

Town of Mineral Springs
Town Hall
3506 S. Potter Road
Town Council
Public Hearing / Regular Meeting
February 11, 2016 ~ 7:30 PM

Minutes

The Town Council of the Town of Mineral Springs, North Carolina, met in a Public Hearing and Regular Session at the Mineral Springs Town Hall, Mineral Springs, North Carolina, at 7:30 p.m. on Thursday, February 11, 2016.

Present: Mayor Frederick Becker III, Mayor Pro Tem Peggy Neill, Councilwoman Valerie Coffey, Councilman Jerry Countryman, Councilwoman Lundeen Cureton, Councilwoman Bettylyn Krafft, Town Clerk/Zoning Administrator Vicky Brooks, Attorney Bobby Griffin and Deputy Town Clerk/Tax Collector Janet Ridings.

Absent: Councilwoman Janet Critz.

Visitors: Sharon Albright, Nikolas Amadio, Barbara Ballew, Miranda Kaplan, Tim McCulla and Cindy Starkey.

With a quorum present Mayor Frederick Becker called the Regular Town Council Meeting of February 11, 2016 to order at 7:33 p.m.

1. **Opening**

- Councilwoman Cureton delivered the invocation.
- Nikolas Amadio from Boy Scout Troop 46 led the Pledge of Allegiance.

2. **Public Hearing – CUP15-02 – Albright**

- Mayor Becker opened the Public Hearing on CUP15-02 at 7:34 p.m.
- Ms. Vicky Brooks explained that this was a Public Hearing on a Conditional Use Permit. Ms. Albright applied for the use of a Bed and Breakfast at her home at 2709 Valley Farm Road. This process is a quasi-judicial proceeding, which means that anyone who speaks must be sworn in. The council will have to listen to testimony and factual evidence presented by the applicant, by the town staff and by any individual who wishes to get up. A Bed and Breakfast is defined as a use that (I) takes place within a building that prior to such establishment was designed and used as a single family establishment, (II) it consists of renting one or more dwelling rooms on a daily basis to tourists, vacationers or similar transients, (III) where the provision of meals, if provision of meals is made, is limited to the breakfast meal only to guests and (IV) where the Bed and Breakfast operation is conducted primarily by persons who reside in the dwelling unit with the assistance of not more than one equivalent full-time person. Ms. Brooks clarified on number three where it said they could only provide one meal (being the breakfast meal), the North Carolina General Assembly changed that so if you have a Bed and Breakfast you can provide any and all meals to the guests that are staying the Bed

and Breakfast. Mayor Becker asked if that meant we would be following that statute change. Ms. Brooks responded that would definitely be in place of what we have and we will in the future be looking to do that text amendment to make our ordinance consistent with the general statute. Ms. Brooks submitted Ms. Albright's application and her staff report as evidence. Ms. Brooks explained that notification of this Public Hearing was provided as required by general statute; the legal ad was in the paper on January 31st and February 7th; a notice was placed on the bulletin board; the property received a zoning sign; notices were mailed to everyone within 200 feet of the property; and certification of the mailed notice was included in the council's agenda packet. The planning board reviewed the application both on December 28th and on January 25th. The reason they delayed decision was because they wanted more research on Bed and Breakfast; therefore, Ms. Brooks took the time to contact the planner in Matthews, because she knew that they had Bed and Breakfasts; actually they have three different Bed and Breakfasts located in the Town of Matthews. Their language has more levels of intensity of a Bed and Breakfast. Ms. Brooks pointed out that the letter in Ms. Albright's application noted that she wanted to do weddings at this facility. Where Matthews [ordinance] has different levels that would allow for weddings, ours does not. Ms. Brooks reminded the council of the Bed and Breakfast definition and explained that the planning board thought that weddings were not a use that she could have on the property (as a Bed and Breakfast) as defined in our ordinance as it is right now. At some point in time we may be looking at possibly a text amendment to add different levels, but at this time, the planning board recommended unanimously that the town council approve this application allowing Ms. Albright to have the Bed and Breakfast and limiting it to the Bed and Breakfast where she could have social gatherings for crafts, for women/men doing yoga, small scale things like that, but not the weddings.

