

**MINUTES
FOXFIRE VILLAGE COUNCIL
REGULAR MEETING/PUBLIC HEARING
Foxfire Village Hall
December 9, 2014 – 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 Mick McCue, and Councilman Jon Sedlak
3. **Members Absent:** Councilman Vic Koos
4. **Others Present:** Lisa Kivett-Village Clerk, Sergeant Chad Shue, Ellen Markus - Seven Lakes Times, P&Z Chair Mary Gilroy and Strata Solar Representatives Louis Iannone and Rich Kirkland, and Village Residents Mike Cole, Lorri Martin, Sal Palazzola, Jim Stoneman, Barbara and Tony Yearby, and Walter Staley
5. **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.
6. **Public Hearing**

- **Conditional Use Permit Request from Strata Solar Development, LLC to Construct and Operate a Solar Farm at 333 Hoffman Rd. owned by David M. and Emma L. Wilson**

Mayor Durham said the subject property is located in the extra-territorial jurisdiction of Foxfire Village and zoned Residential Agricultural (RA) and identified by Moore County LRK 00030396.

He further explained that this matter required the Foxfire Village Council to conduct a quasi-judicial hearing, which means the Council must find facts and base its decision upon the application of the ordinance criteria and the competent, substantial and material evidence received during this hearing. All testimony must be competent and not repetitious. Speculative opinions and general expressions of fear of potential increases in crime, traffic, or impacts on property values do not constitute competent evidence.

Mayor Durham asked for a motion to open the public hearing.

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

Mayor Durham asked the members of the Council to disclose any of the following:

1. Have any of the council members visited the site in question – **NO**
2. Have any council members had ex-parte communications – **NO**
3. Do any council members have any specialized knowledge relevant to the case – **NO**
4. Do any council members have a fixed opinion that is not susceptible to change based on what they learn at the hearing – **NO**
5. Do any council members have a close familial, business or other relationship with the applicant or other affected person – **NO**
6. Do any council members have a financial interest in the outcome of the case – **NO**
7. Do any council members have any other information relevant to determining whether a conflict of interest exists – **NO**

Mayor Durham asked that anyone including Village Staff who intend to present evidence must be sworn in by the Village Clerk. He asked that they approach the lectern so that the Village Clerk may swear them in.

Village Clerk Lisa Kivett swore in the following people:

Mary Gilroy – Planning & Zoning Chair
Lewis Iannone – Strata Solar Rep
Rich Kirkland – Strata Solar

Mary Gilroy - Planning & Zoning Chair – *“Very quickly, Planning & Zoning has worked on this for a few months, of course we had our public hearing to accept solar facilities as a conditional use in October, I think. Since that time we’ve had the chance to review the conditional use permit request from Strat Solar, had an outside engineering firm review the site plan and their application. That engineering firm made some very minor suggestions about the site application and about the conditional use permit application. Strata was happy to comply with those additional conditions and those couple of tweaks and I did verify with the engineering firm that they were satisfied that Strata had done exactly what they would have recommended. So from a planning and zoning standpoint we believe that Strata has met the conditions of our ordinance to put in a solar facility on that property”.*

Lewis Iannone – Strata Solar – *“Good evening Board, thank you for the opportunity to present. I thought I would try to keep it brief and go through our application addendum. I thought I would basically just read through it quickly and hopefully it allow you to make these findings of fact”.*

Mr. Iannone read aloud the following:

“We respectfully requests approval of our application for a conditional use permit to operate a Solar Farm at 333 Hoffman Rd, West End, North Carolina. Strata proposes Strata Solar proposes to construct a solar farm on 50 + acres owned by David M. Wilson. The property is currently zoned RA. Adjacent properties are developed as rural homes and farms.

A solar farm is permitted in the RA district with a conditional use permit approved by the Village Council. This application, including site plan and this brief, is complete and complies with all requirements of the Foxfire Village Code of Ordinances.

The solar farm will contain rows of Photovoltaic (PV) cells mounted on posts set in the ground, driven in the ground. The posts are driven individually to minimize the amount of grading on the site. The solar arrays are fixed in place facing south in order to receive the maximum amount of solar energy. This configuration contains no moving parts. The power from the solar farm will be connected to the power grid for use by immediate consumers.

