors from and against any and all claims, actions, loss, cost, damage, expense, and liability associated with personal injury, damage to property, or any other matter arising out of any occurrence in, upon, or at the License area, or associated with any act or omission of the Licensee, or associated with Licensee's use, occupancy or activities in the license area or access thereto by Licensee; provided, however, that the foregoing indemnity shall not be applicable to claims arising by reason of the gross neglect or willful misconduct of the Licensors. In the event that the Licensors is made a party to any litigation brought against the Licensee or by reason of or related to the Licensee's use or occupancy of the License area, the Licensee shall defend, protect and hold harmless the Licensors from any and all liability that may result therefrom, including Licensors's costs in defending itself against any claim, action, litigation or other assertion of liability.
- ~~17.~~ **Insurance:** Licensee shall provide and maintain event insurance coverage, including general liability and host liquor liability insurance, in an amount of no less than one-million dollars (\$1,000,000.00), against all risks for which Licensee is required to indemnify and hold Licensors harmless, including but not limited to personal injury, bodily harm, or death of third parties and damage to the property of third parties as more fully set out in ~~paragraph 16~~ the prior paragraph, as well as damage which Licensee, its participants, employees, patrons, invitees, agents, or contractors may cause to the real or personal property of Licensors. Licensors shall be named as an additional insured on every liability insurance policy of Licensee relating to the license area. Certificates of insurance for each policy required to be obtained by Licensee in compliance with this paragraph shall be filed and maintained with Licensors. Licensee shall provide the aforesaid insurance policies to Licensors for its review at least 10 calendar days prior to the initiation of any activity on the licensed premises authorized by this License. Licensee shall immediately advise Licensors of any injury, damage, or assertion of claim or litigation that arises from the event, regardless of whether it may result in a claim of liability against Licensors.

Licensor.

~~18.~~**16. Modification of License:** There shall be no modification of this License by Licensee unless the modification is in writing and signed by both parties; provided, however, that Licensor retains has the right to modify the License unilaterally as it may determine necessary with notice and cause. in its sole discretion, such modification to take effect 30 days following written notice to Licensee unless Licensor, in its discretion, determines that the modification must go into effect immediately upon or at some earlier time following notice of the same to Licensee.

~~19.~~**17. Assignments:** This license may not be assigned.

~~20.~~**18. Not a Lease or Estate:** The parties agree and acknowledge that in no event shall this License constitute a lease or grant or create any leasehold estate or other estate in the License area. This license is intended and shall be construed as granting a License or right of use in the License area, and Licensee's use and occupancy of the license area shall not be deemed to be a tenancy under the laws of North Carolina, and Licensee shall not enjoy, and hereby waives, any protections afforded tenants under federal, state, or local laws or regulations. Furthermore, the parties expressly disavow that this instrument creates any contractual responsibilities on the part of the Licensor.

~~21.~~**19. Governing Law:** This license shall be governed by and construed in accordance with the laws of the State of North Carolina. Venue concerning any dispute regarding this license shall be in Watauga County, North Carolina.

~~22.~~**20. Severability:** If any provision of this license or the application thereof to any person or circumstance shall, for any reason and to any extent, be held invalid or unenforceable, that provision shall be severed, and the remainder of this license and the application of that provision to other persons or circumstances shall not be affected, but rather shall be enforced to the extent permitted by law.

~~23.~~**21. Parties' Relationship:** Nothing contained in this License shall be deemed or construed by the parties or by any third party to create the relationship of principal and agent, employer and employee, or of partnership or joint venture or of any association whatsoever between Licensor and Licensee other than as is contained herein, it being expressly understood and agreed that none of the provisions contained in this license nor any act or acts of the parties hereto shall be deemed to create any relationship between Licensor and Licensee other than the relationship of a Licensor and Licensee.

~~24.~~**22. Waiver:** Licensor's failure to strictly enforce its rights under this license shall not constitute a waiver of such rights.

~~25.~~**23. Entire Agreement:** This License contains all of the terms and conditions concerning the licensing and use of the License area by Licensee. There are no oral terms or conditions agreed to by the parties which are not contained in this License. Licensor has not made and is not making, and Licensee, in executing and delivering this License, is not relying upon any warranties, representations, promises or statements, except those that are expressly set forth in this License. All prior verbal agreements previously made by and/or between the parties, if not contained herein, are hereby expressly null and void, and insofar as such prior agreements and understandings between the parties are included herein, the same have merged into this License, which alone fully and completely expresses the current terms of this License.

24. Execution: Licensee represents and warrants that all necessary authorizations and approvals required for execution and performance of this License have been given and that the undersigned individual is duly authorized to execute this License and bind the Licensee to the conditions set forth.

~~26.~~

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~~27.25.~~ **Notices:** All notices, requests, demands, and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, to the following addresses:

If to **Licensor**, to: John Ward
Town Manager
Town of Boone
P.O. Drawer 192
Boone, NC 28607

If to **Licensee**, to: ~~Sean Spiegelman, Registered Agent~~ Danny Wilcox
~~281 Coffey Knob~~ 182 Kalmia Lane
Boone, NC 28607

Copy to: ~~Danny Wilcox~~, _____

~~28-26.~~ **Execution in counterparts:** This license agreement may be executed in separate counterparts, all of which together shall constitute and be effective as an original.

