

MINUTES
FOXFIRE VILLAGE COUNCIL
PUBLIC HEARINGS / REGULAR MEETING
Foxfire Village Hall
June 9, 2015 – 6:30 PM

1. **Call to Order:** Mayor Steve Durham called the meeting to order at 6:30 PM.
2. **Members Present:** Mayor Pro Tem Leslie Frusco, Councilman Vic Koos, Councilman Mick McCue and Councilman Jon Sedlak
3. **Others Present:** Lisa Kivett-Village Clerk, Sharon Sanchez – Deputy Finance Officer Ellen Markus-Seven Lakes Times, P&Z Chair Mary Gilroy, and Resident MaryAnne Lauer, Pete Mace, Mr. and Mrs. Sherrill, and Mr. and Mrs. Eddings
4. **Moment of Silence:** Mayor Durham requested those present to pause for a moment of silence. This was followed by the pledge of allegiance to the United States Flag.

Mayor Durham reviewed the procedures for Public Hearings with those in attendance.

5. PUBLIC HEARING

- A. Ordinance Amendment #2015-03 – Move Chapter 26, Planning and Zoning Board, of the Foxfire Village Code to Chapter 2, Article IV, Division I, of the Foxfire Village Code
- B. Ordinance Amendment #2015-04 – Amending Article X, Appendix A of the Foxfire Village Zoning Ordinance to Alter the Composition and Duties of the Appearance Commission and to Move and Renumber all of Article X, Appendix A, to Article IV, Division 2, Chapter 2, of the Foxfire Village Code
- C. Ordinance Amendment #2015-05 – Amending Article XI, Appendix A, of the Foxfire Village Zoning Ordinance by Moving Section 11.1-Creating the Board of Adjustment, to Chapter 2, Article IV, Division 3, of the Foxfire Village Code and Re-designating Article XI, Appeals and Variances, and Renumbering the Remaining Sections

Mayor Pro Tem Frusco made a **motion to open the public hearing** seconded by Councilman McCue and carried unanimously.

Mayor Pro Tem Frusco made a **motion to waive the reading of Ordinances Amendments #2015-03, #2015-04, and #2015-05** seconded by Councilman McCue and carried unanimously.

Councilman McCue gave a brief overview of the proposed amendments which are basically just “housekeeping” of the ordinances and putting them in the appropriate areas of the Ordinance book.

Ordinance Amendment #2015-03 concerns the Planning & Zoning Board by moving the provisions established from its own chapter 26 in the Code to Article IV of Chapter 2 in the Code which is reserved for Commissions, Boards and Committees.

Ordinance Amendment #2015-04 concerns the Appearance Commission and deleting a couple of the duties they currently have, changing the composition of the commission and moving it from the Zoning Ordinance to Chapter 2 of the Code. The substantive changes to the Appearance Commission include eliminating the requirement to have a member from the extra-territorial jurisdiction and deleting the requirement of reviewing construction plans for private projects. The ordinance will reflect what the State Statute requires which will allow the commission to seek out plans for public projects within the Village. All construction plan for private projects will continue to be reviewed by the Village Clerk or someone with expertise in that area.

Ordinance Amendment #2015-05 will move the Board of Adjustment from the Zoning ordinance to Chapter 2 under Boards, Commissions, and Committees and renumbered a few of the provisions.

Mayor Pro Tem Frusco made a motion to close the Public Hearing seconded by Councilman McCue and carried unanimously.

Councilman McCue made a motion to Adopt Ordinance Amendment #2015-03 seconded by Mayor Pro Tem Frusco and carried unanimously.

Councilman McCue made a motion to Adopt Ordinance Amendment #2015-04 seconded by Mayor Pro Tem Frusco and carried unanimously.

Councilman McCue made a motion to Adopt Ordinance Amendment #2015-05 seconded by Councilman Koos and carried unanimously.

6. PUBLIC HEARING

A. Ordinance Amendment #2015-06 – Amending Article VII-District Regulations, Section 7.8 Equestrian Units (7.8.5 Lot Provisions) and (7.8.3 Permitted Animals)

Mayor Pro Tem Frusco made a motion to open the public hearing seconded by Councilman McCue and carried unanimously.