The NC Utility Commission found this project to be a public convenience and necessity. Conventional generation of electricity is dependent upon sources such as coal, gas, and nuclear energy. Conventional sources of electricity are expensive, finite resources that require significant environmental disruption and public safety risk to maintain or extract. Solar energy is a clean, cheap, unlimited, and with little environmental impact.

The proposed solar farm will consume practically no Village services: will not require any refuse or recycling, would need no special police protection, no light pollution, no emissions of any kind, no demand for water from depleted aquifers and no sewage disposal.

At this point I would like to go through your ten specific conditions and how our expert testimony that we hope will allow you to arrive at a finding of fact that we have met your conditions.

1. The use for which an application is being made is specifically listed as a Use Permitted with Conditions within the zoning district where the property is located.

We believe we have met that condition because you have recently adopted an ordinance that lists the use in this zoning district with a conditional use permit.

2. The planned use and installation satisfies the building area and land area requirements, parking area requirements and access requirements specified otherwise for similar type installations in this ordinance.

Our proposed finding of fact is that the plan meets the specific requirements of the recently adopted solar ordinance. We will also point out that we get a D.O.T. driveway permit for this project.

3. The establishment, maintenance or operation of the Use Permitted with Conditions will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.

I've been doing this job for nineteen months now, I was a developer for twenty years before that in residential and commercial development. I have degrees in engineering and accounting and considerable experience in development so I feel like I'm an expert to answer all of these questions. We do have an additional expert to speak to valuation but so for this particular finding, we would answer that the proposed solar farm will not endanger the public health or safety. The project will be enclosed in a secure 6' fence. All electrical installation will comply with the National Electric Code. The site will generate almost no traffic, one visit per month for maintenance. The site is buffered from the public by several hundred feet in all directions. The proposed solar farm meets all requirements for NC DENR storm-water and erosion control regulations and will obtain all necessary permits.

4. The conditional Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for purposes already permitted under the terms of this ordinance and will not diminish or impair property values within the neighborhood.

Mr. Kirkland is going to speak as an expert to this but I will just say briefly that the adjacent properties and area are rural residential and agricultural in use, and a wide variety of uses already exists. This project will be virtually completely buffered from all adjacent properties by several hundred feet in all directions and will not disturb any other uses.

5. The establishment of the Use will not impede normal and orderly development and improvement of the surrounding property for uses permitted in the district.

Again, Mr. Kirkland is an expert in this area but I will say again that the project is surrounded by several hundred feet of on-site buffers in all directions and will not interfere with development of any adjacent property.

6. The exterior architectural features and functional plan of the proposed structure will not be so at variance with the structures already constructed or in the course of construction in the immediate neighborhood or the character of the applicable district as to cause a substantial depreciation in the property values within the neighborhood.

Again, Mr. Kirkland will speak to that, but the project is substantially buffered such that any difference in appearance will not be visible, but the appearance of the solar arrays is similar in visual impact to large scale agricultural buildings or greenhouses that are already present. In addition, a long-term appraisal study concludes that proximity to a solar farm does not damage property values. Mr. Kirkland has conducted sort of an on-going consulting engagement with us and regularly updates it and studies matched pairs of property sales in which he has found that for instance in one project in Goldsboro, there was a brand new residential subdivision adjacent to one of our future projects. Homes were sold before properties were under contract, sold before we developed the project and continued to sell after we developed the project including adjacent to it and there have been no difference in process. These are brand new homes in about a \$250,000 price range. Fairly similar to this area.

7. Adequate utilities, access roads, and/or other necessary facilities have been or are being provided.

The project will not use any public utilities. Construction access will be through a DOT permitted temporary construction access and permanent access through a DOT permitted driveway.

8. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

The project will generate approximately one trip per month for grounds maintenance. Construction traffic will be for a brief three to four month period.

9. The Use Permitted with Conditions shall, in all other respects, conform to the applicable regulations for the district in which it's located, except as such regulations may, in each instance be modified by the Foxfire Village Council pursuant to the recommendations of the Planning and Zoning Board.