- Ms. Brooks announced that there were two people signed up to speak at the Public Hearing – Cindy Starkey and Miranda Kaplan.
- Mayor Becker swore in Ms. Sharon Albright, Ms. Cindy Starkey, Ms. Miranda Kaplan and Planning Director Vicky Brooks.
- Ms. Brooks stated that now that she has been sworn in she would like to submit the application and the staff report as evidence in this hearing. Mayor Becker responded that they had been accepted; those are testamentary evidence.
- Ms. Albright's testimony is as follows: *"First of all I would like to thank all the members of the town council and Vicky Brooks for allowing me to come here to present my application for a Conditional Use Permit. I came up with the idea sometime last year. I live on the property, just me. It's a large property; it's beautiful, decided kind of felt a calling. Wouldn't it be great to open this up for occasional weekend retreats. Mainly targeting small groups of women for quiet pursuits, quiet activities, the spiritual nature, maybe small women's church groups, yoga groups, I happen to be a crafter myself, an artistic person, so I was thinking about quilters, scrap bookers, and I started throwing the idea around to family and friends and local community members and really got a lot of positive feedback and I thought of, this definitely could be something that I do. Given the nature of the property, it's very private, it's very secluded, there are 11 acres with a beautiful pond in the back so I just decided to go for it. There are several components in my application, the main one being groups of women that want to*

come and have, you know, quiet time on the weekends. Communing with one another, enjoying the nature, enjoying the beauty. The second component was a typical traditional Bed and Breakfast so that those women could then spend the night. I also thought it would be very great because the Waxhaw area and the Mineral Springs area really has no, there are no hotels, there's no place nearby. So for, you know, local people who have friends and relatives, you know, people that need to come, they are here to visit relatives, they need to stay for a couple of nights, you know, I would extend that as well but the main category of course is the groups of women and then the weddings, that would be nice but I am definitely negotiable on that. Obviously there are issues with the, you know needing a text amendment and what have you. I am trying to think what else. I have had a wedding there. If I have weddings, the concept would be no more than 50 guests because the topography of the property in the back really does not allow for many more than 50 and I personally, I live there, so I am not looking to have big weddings. I am not looking to have 200 people and a tent and a band and all of that. So any weddings that, you know, would occur on the property would be mainly 50 guests targeted towards mature individuals, take place mainly in the house, utilizing the porches in the back, the gardens and the pond. There would be nothing in the front what so ever. All parking is contained on my property. When the trees are leafed out you can't even see the house, you can't really see any of the out buildings so again it is very, very private. I'm definitely wanting to preserve the very quiet nature of the area so, I want to be a good steward and good neighbor. I think that covers it".

- Mayor Becker asked Ms. Brooks if the council had questions of Ms. Albright would this be a good time to ask or should they wait until the deliberation. Ms. Brooks responded just wait until the deliberation.
- Cindy Starkey: *"Hi, I'm Cindy Starkey. I am a local business owner, I have a business right off of Highway 75 in Union County and I know Sharon both personally and professionally. I am just basically here for moral support because I think that she has a fabulous piece of property to do a lot of neat things in the community. She, as I said, I know her both personally and professionally, everything that she does is always first class. She is one of kindest people I've ever met and she's a good neighbor and she's an asset to the community and she cares about the community. She cares about her neighbors and she cares about people and I just think that it will be great if she could pursue her dream and I think a Bed and Breakfast would be awesome. There is nowhere for anybody's family to stay. I have to tell my family when they are in town or people that come into town to go to Ballantyne; it's kind of a shame. We have such a neat town, Waxhaw and Mineral Springs, I think it would bring a lot of character in; it could be an asset to the community. That's it"*.
- Miranda Kaplan: *"Good evening. I am Miranda Kaplan. I am an adjacent neighbor of Ms. Albright's. I live at 2705 Valley Farm Road and I just wanted to express a couple of concerns I have. First off, we both have very large property. They are both 11 acres but if you looked at a zoning map, I can see her house from my bed room. I can hear everything that goes on at her house, because our houses are fairly close. We have a lot of property in front and a lot of property behind. Thank goodness your husband moved out and took the geese with him; I have to say that, I did appreciate that. Sharon is a wonderful neighbor, she is very quiet, she*

doesn't disturb me at all. My concerns as the next door neighbor, the home owner, I pay taxes, everything. My concerns are I moved to Mineral Springs from Weddington, from Matthews, from Charlotte, constantly trying to get away from having people so close, the noise, the congestion, everything. I love where I live. What I am afraid of is having to lock my doors now during the day if there is something going on next door. I am sure she will vet people and right now I am, I have to admit I am kind of glad the weddings are on the side for right now because I envision loud gatherings of drunken people stumbling up over on to my property and raping my daughters; worst case scenario. That's when I watch too much TV. On a good day, I am fine, but I do have my fears, my back of the head fears. The traffic is not bad, I know that there was a, there was something a couple of weekends ago and nobody bothered me; hardly even knew they were there. There was a wedding in September/October, didn't even know it was going on. There was a wedding a while back, I was out of town but my daughter was home and she said you could clearly hear the noise at my house so my concerns are how is this going to be controlled. This is a neighborhood; this is a very rural residential neighbor where it is quiet; how is this going to be controlled. Are the people going to be vetted to make sure we don't have pedophiles and burglars coming to these things; again I watch too much TV and I'm sorry but these are my concerns living next door. Again the Bed and Breakfast doesn't worry me; women getting together doesn't worry me. I want to be able to continue to live in my home the way I have for the last nine years where I don't have to lock my door. I can let my dog run around my property. I don't to worry about him being hit by a car. I don't have to worry about my children's safety even though they are grown at this point they still think they're kids and I will always think of them as my kids. I don't worry about myself as much because I figure I can take care of myself, but I am also 52 and they are 19 and 24. I just want y'all to make sure that there is some kind of control over what happens next door. I appreciate y'a'll scaling things back a little bit and that's about it".