Mayor Pro Tem Frusco made a motion to waive the reading of Ordinance #2015-06 seconded by Councilman McCue and carried unanimously.

Mayor Durham explained that this public hearing deals with a recommendation from the Planning & Zoning Board to set the minimum lot size in the Equestrian (EU) District at 2.5 acres and to clarify that a minimum lot size of six (6) acres is required to have a horse.

Developer Pete Mace questioned why the minimum lot size will be changed from 6 acres to 2.5 acres.

Planning & Zoning Chair Mary Gilroy said she understood there is an agreement between Developer Pete Mace and the Grande Pines Land Owners Board that the smallest lot size they will go to is 2.5 acres. Mr. Mace agreed they do. She continued that P&Z recommendation is that we go to 2.5 acres in order to have consistent zoning in Grande Pines. We would use 2.5 for EU zoning but require 6 acres to have a horse. Mayor Durham reiterated Ms. Gilroy's comments.

Mayor Pro Tem Frusco made a motion to close the public hearing seconded by Councilman McCue and carried unanimously.

Mayor Pro Tem Frusco made a motion to table the adoption of Ordinance Amendment #2015-06 until later in the evening or sometime in the future seconded by Councilman McCue and carried unanimously. The adoption of Ordinance Amendment #2015-06 is hereby TABLED.

7. PUBLIC HEARING

A. Ordinance Amendment #2015-07 – Rezoning six (6) parcels from Residential Single Family (RS30) to Recreational District (RD) and sixteen (16) parcels currently unzoned to Equestrian (EU)

Councilman McCue made a motion to open the public hearing seconded by Mayor Pro Tem Frusco and carried unanimously.

Mayor Durham commented that part of the public hearing deals with the zoning to Recreation District and speaks specifically to the Golf Course properties and the Village Green Park. This has been a recommendation made before but was never acted upon. The Council believes the rezoning is appropriate to do and in the best interest of the Village.

In addition, P&Z recommended rezoning sixteen parcels within the Grande Pines subdivision that were annexed in back in 2014 but currently un-zoned to Equestrian (EU).

Mary Gilroy presented a power point presentation regarding Planning & Zoning's discussions and recommendations to zone and re-zone. She added that it's not P&Z's intention to create an adversarial relationship with any Developers and she would explain the different options they came up with for the zoning of the Grande Pines parcels.

She read aloud the presentation to those in attendance. The presentation recapped a Special Meeting from June 5, 2015, elaborated on specific recommendations such as reducing setbacks in EU, having different setbacks in EU depending on the lot size, reducing the minimum lot size in EU to 2.5 acres, the enforcement of the Animal ordinance pertaining buildings housing animals in Equestrian and addressed the Developers concerns **The Power Point Presentation is made part of these minutes.**

John Eddings asked if all properties in Grande Pines will be zoned Equestrian. Ms. Gilroy responded no, only the 16 parcels brought in last year.

Councilman McCue questioned if property owners zoned EU could subdivide their lots to 2.5 acres. Pete Mace replied that in Grande Pines, the only person that can subdivide a lot less than 10.01 acres is the Developer. McCue also asked if a buyer could combine two 3.5 acre lots and have a horse. Mace and Gilroy responded yes. Mayor Pro Tem Frusco elaborated on this concern of combining lots and having horses in an area where smaller lots are located.

Develop Pete Mace presented maps showing the parcels in question. He explained the previous zoning and the intentions of deeding some of the larger lots and possibly subdividing them. Mr. Mace believes there are plenty of EU zoned lots already in Grande Pines and would like to see these 16 lots zoned RS40 rather than EU. He said a lot of people are calling Grande Pines an Equestrian community but what Grande Pines is, is a private estate community that allows horses on six acre lots or more. There are currently 22 homes in Grande Pines and only four have horses. He further explained the map, property, wetland locations, etc. and his reasoning for zoning the smaller lots to RS40 and the remaining 2 larger parcels to EU.