IN WITNESS WHEREOF, the **Licensor** and **Licensee** have executed this Lease Agreement in duplicate originals, and agree to all of the terms and conditions set forth above, the day and year first above written.

Town of Boone, Licensor

Rennie Brantz, Mayor

Attest: _____ (Seal)
Town Clerk, Town of Boone

We Can So You Can, Inc., Licensee, by

~~Sean Spiegelman~~ Danny Wilcox, President Director of Operations

Attest: _____ (Seal)
Secretary

[Print name: _____]

~~ACKNOWLEDGED AND CONSENTED TO:~~

~~Southern Appalachian Historical Association, Inc.~~

~~BY: _____~~
~~Clyde Burlinson, Chair, Board of Directors~~

Attest: _____ (Seal)
~~Secretary~~

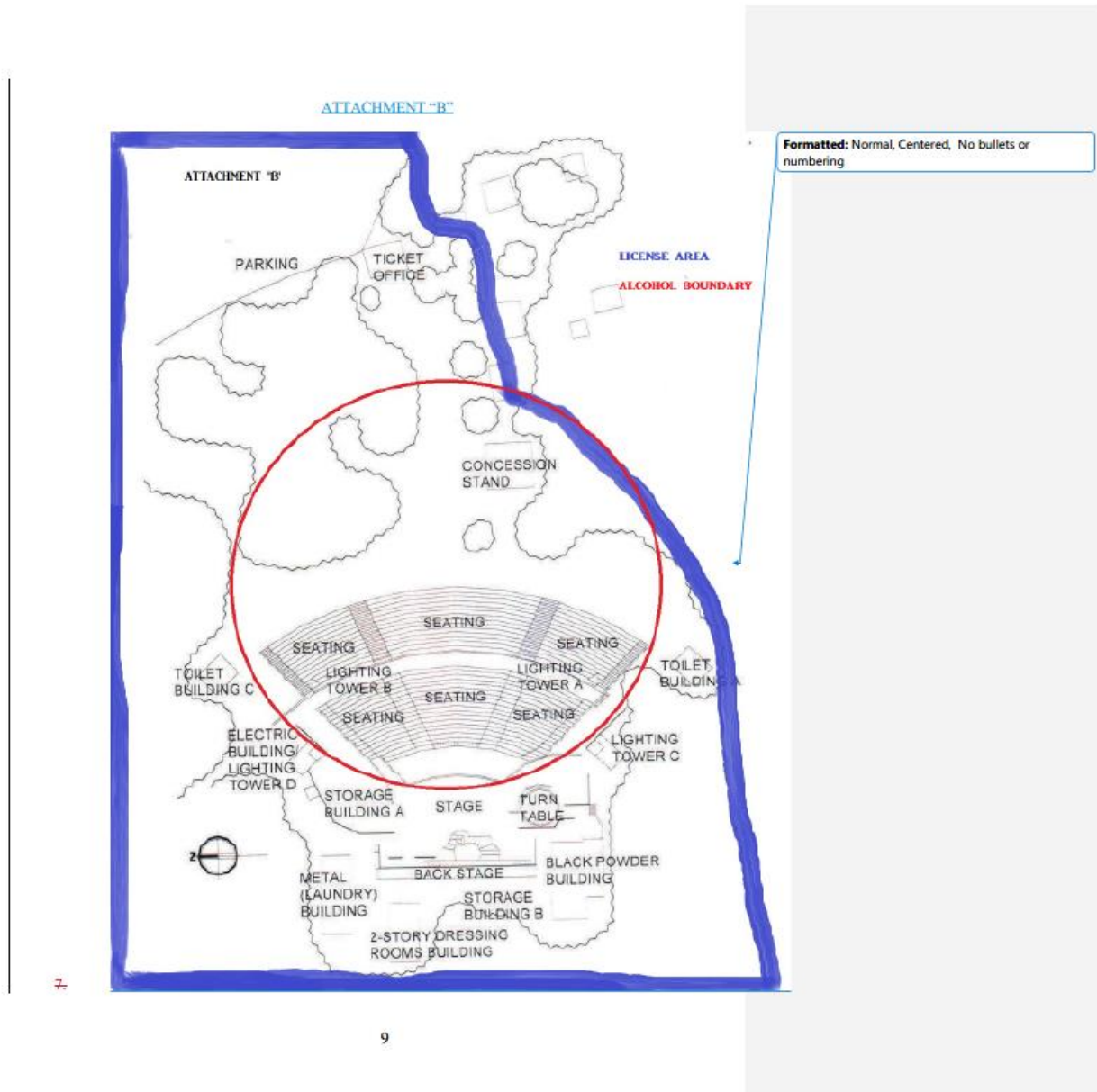
ATTACHMENT "A"

1. The License area shall consist of the outdoor Structures, Grounds, and Parking Lots at Daniel Boone Park as shown in "Attachment B", on Saturday, March 14th, 2020 ~~on each Friday and Saturday in the month of October, 2017~~ beginning at 4:00 p.m., and extending through 10:00 p.m., excluding six parking spaces in the upper parking lot reserved for the Southern Appalachian Historical Association, Inc., and four spaces in the lower parking lot reserved for the Daniel Boone Native Gardens. Additional dates for preparation or clean up may authorized by written approval of the Town Manager or his or her designee.