- Mayor Becker noted that there was no one else signed up and asked if there was anybody else we should ask to hear from. Mayor Becker asked Ms. Barbara Ballew if she wanted to be sworn in to speak. Ms. Ballew responded yes, because she was not sure of something.
- Mayor Becker swore in Barbara Ballew.
- Barbara Ballew: "Hi, I am Barbara Ballew; I live at 3011 Potter Road South. I just need, my question is. I thought that there were no businesses allowed, business allowed to be done out of the home. So that is one thing I am not sure if it is or isn't. So that's my question". Councilman Countryman responded that there have always been businesses allowed out of the home. Mayor Becker commented that they could address Ms. Ballew's question during the deliberations of what type of businesses the town allows and how this may or may not fit in. Mayor Becker thanked Ms. Ballew for bringing that question up.

3. **Consideration of CUP15-02 - Albright**

- Mayor Becker mentioned that he would keep the Public Hearing open and reminded the council that this is one where they have to "find" (in order to approve it) affirmative on these Findings of Fact. Ms. Brooks commented before they start any type of deliberation that Councilwoman Krafft is also on the planning board and

she did hear this case. Mayor Becker explained (for full disclosure) Councilwoman Krafft serves on the planning board and this being a quasi-judicial hearing since she has had an opportunity to see all information and deliberate on it already then she may have a preconceived feeling about it and therefore that would generally preclude her from participating in deliberations here. Mayor Becker asked the council if they would like to excuse Councilwoman Krafft based on her deliberation of this on the planning board.

- **Councilman Countryman** made a **motion** to recuse Councilwoman Krafft during deliberation of the Conditional Use Permit 15-02 and **Councilwoman Neill** seconded. The motion passed unanimously as follows:

Ayes: Coffey, Countryman, Cureton, Krafft and Neill

Nays: None

- Mayor Becker explained that the council will be discussing the Findings of Fact based on the testimony they have heard and the written documentation. Mayor Becker asked Ms. Brooks about the required conditions and specifications (if any) that would be considered. Ms. Brooks responded there were no additional review criteria (E) and were no deviations from the terms of our ordinance as F and G speaks to, but the council still has to address those. Mayor Becker clarified if the council made a finding on that it might be based on the fact that there are none. Ms. Brooks responded correct. Mayor Becker added that is based on Ms. Brooks testimony and she was still under oath. As for A, B, C and D, those will be primary and the council can re-question the applicant and any of the three witnesses for clarification. Looking at the limitations on use (for example) that have already been expressed, that might address some of the concerns about the intensity of the use that might go toward a positive finding if you are going to look for a positive finding on each of the Findings of Fact. Ms. Brooks noted that Ms. Albright also has the opportunity to question any of the witnesses.
- Mayor Becker opened this item to the council to see if there are any questions or if they wanted to discuss how the testimony they have heard and the questions that they have heard. The easy one might be to answer the question about home occupations. Ms. Brooks commented that home occupations are allowed throughout Mineral Springs providing you meet certain criteria, all of which are listed in our ordinance. Ms. Brooks would be happy to answer any of those questions if somebody wanted to call her. Mayor Becker commented that he thought the distinction and the reason we are here now is the person who's got his little workshop or the person who has her hair salon, some of the things that are currently being done in town as a home occupation; those are actually allowed by right as long as they meet those criteria. Mayor Becker stated that he didn't even think necessarily that they have to apply for it if there is a....."they should, right Ms. Brooks?" and they have to meet the signage requirement. Ms. Brooks responded that we would technically get a permit from anyone who is conducting a home occupation, so that we can make sure they are operating that home occupation within the boundaries of our ordinance. Mayor Becker responded therefore it then operates by right. A Bed and Breakfast (for example), Ms. Albright and her neighbor have said they have had some events before this process started, because being a home occupation, clearly Ms. Albright thought it was

okay. It's a different kind of home occupation and it may have some of the most intensive uses that could be a concern to neighbors, which is why the ordinance is set up for a Bed and Breakfast and a gathering place like this isn't just allowed by right; it must go through this complicated and a little more involved process of Findings of Fact looking at conditions and testimony from neighbors, etc.: a home occupation, of which is a special category that requires more review. Mayor Becker stated that he hoped he answered Ms. Ballew's question and also those people who may not have asked, but may have been wondering.