Mary Gilroy began discussion and voiced the P&Z committees concerns with setbacks in EU vs. RS40. Mr. Mace prepared a comparison of the EU vs. RS40 setbacks showing the hardship larger setbacks would create if smaller lots are zoned EU. Councilman Sedlak asked for further clarification of which properties are to be zoned and had questions about the setbacks and the 200' requirement in EU if abutting RS30 or RS40 properties.

Mayor Pro Tem Frusco asked Mr. Mace how it would affect him if the smaller parcels were zoned EU and the setbacks were changed to accommodate the smaller lot size. Mr. Mace replied negatively because it allows some people to combine their parcels to meet the six-acre requirement for horses. He once again commented that there are plenty of areas in the subdivision for horses other than the smaller lots.

Discussion began on the amount of accessory building permitted in RS40.

Mary Gilroy said that only 3 of the 16 lots are sold and she is concerned that in the future we will have issues about the inability to build more than one accessory building on a 2.5 acre lot. Gilroy added that P&Z is trying to do zoning that is consistent so that when properties are annexed, there is no question of what it's going to be and restrict the property owner's ability to use the property.

Councilman McCue made a motion to close the public hearing seconded by Councilman Sedlak and carried unanimously.

Councilman Sedlak feels like we are mish-mashing different zoning districts together. Equestrian properties should be contiguous properties that are zoned to have horses. Having something zoned Equestrian, less than six acres where you can't have a horse makes no sense. He feels the smaller lots should be zoned RS40. He also suggested allowing one horse for a property less than six acres in Equestrian. Mayor Pro Tem Frusco replied that had been looked at on more than one occasion and the council decided on a six acre requirement.

Councilman Koos commented if you allow horses on 2.5 acre lots, it will limit the size of house you can have. He doubts if anyone who has a 2.5 acre lot wants horses. He agrees with the six acre requirement and having smaller setbacks to allow people to build the house they want.

Mayor Durham commented that RS40 setbacks have not created an issue since they have been established. Our current zoning ordinance specifies that if an equestrian lot borders an RS40 or RS30 lot, they will have the 200' setback. People need to be mind-full of that before purchasing.

Mayor Pro Tem Frusco commented if we go with EU, have smaller lots and change the setbacks on those smaller lots, we will create a compliance problem. One neighbor might have six acres in EU and the next neighbor might have 2.1 acres in EU, and both have different setback requirements. From a zoning administrative point, you could create a problem. In addition regarding accessory buildings. If a person buys 2.5 acres in RS40 and wants three accessory buildings, they need to do due diligence and find out what they are permitted to have on that property before purchasing. Due diligence is on the buyer. She does not have a problem with having a cluster of RS40 lots since we already have another cluster in Grande Pines, but she has a problem with spot zoning. She recommended amending the ordinance to zone the two large pieces of property EU and the smaller lots RS40.

Councilman McCue said he appreciated P&Z's efforts because this is difficult work. It appears to him that Mr. Mace's issues is setback. The lots are 2.5 acres and how do you build on that size lot. He wants Mr. Mace to sell and people to build on those lots. McCue said he doesn't follow P&Z's accessory building concerns. He suggested that 2.5 acre lots be protected so the property owners know that the lot next to them won't be having horses. McCue added that he has no problem with zoning the smaller lots RS40. Discussion ensued between Council members on the large parcel and the 200' setback requirement for the abutting property.

Mary Gilroy commented that P&Z is concerned that a sub-division plan was never submitted by Grande Pines. She is concerned about knowing what any future properties coming into the Village will be without spending a lot of time and effort because a complete sub-division plan was not submitted. She feels the Village continues to piecemeal and needs a subdivision plan to know the properties belong to Grande Pines and what is proposed for them.

Mayor Durham commented that he appreciated Ms. Gilroy's comments and all the work her committee has done. It give the council food for consideration. He recalled several years ago conversation by his predecessors about Grande Pines and how it was being zoned. The current council needs to do the best we can moving forward. This council is between a rock and a hard place, trying to protect citizen's property values and interests and considering the developers interest. He added that Ms. Frusco's comment about compliance is genuine.