The plan will comply with all Foxfire and State regulations and Planning and Zoning Board recommendations. As Ms. Gilroy testified, we pay for an outside independent engineer to review our plans and confirm that it meets all of your regulations and codes. I believe that has been returned positively.

10. The Use Permitted with Conditions will not interfere with the natural drainage for storm-water and will not cause the need for community services in the way of sanitary disposal other than normal septic tanks now in use.

The project will be required to obtain an NC DENR Storm-water Permit which requires post construction drainage to be equivalent to pre-construction drainage. The project will not require any sanitary sewage disposal.

That is all of your conditions and I will ask Mr. Kirkland to speak to the valuation conditions."

Rich Kirkland-Strata Solar – *"My name is Rich Kirkland, I am a Commercial Appraiser and have been working about nineteen years in the general area. I mainly work in Moore County as part of my normal professional work. I appraise everything from office buildings, shopping centers, townhomes, and subdivisions. I was asked to look at the impacts of solar farms on property values. I have been looking at these and visited over fifty solar farms across North Carolina, looking for matched pairs. Matched pairs is the best way to show any impact on value, it's very straight forward. You look at two properties identical in every way except for that one difference you're testing for, in this case, whether it's next to a solar farm.*

As Louis mentioned, there is a subdivision in Goldsboro, the Spring Garden subdivision that the later phase was started prior to Strata Solar's solar farm installed there. The whole prices being sold there were at the same prices before the farm was announced while the farm was being constructed and after the farm was completed. The same floor plans were being sold for the same price whether they backed up to the solar farm or down the street, not in view of it. I talked with the developer and builder team, they had no concerns about the solar farm when it was in place. I talked with the brokers selling the homes, and again tracked the actual close sales. All homes in that subdivision are now sold out, and they finished up this year. The sale prices are the same regardless. I spent one Saturday afternoon walking down the street knocking on doors talking to folks who lived in the houses backing up to the solar farm and they had no concerns about that as far as value goes.

This really provides a large series of matched pairs that you can show there is no impact. I similarly looked at a project in Orange County near Chapel Hill, which is a Strata Solar project. I looked at some rural land that sold out of the original parent track where the farm was designed, it sold at prices very similar to other land in the area and proposed to be broken up into mini-farms at this point. All matched pairs are showing no impact in value and it makes sense. When you are looking for impact, you can assign, this is a problem for certain categories whether its noise, hazardous material or fumes escaping the property. Those are things you say this is why it's a problem. For example, waste

water treatment plants have an odor that comes off-sight, this is what impacts the values. With a solar farm, there are no odors, noise detected, or traffic demands generated by it.

The one area where people have a concern about solar farms is the appearance. This project will be well buffered with trees around on both sides. Appearance is going to be minimally to anyone around. The solar panels look a lot like greenhouses, both designed to capture and harness the sun and only about 10' off the ground. The property in Spring Garden, those panels were only visible from the homes through a screen of trees. A minimal landscaping buffer can be sufficient.

The other question I am often asked is about harmony of use, whether or not solar panels in harmony with the surrounding uses. Looking at all other farms across North Carolina, what are the adjoining uses and where are they located. 80 percent and many cases over 90 percent of the adjoining uses are residential or agricultural in nature. They are not generally located anywhere in industrial or commercial areas. They are being located in these transition areas where the homes are giving away to the fields, which is where you have the open space which you need to put up the solar panels but also the demand from the homes that use the power. It's my conclusion and professional opinion that this is a harmonious use with surrounding residential and agricultural uses. Are there any questions?"

Mayor Durham asked if any other testimony would be given. There was no further testimony.

Mr. Iannone replied no, that they felt they presented confident and substantial material evidence and have met the conditions of Foxfire Village. Strata Solar has developed and operates over fifty solar farms in North Carolina and feels qualified to answer any additional questions or concerns.

Councilman Sedlak asked how many megawatts is the project. Mr. Iannone replied 6.5 dce which converts to 5 ac.

There were no further comments.