Licensee agrees that it will prevent participants and patrons from parking in such a manner as to interfere with access to the recycling facilities or emergency access to the License area or other areas accessed through the License area. Licensee will ensure that its participants and patrons promptly honor any request by any law enforcement officer, fire official, and/or any representative of Licensor that vehicles be moved.
2. Licensee is responsible for the cleaning the walkways, paths, restrooms and stage areas before, during, and after ~~each~~ use.
3. Licensee will provide trash containers for the event, and will provide for the removal of all trash and trash receptacles at the conclusion of the event.
4. Licensee is responsible for securing all necessary permits and scheduling all applicable inspections.
5. Food trucks may be incorporated into this event, but their location(s) must be approved by the Town of Boone Fire Marshall prior to their operation, and they must have all required permits and inspections, including but not necessarily limited to those required by the Watauga County Health Department.
6. Licensee and all its contractors, employees, agents, partners, and vendors will abide by all applicable rules, regulations and laws, including but not limited to those of the Town of Boone and the NC ABC Commission.
7. Wine, beer and/or hard cider may be sold and served, but only after Licensee has obtained all necessary licenses and permits at such location(s) as are approved in advance by the Town Manager or his or her designee.

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COUNCIL MATTERS

TOWN MANAGER UPDATE

Mr. Ward updated Council on the following topics:

1. **EV Charger Installation:** The new Level 2 charger and pedestal for Depot Street Parking has arrived.

Installation has begun and staff expects the charger to be operational by the end of this week. This charger will provide the ability to charge multiple electric vehicles in a dedicated parking space.

2. **Highway 194 Sidewalk:** Public Works has now secured an encroachment agreement from the North Carolina Department of Transportation for sidewalk installation from East King Street to Perkinsville Drive. Construction is expected to begin in the spring of 2020. Also, staff expects easement descriptions and exhibits for the Hawk Signal crossing by the end of the month.
3. **Leaf Pick-up:** The Facilities Maintenance Department has collected 125 tons of leaves from October 14th through December 13th. Collection routes were scheduled to end December 13th, but will continue this week due to bad weather last week.
4. **Christmas Tree Pickup Notice:** The Town of Boone Facilities Maintenance Division will pick up Christmas trees for Town of Boone residents beginning Thursday, January 2, 2020 through Wednesday, January 17, 2020. Trees need to be placed curbside on your regular garbage collection day and be free of decorations, wire and nails.
5. **CDBG and AIA Grants:** applications were submitted to the respective State agency boards for consideration at the end of September. Updates will be provided as more information becomes available
6. **Charles and Gladys Street Water Storage Tank Rehabilitation:** Weather permitting, project construction will begin on April 1, 2020.
7. **Permit Update:** Staff issued 422 building permits last year, 289 zoning permits for a total monetary value of \$96,378,206. This year, staff issued 666 building permits and 425 zoning permits for a total of 191,948,360 in public and private investment. Mr. Ward indicated that in addition to dealing with that kind of volume, staff was able to complete 44 Council initiated projects in addition to serving the largest amount of committees.
8. **Tree Update:** Mr. Ward indicated that Public Works staff had planted at total of 64 trees around town, and were planning for additional planting at the Bolick property and along the Greenway. According to his calculations, Mr. Ward believed that the new plantings would result in approximately 194 tons in carbon offset.
9. **Howard Street Project:** Mr. Ward announced that the Appalachian Regional Commission grant that staff had worked with the HCCOG on was recommended for a \$300,000 allocation. He added that he had just completed the paperwork this afternoon for USDA funding, and that as staff obtained details on the required financial analysis, those details would be brought back to Council. He noted that he hoped the project would be placed out to bid in the spring.

TOWN ATTORNEY UPDATE

Ms. Meade noted that she would have an update in January to include ethics matters for new Council members.

BOARD LIAISON REPORT

Mayor Pro-Tem Clawson reported that the Christmas Parade was excellent and that both Cultural Resources Director Mark Freed and Downtown Boone Development Coordinator Lane Moody did a good job. She added that she was grateful to have the opportunity to serve on Town Council for a 7th term and that she would not have ran again if she did not believe she could be of service to the Town and she looked forward to the next four years. Mayor Brantz announced that the Historic Preservation Committee was finishing up historic guidelines. Mr. Furgiuele reported that the Community Appearance Commission was still working on downtown design standards and that they were close to finishing their work and commended staff. Ms. Ulmer reported that the AppalCart board was preparing for a celebration for their 2 millionth rider this month.

ADJOURNMENT

Upon a motion by Mayor Pro-Tem Clawson, seconded by Ms. Ulmer, Council voted to adjourn the meeting at 6:37 p.m.

VOTE: Aye: All
 Nay: None

Nicole Harmon, Town Clerk

Rennie Brantz, Mayor