Mayor Durham summarized what he heard from this hearing. The preface is to zone the small parcels to RS40 and the remaining larger parcels EU. The ordinance can be adopted as is tonight, or with amending the zoning of the smaller parcels or tabled until further discussion by the council.

Councilman Sedlak asked if there is a way to make adjustments to ordinances. Frusco replied yes, a variance. She added if the larger parcels are zoned equestrian, a year from now Mr. Mace can present a subdivision plan to P&Z and request rezoning to RS40. She feels if we zone the smaller lots RS40, we will not need to change the ordinance for setbacks.

Discussion continued back and forth between Council, Mace and Gilroy.

Councilman Sedlak made a motion to adopt Ordinance #2015-07 Rezoning the Golf Course properties and Village Green Park from Residential Single Family (RS30) to Recreational District (RD), Zoning of parcel LRK numbers 20120006 (29.82 acres) and 00057262 (35.78 acres) to Equestrian (EU), and Zoning the remaining 14 parcels to Residential Single Family-Watershed (RS40-WS) seconded by Mayor Pro Tem Frusco and carried unanimously.

8. PUBLIC HEARING

- A. Budget Ordinance #2015-08 - Appropriating Funds for Operating Expenses for Fiscal Year 2015-2016

Councilman McCue made a motion to open the public hearing seconded by Mayor Pro Tem Frusco and carried unanimously.

Mayor Pro Tem Frusco reported the Budget Message has been on the Village website and at the Village office for about two weeks. She added that the challenging thing about this budget is it has a great deal to do with the revaluation of properties by Moore County. One aspect of doing a revaluation in North Carolina is you have to publish a revenue neutral tax rate which we have done in this budget. The revenue neutral rate as defined in the General Statute is the rate that is estimated to produce revenue for the next fiscal year that is equal to the revenue for the current fiscal year if no revaluation had occurred. Based on the tax base we had at the time we calculated this, which was \$163,940,000, the tax levy for the current fiscal year would have been \$579,910. Once you calculate the rate, then adjust by a growth factor, which is the annual average percentage increase in the tax base due to improvements since the last revaluation (8 years ago) and use that particular formula as mandated by State law, the revenue neutral tax rate for the Village becomes 36.9 cents. That is 1.9 cents more than the current tax rate. The proposed property tax rate for 2015-2016 however is 38 cents which represents an increase from the fiscal year 2014-2015 tax rate of 3 cents.

Mayor Pro Tem Frusco read aloud the Budget Message and elaborated on several areas.

Mayor Pro Tem Frusco made a close the public hearing seconded by Councilman Koos and carried unanimously.

Mayor Pro Tem Frusco made a motion to waive the reading of Ordinances #2015-08 seconded by Councilman McCue and carried unanimously.

Mayor Pro Tem Frusco made a motion to table the adoption of Budget Ordinance #2015-08 until June 25, 2015.

Mayor Pro Tem Frusco reported we still do not have final revaluation numbers from Moore County. There is about \$6,000,000 worth of property in the Village that is under appeal. The County will not be meeting on this until June 17th and told us we will have figures by June 19th.

The motion was seconded by Councilman McCue and carried unanimously. The adoption of Budget Ordinance #2015-08 is hereby TABLED.

9. Additions and Approval of Agenda:

Councilman Koos added *Yard Waste Facility* to his report.

Councilman McCue made a motion to adopt the agenda as amended seconded by Mayor Pro Tem Frusco and carried unanimously.

10. Consent Agenda:

A. Approval of Minutes

1. May 12, 2015 Citizen Participation Workshop
2. May 12, 2015 Regular Meeting
3. May 19, 2015 Special Work Session

B. Budget Ordinance Amendment #2015-09 – General Fund

C. Capital Reserve Fund Ordinance #2015-10 – Water Fund

End of Consent Agenda

Mayor Pro Tem Frusco made a motion to adopt the consent agenda seconded by Councilman McCue and carried unanimously.