- Councilwoman Coffey stated that she would like to start off by making a comment in reference to Ms. Kaplan's comment, it is the council's duty to determine if Ms. Albright's application and what she is desiring to do meets the ordinance; the council would not be able to govern her and how she runs her business as long as she meets the criteria. That is all the council can do, so anything further than that would be up to law enforcement Councilwoman Coffey thought. Councilwoman Coffey referred to Ms. Albright when stating that she seemed to have a real desire to do weddings; Councilwoman Coffey stated that she had hoped that she wouldn't hear that this evening, because that means there is a divide already in Ms. Albright's mind between what she wants her business to do and what the town can allow as far as permitting. Usually once something has gone through the planning board everybody is on the same page and onboard about what will be done on a property as far as zoning is concerned and these questions would not still be here; Councilwoman Coffey is very concerned and she can't see how it didn't come up at the planning board meeting. Ms. Albright responded that it did come up in the planning board meeting and she asked Ms. Brooks if she should rewrite the application, because the weddings were at the bottom of the priority list for her and Ms. Brooks said no. Ms. Albright stated that her experience was that she could leave the application the same, let it stand and see where the chips fall, but her main mission is of a traditional Bed and Breakfast and small groups of women. Ms. Albright explained that she could sleep eight people at a time, so whether it is a Mr. and Mrs. Smith and Mr. and Mrs. Jones or Mr. and Mrs. Williams or its eight females coming, it doesn't matter really. In Ms. Albright's mind those rooms are occupied and she is not really looking at it as a 24/7; the wording of the ordinance is very different from her vision. Ms. Albright is not looking at it as a 24/7 type of business, because she does live there and she has other sources of income. Ms. Albright is looking at it as more of a weekend type thing when she has groups that want to come and that kind of thing. Ms. Albright is not looking for a high intensity like you typically see in an inner urban setting like Matthews; their Bed and Breakfast where they've got signage and all that, there isn't going to be any of that, so Ms. Albright wanted to put that to rest. Ms. Albright referred to the comment Ms. Kaplan made that there were two weddings and clarified that there was one wedding. Ms. Albright explained honestly it is a lot, so she is okay letting go of that. Councilwoman Coffey asked how Ms. Albright would exclude males, because she keeps hearing Ms. Albright say women. Mayor Becker responded that Ms. Albright said Mr. and Mrs. Smith. Ms. Albright responded that she would like to answer that, because any business person, if you are starting a business, you have a business plan, if you have a business plan; you've already illustrated what your target market is. Ms. Albright explained that she is a photographer also, so her target market is mainly women and children. For the Bed and Breakfast, her target market is more these groups of women, but that's not to say if somebody wants

their grandparents to come stay for the night or whatever... Councilwoman Coffey assured Ms. Albright that was not what the council addressed. Ms. Brooks referred to Councilwoman Coffey for added clarity and explained that the letter (where it says that she wants to do weddings) that Ms. Albright wrote was submitted to the planning board, it wasn't submitted to the council; that's just part of the application. Mayor Becker added that the planning board recommended doing without the weddings.

- Councilwoman Cureton explained that when she read that she was thrilled, because in December they have somebody coming from New York and they have to stay/live in Charlotte or Lancaster and she thought this would be good. As far as not locking your doors, you don't have to not lock your doors to be robbed, because if you were watching television, a cousin of Councilwoman Cureton's was robbed when she was out walking her dog and her husband was in the bed. So somebody robbed them, broke in and robbed them. Councilwoman Cureton stated that she locks her doors. Ms. Albright commented that she locks hers and she has two big dogs and ADT. Councilwoman Cureton commented that personally she thinks it is a good idea.
- Councilwoman Neill thanked Councilwoman Coffey for making those points and she agreed with her; the planning board unanimously approved the recommended application with the exception of the weddings. Mayor Becker commented that it has come up and there was talk of a text amendment, but he thought that was more of a staff thing. If the ordinance were amended to allow a more like a Matthews style Bed and Breakfast that allows wedding receptions and Ms. Albright wished to do that he believed (just to clarify for the board and the residents) that then would have to come back for another Conditional Use Permit and the process would have to happen again and the concerns might be a lot more of not encouraging that use. It would be considered again and it couldn't just roll into weddings if the ordinance changed. That would have to be revised, the Conditional Use Permit would have to be amended by the same very detailed process - Mayor Becker asked Ms. Brooks. Ms. Brooks responded yes. Councilman Countryman commented that there would have to be a public hearing on the text amendment to qualify. Mayor Becker responded before the text amendment even occurred, yes, and then if Ms. Albright wanted to utilize that then this would have to happen again and it might be a very different story with more neighbors, crowds, traffic, safety and the whole thing.
- Mayor Becker asked if there were any other question of Ms. Albright, the other participants or staff. There hasn't been a lot of testimony, but Mayor Becker thought that there had been enough to make the council reach some conclusion on the four Findings of Fact that must be looked at.
- The council went through the Findings of Fact as follows:
 - A. The use will not materially endanger the public health or safety if located where proposed and developed according to the submitted plan.