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

Mayor Durham read aloud the following Facts of Findings:

Having considered the application, of November 14, 2014 as revised on November 24, 2014, of Mr. D. Wilson and Strata Solar to erect a solar power generation facility on certain property within the extra-territorial jurisdiction of the Village, and having considered the testimony of those appearing at the December 9, 2014 Public Hearing, the Foxfire Village Council finds:

1. That the application to erect a solar power generation facility has been reviewed and approved by the Foxfire Village Planning and Zoning Board.
2. That the facility including its perimeter fencing is located 100 feet or greater from the property lines of adjoining properties.
3. That the facility is enclosed by a 6 foot chain link fence with barb wire strands on the top of the fence.
4. That except for poles and lines necessary to connect the facility with the electrical grid, the height of structures within the facility do not exceed 20 feet.
5. That all the structures of the facility are set back at least 100 feet from all public road right-of-ways.
6. That the planned vegetative buffer zones when combined with the existing natural vegetative screening, and the setback distances from adjoining roadways and properties, and grade level changes existing on the site satisfy the screening and buffer requirements of section 8.34 of the Village Zoning Ordinance.
7. That all access and construction streets and roads meet the approval of NCDOT and Village Streets and Park Dept.

8. That the facility meets all storm water regulations and watershed protection regulations, including wetland buffers, and river basin rules to prevent erosion and protect surface water quality as approved by the North Carolina Division of Water Quality.
9. That the facility meets with the requirements of the North Carolina State Building Code and the National Electric Code.
10. That the facility application and site plan meets the requirements for site plans as set forth in section 8.34 H of the Foxfire Village Zoning Ordinance.
11. That the application and site plan was reviewed and commented upon by McGill Associates, P.A.
12. That the Village has received (or will receive prior to commencement of construction) the approved NCDOT Driveway permit for the project, and the approved erosion and sedimentation control permits for the project.
13. That the noise from the operation of the facility will not exceed 50 dBA, measured at the property line.
14. That all outdoor lighting at the facility will be shielded as to direct light and glare onto the facility premises.
15. That the Village has received an acceptable de-commissioning plan for the project.
16. That the proper notifications for this public hearing were advertised in the Pilot newspaper on November 23 and December 3, 2014.
17. That the notification of adjoining property owners was mailed via U.S. Mail on November 17, 2014.
18. That the affected property was posted with notification of the public hearing on November 17, 2014.

Mayor Pro Tem Frusco made a motion to approve the Conditional Use Permit Request by Strata Solar seconded by Councilman McCue.

The vote was called as follows:

Councilman Koos	aye
Councilman Sedlak	aye
Councilman McCue	aye
Mayor Pro Tem Frusco	aye
Mayor Durham	aye

Motion carries

7. Additions and Approval of Agenda:

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

8. Consent Agenda:

- A. Approval of Minutes
 - November 11, 2014 Regular Meeting/Public Hearing
 - November 25, 2014 Work Session
- B. Resolution R14-07 – Waiving Acceleration of Overdue Installments for the Grande Pines Assessment Project

End of Consent Agenda

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

9. Public Comment Period:

Resident Sal Palazolla asked if the new solar farm will connect with Duke Energy running through the Village and if it will lower the cost of electricity. Mayor Durham replied that he

believed Strata Solar has a contract with Duke Energy and would sell them the energy and it would not lower the cost of electric in the Village.

Mr. Palazolla asked if the Village would gain any tax from the farm. Councilman McCue replied they are located in the extra-territorial jurisdiction of Foxfire and do not pay tax to the Village. We have zoning authority over the ETJ.

Barbara Yearby, resident on Forest Ridge said that it was brought to her attention that the Village did not know that covenants existed for her neighborhood. She visited the Village office and gave a copy of the covenants to the Village Clerk. She added that new property owners on Forest Ridge have never received a copy of the covenants and feels that the Village should be responsible for making sure they are distributed. Discussion ensued. Mayor Durham replied the Village does not concern itself with individual covenants and rule and regulations, we only adhere to the Village Ordinances. The community would need to establish a Home Owners Association to deal with their own covenants. Discussion continues regarding establishing an HOA and their duties.