11. Public Comment Period:

MaryAnne Lauer asked if the six million under review by the County were residents of the Village. Frusco responded it was property value, could be land owners or those with a home.

12. Planning & Zoning Board Report – Mary Gilroy

Planning & Zoning Chair Mary Gilroy reported the board is working to update the Land Use Plan and should be ready to present it to the council in the near future.

13. Councilmember's Reports:

A. Finance – Leslie Frusco

1. Finance Report

Mayor Pro Tem Frusco reported cash balances as of May 31, 2015. The general fund balance is \$1,407,363. Of this amount \$397,000 is restricted for the debt Service Fund, the Capital Reserve Fund, and the Stonehill Fund. The unrestricted balance is \$1,010,265.

The water fund balance is \$622,000. Of this amount, \$136,076 is restricted for future wells. The remaining balance of \$486,244 is unrestricted. Total cash balances in the Village as of May 31st are \$2,029,683.

B. Public Safety – Mick McCue

No Report

C. Water Department – Jon Sedlak

No Report

D. Streets and Park – Vic Koos

1. Paving Update

Councilman Koos reported that all paving is complete for the current fiscal year. Paving will once begin in July with the paving of Woodland Circle.

2. Park Update

Councilman Koos suggested that golf carts be prohibited from riding on the grassy areas of the park. Several sprinkler heads have been damaged.

Mayor Durham suggested as a temporary solution to mark the areas with flags to help people to see where the heads are located. This issue will be discussed at a work session.

3. Yard Waste Facility

Councilman Koos reported that Gilbert Brown had emptied the yard waste facility a few days prior and it is now full again. It appears a contractor was privately hired to remove the trees around the lake on S. Shamrock and they put the debris on the facility. Koos added that contractors should use their own yard waste facility for dumping of debris and he is concerned how they entered the facility. Discussion ensued regarding keys and the need for changing the locks. Vic will follow up with the contractor.

E. Mayors Report – Steve Durham

1. Update on Village Pool

Mayor Durham asked that Village Clerk Lisa Kivett give an update on the pool. Ms. Kivett reported that the pool was able to open as scheduled, May 23rd. The pool has been very busy and walk-in attendance is up even with the increase in fees.

There is an issue with the shallow end of the pool. Several years prior, the shallow end was repainted with a material not approved for pools. This material caused damage to the pool cement, basically "killing" it and several spots in this area are breaking apart. This damage was not noticeable by the pool maintenance company when they repainted the pool this year. Once the water and chemicals were put in, it started to lift. We have two choice, either repair the areas with underwater epoxy and hope it stays, or close the pool for two weeks to drain, repair, repaint, and refill. It was decided to patch the areas with epoxy. In addition, Ms. Kivett purchased two 3x10 heavy duty kitchen mats to cover the areas.

14. Public Comment Period

None

15. Old Business:

Councilman McCue made a motion to remove Ordinance Amendment #2015-06 from the table seconded by Mayor Pro Tem Frusco and carried unanimously.

Councilman McCue made a motion to adopt Ordinance Amendment #2015-06. Councilman Koos seconded the motion and then withdrew his second. There was no second to the motion, MOTION FAILED.

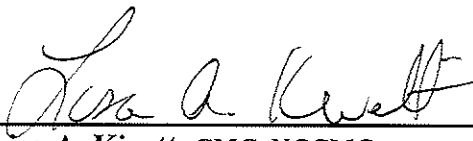
16. New Business:

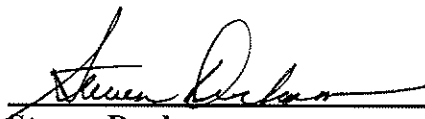
None

17. Adjournment:

Mayor Pro Tem Frusco made a motion to adjourn seconded by Councilman Sedlak and carried unanimously. The meeting adjourned at 8:35 PM.

As so incorporated to these minutes of June 9, 2015 are exact copies as so recorded in the ordinance and resolution books of Foxfire Village as if fully set out in the minutes.


 Lisa A. Kivett, CMC, NCCMC
 Village Clerk


 Steven Durham
 Mayor