Mayor Becker commented that the submitted plan (meaning no weddings and no groups of more than 12) is the current Bed and Breakfast; that's what the submitted plan refers to in every one of these findings.

Councilwoman Coffey made a **motion** that it will not materially endanger the public health or safety as it is submitted and it's based on the staff report with limited small uses and **Councilwoman Cureton** seconded. The motion passed unanimously as follows:

Ayes: Coffey, Countryman, Cureton and Neill
Nays: None

➤ B. The use meets all required conditions and specifications.

Mayor Becker commented that one of the conditions is again adhering to the limitations of the current Bed and Breakfast description and small groups. Mayor Becker believed that is one of the conditions that is already built into this and it is very important considering Ms. Kaplan's and other neighbors' possible concerns.

Councilwoman Neill made a **motion** to find in the affirmative that the use as submitted meets all required conditions and specifications based on code enforcement and **Councilman Countryman** seconded. The motion passed unanimously as follows:

Ayes: Coffey, Countryman, Cureton and Neill
Nays: None

➤ C. The use will not substantially injure the value of adjoining or abutting property or the use is a public necessity.

Mayor Becker noted that the council hasn't really had an appraisal testimony from an expert witness and asked if anybody had an opinion on whether or not it would injure the value of any of the adjoining properties or that it is a public necessity. Mayor Becker stated that he thought the council could find that it's not a public necessity and asked if there was any evidence that has been presented that it would. Councilwoman Coffey responded none whatsoever. Mayor Becker questioned that there was not any evidence presented by an appraiser or anything that would injure property. Councilwoman Coffey responded no.

Councilwoman Coffey made a **motion** to find in the affirmative based on (it's not a public necessity) there is no evidence presented of detriment to adjoining properties and **Councilwoman Neill** seconded. The motion passed unanimously as follows:

Ayes: Coffey, Countryman, Cureton and Neill
Nays: None

- D. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with this Ordinance and the Town of Mineral Springs Land Development Plan.

Councilwoman Coffey made a **motion** to find in the affirmative based on our ordinance; staff report didn't reflect any contradictory information. Councilman Countryman added based on the fact that it will have to conform the way the ordinance is currently written. Councilman Countryman stated that he didn't see it as a public necessity, but he sees it as a convenience and he thought it was a real opportunity since there are no places for people to sleep in this immediate area. If you have friends, relatives or associates that are visiting and this is limited to (as he understood) to eight people. Ms. Albright responded yes. Councilman Countryman continued that he thought it really lends to the character of this community and gives this community an opportunity to develop and to extend a welcome-ness for people to come and visit; it adds value to this community. Mayor Becker asked if there was a second to Councilwoman Coffey's motion. **Councilwoman Neill** seconded the aforementioned motion by Councilwoman Coffey. The motion passed unanimously as follows:

Ayes: Coffey, Countryman, Cureton, Krafft and Neill
Nays: None

- E. Additional review criteria, as stated in the Ordinance, shall also be considered and addressed where required.

Councilman Countryman made a **motion** for "e" that additional review criteria stated in the Ordinance shall also be considered and addressed where required. There was none, "I think that we can pass this in the affirmative" and **Councilwoman Coffey** seconded. The motion passed unanimously as follows:

Ayes: Coffey, Countryman, Cureton and Neill
Nays: None

- F. Any deviation from the terms of this Ordinance will result in a project that is at least equal to or better than what would be accomplished under the strict application of this Ordinance.

Councilwoman Neill made a **motion** that there is no deviation, that does not apply therefore "I find this in the affirmative" and **Councilman Countryman** seconded. The motion passed unanimously as follows:

Ayes: Coffey, Countryman, Cureton and Neill
Nays: None

- G. Any deviation from the terms of this Ordinance will not adversely affect the right of other abutting or nearby property owners in any material manner.