Mrs. Yearby added that a situation exists that Police Chief Shue is aware of regarding illegal shooting on 30 acres located in the back of her community. She has heard large shotguns being discharged and was told by the new property owner that they are hunting. Police Chief Shue has investigated this however she feels the Village council should consider contacting the property owner.

Jim Stoneman, resident on Forest Ridge echoed Mrs. Yearby's concerns. He asked if no hunting signs could be posted in the area. Discussion continued on the location of the property and access from roads.

Mayor Durham said this situation will be looked into further. Police Chief Chad Shue said the situation whether it is a firearm or bow and arrow will be personally handled by him.

Mike Cole, West End Fire Department reported that Alverna Speight who once owned a condo in the Village that burnt down years ago donated money to WEFB. They were able to purchase a truck with the funds which is the first of three to be purchased in her memory. He brought the new truck to the meeting for those in attendance to see. This truck is based in West End and the truck to be delivered in January will be based in Foxfire. Delivery date for the third truck is uncertain at this time.

10. Planning & Zoning Board Report – Mary Gilroy

Mary Gilroy reported that now the solar issue is handled, the board will return in January to look at accessory buildings, and the Land Use Plan.

11. Councilmember's Reports:

A. Finance – Leslie Frusco

1. Finance Report

Mayor Pro Tem Frusco reported cash balances as of November 30, 2014 in the general fund total \$1,350,563. Of this amount, \$397,222 is restricted for the future debt service fund which now stands at \$200,000 or assigned funds which are also assigned for future debt service of \$35,928, the Stonehill fund which is \$20,000, and the Capital Reserve Fund of \$141,179. The remaining unrestricted general fund balance is \$953,341. The water fund balance is \$579,020, of this \$136,076 is restricted for a future well. The remaining \$442,944 is unrestricted. Total cash balances in the Village are \$1,929,583. Annual bank loan payments still to be made in this budget year for Woodland Circle are due the beginning of April are \$164,798 from the general fund and \$14,164 from the water fund.

2. Annual Audit Report

Mayor Pro Tem Frusco reported that council received a copy of the final Audit Report from the Independent Auditor. She asked that council members look it over and prepare to discuss any questions at the next work session in January. She asked that questions be emailed to her

so discussion can be streamlined. The report has also been submitted and approved by the State Treasurers office. The Village auditor found no issues with our accounting, corrected or uncorrected missed statements in the financial statements or difficulties in dealing with management in completing the audit. She thanked the Village staff for their work in preparing the information for the auditor.

B. Public Safety – Mick McCue

1. Public Safety Report

Councilman McCue reported at the last council work session, council made the interim appointment of Chad Shue as Police Chief a permanent appointment. Outgoing Police Chief Mike Campbell will be recognized at the January 13, 2015 regular meeting.

C. Water Department – Jon Sedlak

1. Water Report

Councilman Sedlak reported water usage was again good this month.

2. Solicitation Letters

Councilman Sedlak reported being notified from a resident about receiving a mail solicitation letter regarding insurance for water line breakage from the meter to the house. He looked into the company offering the insurance and they are an agent to AMT Warranty Corp. He doesn't believe it's a terrible idea but will not endorse it one way or the other. He advised that residents check their homeowners insurance first before buying additional insurance.

D. Mayors Report – Steve Durham

1. 2015 Regular Council Meeting Schedule

Mayor Durham asked that council members look at the proposed meeting schedule for 2015. Typically the regular meetings are the second Tuesday and the work sessions are the last Thursday of each month. He asked Lisa Kivett to change a few work session dates due to some personal conflicts. These dates are noted on the proposed schedule.

Mayor Pro Tem Frusco made a motion to adopt the 2015 Regular Meeting Schedule seconded by Councilman McCue.

The schedule will be posted on the Village website.

12. Public Comment Period (Comments on Council Member Reports Only):

None

13. Old Business:

None

14. New Business:

None

15. Adjournment:

Councilman McCue made a motion to adjourn seconded by Councilman Koos and carried unanimously. The meeting adjourned at 7:39 PM.

As so incorporated to these minutes of December 9, 2014 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