Councilwoman Coffey made a **motion** that “g” does not apply at all according to our staff and therefore “I find in the affirmative” because there is no deviation and **Councilwoman Cureton** seconded. The motion passed unanimously as follows:

Ayes: Coffey, Countryman, Cureton and Neill
Nays: None

- Mayor Becker explained that the council has found in the affirmative for all of them, which means that they may approve the Conditional Use Permit. They may place some stipulations or they could reaffirm any things that were presented in the plan or they could reaffirm the limitation of as one of those conditional use conditions. Ms. Brooks responded yes. Councilwoman Coffey questioned if that had not already been stated. Mayor Becker responded that it was in the staff report and asked if we wanted it on record that it could not be used for weddings. Ms. Brooks responded that the council does not have to; they can approve it based on..... Mayor Becker stated “staff report”. Councilwoman Neill stated “as written as the staff recommendations reflect”. Mayor Becker commented that the biggest concern (the only thing that they heard) was that people were concerned to make sure that those limitations are in place, so were not any of those concerns have been addressed and since that is in the application Mayor Becker thought that would speak for itself. Councilwoman Coffey responded that she thought so.
- **Councilwoman Coffey** made a **motion** that the Conditional Use Permit be granted with the stipulations that have been made and **Councilwoman Cureton** seconded. The motion passed unanimously as follows:

Ayes: Coffey, Countryman, Cureton and Neill
Nays: None

- Mayor Becker commented that he hopes this works out very well and he hopes that the conditions are met. Mayor Becker stated that he thought they could be confident that our neighborhood will be safe and well served by this small scale operation and he is looking forward to it working out well for our community. Mayor Becker thanked everybody for their testimony and their patience and their interest in this process.
- Ms. Albright thanked the council so much and stated that she would like to say that she was so impressed with the planning committee and how professional they were and for just everything they all have done; “it was very professional and you’re service to the community is really wonderful”.
- Mayor Becker closed the Public Hearing on CUP15-02 at 8:19 p.m.
- Councilwoman Krafft returned to the council bench.

4. Public Comments

- No comments.

5. **Consent Agenda**

- Ms. Brooks explained that she had made a correction in the minutes and had placed the correct copy in front of the council; she had put “September” instead of “December” under the Consent Agenda. Mayor Becker pointed out that the new page reflects “B” and “C” being correct, so this Consent Agenda consists of the January minutes with the correction.
- **Councilman Countryman** made a **motion** to approve the consent agenda as presented containing the following:

- A. *January 14, 2016 Regular Meeting Minutes*
- B. *December 2015 Tax Collector’s Report*
- C. *December 2015 Finance Report*

and **Councilwoman Krafft** seconded. The motion passed unanimously as follows:

Ayes: *Coffey, Countryman, Cureton, Krafft and Neill*
Nays: *None*

6. **Eagle Scout Project Completion Report – Nikolas Amadio**

- Mr. Nikolas Amadio commented that he was back and the project was a success; the workload aspect of it went smoothly, but the weather did not. Everything that Mr. Amadio didn’t want to happen happened: ice; snow; sleet; rain and he had to interrupt the project every night with a tarp. Mr. Amadio stated that he thinks it looks great; everything worked out perfectly. Mr. Amadio explained that he had noticed before there was a lot of water runoff and it all built up right there, so he built the project above that, so all the water runs off the project and out into the grass out there, so it shouldn’t be any more sloppy mud. Mayor Becker commented that he didn’t know if anybody from the council has had a chance to see that project in the daylight, but it is really pretty; it’s something we’ve wanted around that flagpole. It really is great to have that done the same time the park across the lot is taking shape; we are just getting some really nice public amenities at our town hall. Councilwoman Neill commented that Mr. Amadio did a beautiful job. Mr. Amadio explained that he went under budget, so he did return \$3.80 to the town. Mayor Becker responded that he did get a refund check and he appreciated that. Mr. Amadio obviously did very good accounting and the town is very good on his budgeting; there is a report with stuff like that. Mayor Becker pointed out that there is certification from Terry D. Griffin, Building Code Enforcement Division stating that this project did not require a building permit and it has been signed off on by Union County Inspections. Mayor Becker explained that the council would need to formally accept this project and approve its completion, so that he is able to do a letter for Mr. Amadio saying that the project was completed.
- **Councilwoman Coffey** made a **motion** to accept this project and the report as final and **Councilwoman Neill** seconded. The motion passed unanimously as follows:

Ayes: *Coffey, Countryman, Cureton, Krafft and Neill*
Nays: *None*

- Mayor Becker asked if he could get the letter written tomorrow. Mr. Amadio responded absolutely. Mayor Becker asked if there was any format or if it was basically to “whom it may concern, completion has taken place according to plan and the town has approved it”. Mr. Tim McCulla responded exactly and added “to the council’s and the city’s desires”. Mr. Mc Culla pointed out that there was an approval statement in the handout that they needed signed.
- Mayor Becker thanked Mr. Amadio and stated that it had been a pleasure. Mr. Amadio responded “thank you so much”. Mr. McCulla thanked the council from the Boy Scouts of America and Troop 46; “you have done some significant superior things with us, the funding was unparalleled and we really appreciate that, so we are proud to have put together and Mr. Amadio did a heck of a job and I think we are going to leave a lasting beauty in and around the flagpole and that people will be proud of and we will also be proud of very much”.

7. Update on Greenway Violations

- Ms. Brooks referred to the first four pages of the plan (mentioning that there was a copy on the back table in case anybody wanted to look at it) and explained that was the plan that was approved by Union County for the town to correct the issues at the greenway. Ms. Brooks noted that Mayor Becker did as instructed last month to go ask Mr. Rummage if he could go out and look at the site and prepare a bid for the town to make the corrections. The total price from Mr. Rummage was \$32,358 based on the plan that was approved by the county. As Mr. Rummage was out there on the site he came up with a few suggestions that would lower the price. Mayor Becker interjected “lower in two places and increase it in one”. Ms. Brooks continued that one of the things was to reduce [the thickness of] the concrete pad for the handicapped parking spot from 6” to 4”, that is still compliant with code and it would save us \$667. The other was to relocate the picnic tables as shown on the attached plan. Currently in the approved plan the walkway goes out and there are four picnic tables, in order for that to actually happen you would have to bring in approximately 100 yards of fill dirt. What Mr. Rummage suggested was to have two picnic tables right there at the end of the trail and put the other two along the trail, which would save the town 100 yards of fill dirt. Ms. Brooks explained that last month the council discussed having granite fines out there and the council thought if concrete would cost less than the granite fines then it would be a no brainer, they would go with concrete; however, what we have found is concrete will actually cost us more, but it would be a better product to put out there after watching what is going on out here [town hall] with the granite fines, we are a little concerned and Mr. Rummage is also pretty concerned about the granite fines washing away. Ms. Brooks explained that she did a little research online and found that granite fines are not a good thing to do on an embankment such as what we are doing; the water can just wash it away. In the end the concrete will cost the town more, but it will be a better product. Mayor Becker added “and maintenance free”. Councilwoman Krafft noted that it would save long term. Ms. Brooks continued that with him [Mr. Rummage] doing the concrete and moving the picnic area it is \$29,961; the town would be required to get the building permits. Mayor Becker explained that it was in his letter what the price doesn’t include and it is written on page one of the contract (item number four – by others). Ms. Brooks

explained that the town would have to provide the signage and the onsite engineering.

- With those suggestions by Mr. Rummage, Ms. Brooks got in touch with Dan Blackman from Stewart and asked him to present this to the county to see if they would approve concrete and moving the picnic tables. They [county] will approve it, but at this phase (in the council's next document) there is an amended scope of services for Stewart. In order for Stewart to provide the county with the digital sealed plans we will have to sign a new scope of services and his fee for doing that is \$1,000 and overseeing the construction out there is \$125 an hour, not to exceed \$1,125. Ms. Brooks explained that she would be asking the council to approve that if they would like to move forward. Ms. Brooks referred to the sheet after the Stewart sheet and stated that the council would find the approval from Mr. Terry Griffin from Union County Building Inspections. Mayor Becker commented that it's a piece of good news that came in this morning. Ms. Brooks referred to the sheet with the red lines on it that shows exactly how we will change what are currently the approved plans to the lower bid price. Mayor Becker explained that for the additional fee, Mr. Blackman and Stewart will be preparing a new set of plans in multiple copies and getting those to the county. Councilwoman Coffey commented that it was imperative that we use them and she thought the fees were quite reasonable and that will be our (as a township) best assurance that things are done with clarity, with openness and that the job will be approved by the county, because they have already connected and are working together on this; they've got it and we definitely do ourselves a disservice not to sign them on.
- **Councilwoman Coffey** made a **motion** to approve Stewart's amended scope of service and approve the contract with H.C. Rummage as written and **Councilwoman Neill** seconded. The motion passed unanimously as follows:

Ayes: Coffey, Countryman, Cureton, Krafft and Neill

Nays: None

- Ms. Brooks referred the council to the last page in the section that she gave the council and explained that this new letter was addressing the bridges that are on our trail and that she has had a conversation with Mr. Mark Griffin [Union County Building Inspections]. Mr. Griffin suggests that the town hire an engineer to go out and examine these bridges; they need to be structurally compliant with the code. If we cannot get them compliant with the code, then we can remove the bridges. What the town needs to do is hire an engineer and move forward from there based on an engineer's instructions. Councilwoman Coffey and Councilman Countryman asked if we had contacted any engineers. Ms. Brooks responded "no, we have not". Mayor Becker commented that we have some recommendations from people in the business. Stewart has long ago said that their engineering department does skyscrapers and they are not really geared for doing wood constructed pedestrian bridges. There are some local engineers we could..... Councilman Countryman commented before we can select one we need to find out what they are going to charge us. Mayor Becker responded exactly and he hoped that we could bring that (or expect to) forward by next meeting if that will meet with Mr. Griffin's approval. Councilwoman Coffey asked if they [Ms. Brooks and Mayor Becker] were not looking for a motion, they were just letting the council know. Ms. Brooks

responded that she just wanted to let them know. Mayor Becker responded “unless you wanted to give us the go ahead”.

- **Councilman Countryman** made a **motion** for staff to contact several engineering companies and get prices and **Councilwoman Krafft** seconded. Mayor Becker mentioned that that could be done again under the exemption for engineering professional; we don’t necessarily get competitive bids if we can find one who is willing to do what we need. Mayor Becker explained that the motion should incorporate that search taking place under the same exemption that we use to hire engineers. *The motion passed unanimously as follows:*

Ayes: Coffey, Countryman, Cureton, Krafft and Neill

Nays: None

- Mayor Becker stated that they will have information for the council next month on that.

8. **Update on Downtown Park Playground**

- Mayor Becker explained that we had the long awaited bid for the playground and the timber border around the playground as drawn on the original Stewart plans. Mayor Becker pointed out the cover sheet, which summarized the two bids that Dan Blackman got. Mr. Blackman specified a particular playground, which is the first of the stapled together papers called “Carolina Parks and Play Bid”; the Mulberry Park Structure. Mayor Becker explained that was what was specified by [Stewart] and we had been led to believe it was a firm price of \$39,600 installed. Since this was over \$30,000 it had to go out for bids, which is a good thing, because Carolina Parks and Playgrounds came back with a somewhat modified bid from a \$39,600 “firm” bid to a final bid of \$59,379.69 with the timber border around the playground and the tax of \$4,430.13; without the timber border the price is \$54,949.56. The other playground contractor, Cunningham Recreation, is a dealer for Game Time Playground Equipment. According to Mr. Blackman, he gave them the very specific specifications (pictures show they are very similar playground structures) and the only thing he could say that was different in the Cunningham Recreation proposal is that the roof isn’t quite as “cute” as the roof on the landscape structure, but Mayor Becker didn’t think it was \$25,000 worth of cute. Otherwise, everything does meet the specifications. The good news was that if they did the timber border, the price was \$28,572.13 for the playground and installation including the mulch and everything else. If they don’t do the border, the price was \$27,390.81. Mayor Becker explained that the reason he calculated those both that way is that it has been discussed with H.C. Rummage about them installing that border, because it really should have been in the Rummage bid to begin with; it was just one of those things. For the playground vendor to do it, it is going to be very disruptive; he [Rummage] needs to finish up out there and those timbers have to go in and get backfilled. Rummage will do those timbers and Mayor Becker believed they are three deep and it’s a pretty complicated thing. Councilman Countryman asked if he [Rummage] was going to do it for \$2,600. Mayor Becker responded yes, don’t make a motion yet and pointed out the higher price total with the two vendors is \$57,000 and it was \$30,011.81 with both Cunningham Recreation and Rummage.

- **Councilman Countryman** made a **motion** to accept the lower bid of \$30,000 including the Rummage fee to install the borders. Mayor Becker explained that the motion will be split into two parts. They have the Cunningham contract without the timber border as authorized for the \$27,390.81 and then they have the change order to H.C. Rummage to install the timber border, so the motion would be to approve those two contractual matters. **Councilwoman Coffey** seconded the motion made by Councilman Countryman as amended by Mayor Becker. The motion passed unanimously as follows:

Ayes: Coffey, Countryman, Cureton, Krafft and Neill
Nays: None

9. Staff Reports

- Ms. Brooks announced that the planning board training was on Monday, February 22nd.

10. Other Business

- Councilwoman Krafft announced that she attended the training class up in Durham and she thoroughly enjoyed it. Councilwoman Krafft thanked everybody for giving her that opportunity; "it was awesome, it really was". Councilwoman Krafft explained that there is a North Carolina RX card program that they were giving out to everybody in municipalities and she did bring those back for anybody who was interested. Councilwoman Krafft has given them to two people locally that have used them and they said that they work.

11. Adjournment

- **Councilwoman Coffey** made a motion to adjourn the meeting and **Councilwoman Neill** seconded. The motion passed unanimously as follows:

Ayes: Coffey, Countryman, Cureton, Krafft and Neill
Nays: None

- The meeting was adjourned at 8:46 p.m.
- The next regular meeting will be on Thursday, March 10, 2016 at 7:30 p.m. at the Mineral Springs Town Hall.

Respectfully submitted by:

Vicky A. Brooks, CMC, NCCMC, Town Clerk

Frederick Becker III, Mayor