

**MINUTES
FOXFIRE VILLAGE COUNCIL
REGULAR MEETING/PUBLIC HEARING
Foxfire Village Hall
November 12, 2013 – 7:00 PM**

1. **Call to Order:** Mayor Pro Temp Steve Durham called the meeting to order at 7:00 PM.
2. **Members Present:** Councilwoman Leslie Frusco, Councilman Vic Koos, and Councilman Mick McCue
3. **Members Absent:** Mayor George Erickson
4. **Others Present:** Lisa Kivett-Village Clerk, Sharon Sanchez-Deputy Finance Officer, Ellen Markus-Seven Lakes Times and Village residents Mary Gilroy, MaryAnne Lauer and Pete Mace
5. **Moment of Silence:** Mayor Pro Temp 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 – Amending Article VII, Section 7.1.10 Building Heights and Section 7.5.10 Building Heights of the Foxfire Village Zoning Ordinance**

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

Mayor Pro Temp Durham said the Planning and Zoning Board reviewed a request to change building construction heights at their last meeting and have submitted a recommendation to council to do so. This public hearing is to receive any questions or comments from the council and those in attendance.

Planning and Zoning Chairperson Mary Gilroy reported that someone wants to build a number of houses in the Village and their plans show a height of 40'. Moore County has recently changed their building heights from 35' to 40'. Planning & Zoning checked with the West End Fire Chief and was told that they have an extension ladder that would reach to the 40' so fighting a fire at that height would not be an issue. She added that Planning & Zoning members were unanimous in this recommendation.

Councilwoman Frusco asked why P&Z recommendation had excluded the RS30 zoning district.

Ms. Gilroy responded that RS30 was not discussed. The areas this particular builder wants to build in is zoned RS40 and the Mayor asked that P&Z move quickly on this request. She added that P&Z can go back and look at RS30.

Councilman McCue thanked Planning & Zoning for their quick response to the Mayor's request. He pointed out that currently the RS20, RS30, RS40, RA, VBD, and RF200 (farmettes-20 acre minimum) all have a 35' height restriction. The RM has a 40' height restriction and the EU has a 40' or three-stories. The language in all these districts are somewhat strange and we need some consistency across the board. He also pointed out that spires and cupolas have been excluded in the building heights but is additional language from what he had before. Ms. Gilroy said the board asked the builder to assist with language that would define what they plan to build. The board took their language and thinned out items such as water towers, and other that didn't make much sense. Discussion continued on the language differences, radio antennas, flagpoles, and building heights.

Ms. Gilroy commented that this language change will allow a builder to build a 40' home. The builder is not going to be responsible if someone decides to put up a huge HAM Radio tower outside their house. When the language was written, it was specifically to raise the structure height of the house from 35' to 40'. Mayor Pro Temp Durham commented that this particular language simply speaks to the top of the roof line but this discussion raises some other issues. What is someone presents plans that has a steeple on the top of the house that takes it to 60', how does that weigh in to the building permit.

Councilwoman Frusco said that should be addressed in another portion of the ordinance that we may or may not have at this point. This language basically says what's not included. To her, this language is speaking of allowing 40' height and if you want to have a normal cupola (2 to 3 feet) that doesn't get included in the 40' height. She does not have a problem with it being included in this language. If we do not want to allow other items, it should be addressed somewhere else in the ordinance and not in the height issue.

Councilwoman Frusco asked Councilman McCue if he would like to see the wording in 7.5.10 (RA) the same wording as in 7.3.10 (RS40), allowing in the event that in RS40 we have a very large lot, it would allow an increased height. She added that our districts are set with minimum standards. Were his comments directed at the language that we have presented for RA would also be suitable for RS40? Councilman McCue replied yes, he believes its better suited.

Councilman McCue agreed that T.V., radio antennas, and flagpoles should be dealt with in another location of the ordinance. This would give one the argument that they can have a 40' home with a 20' antenna on top of it and we don't want that. We are trying to talk about the height of a building and recommend removing that language from the proposed language. It does not make any sense to him to have several different methods or language used to describe the measuring of height. He pointed out that we use "roof ridge" in several of the district regulations language and "roof line" in the VBD (Village Business District). In addition, the VBD allows three stories but a maximum height of 35'. Discussion continued on discrepancies within the current language.

Councilwoman Frusco agreed with Councilman McCue that the council has asked P&Z to go through and find the inconsistencies and recommend changes but would like to address the RS40 and RA sections right now. P&Z can then go back and look at other things. She has no problem if the council wishes to use the language from 7.5.10 in 7.3.10 to be consistent, and to remove the T.V., radio antennas and flagpoles as part of the roof measurement size.

Mayor Pro Temp Durham asked Ms. Gilroy if this matter was urgent. Ms. Gilroy said yes, definitely.

Councilman McCue believes that council should decide what they want to do tonight and gave some language suggestions.

Councilman McCue made a motion to amend the ordinance amending Article 7 District Regulations of the Foxfire Village Zoning Ordinance as follows: Section 7.3.10 Building Height and Section 7.5.10 Building Heights is rewritten to read as follows:

The maximum height shall be forty (40) feet unless the depth of the front, side, and rear yards are each increased two (2) feet for each one (1) foot increase in the building height in excess of forty (40) feet. The vertical distance shall be measured from the average elevation of the finished grade at the front of the building to the highest point of the building. Spires, cupolas, and chimneys shall not be included in the building height. In no event shall any building exceed fifty (50) feet in height.

Councilwoman Frusco seconded the motion.

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

- **Adopt Ordinance #2013-12**

Councilwoman Frusco made a motion to adopt Ordinance #2013-12 as presented and amended during the public hearing, seconded by Councilman McCue and carried unanimously.

7. Resolution #R13-07-Approving the 2012 Local Water Supply Plan

Village Clerk Lisa Kivett reported that each year the Water Department completes and submits to NCDENR a yearly Local Water Supply Plan required by G.S. 143-355 (1). This report consists of projection and usage data complied throughout the year. Every five years each municipality is required to adopt a resolution accepting the plan and the five years has come due. Once the resolution has been adopted, a copy will be forwarded to NCDENR.

Councilman McCue made a motion to dispense with reading the resolution seconded by Councilwoman Frusco and carried unanimously.

Councilwoman Frusco made a motion to adopt Resolution #R13-07 seconded by Councilman McCue and carried unanimously.

8. Public Comment Period:

MaryAnne Lauer thanked the council for adding an additional public comment period at the end of the meeting.

Mayor Pro Temp Durham replied that at the last work session, council members discussed adding a second public comment period at the end of the meeting. The first public comment period will allow people to comment on anything they wish with respect to Village affairs. The second comment period will be limited to comments on council member reports or items discussed at that meeting but not include public hearing items. Councilwoman Frusco added that the same rules and protocol applies to the second period as the first. Village Clerk Lisa Kivett asked that those wishing to comment to address the council from the lectern and speak into the microphone.

9. Additional Agenda Items:

Councilman Koos made a motion to adopt the agenda as written seconded by Councilman McCue and carried unanimously.

10. Approval of Minutes:

- October 8, 2013 – Regular Meeting
- October 24, 2013 - Work Session

Councilwoman Frusco made a motion to adopt the minutes as written seconded by Councilman McCue and carried unanimously.

11. Councilmember's Reports:

A. Councilwoman Frusco

- Financial Report

Councilwoman Frusco reported as of October 31, 2013, the general fund total balance on hand is \$1,068,000. Of this amount \$181,714 is restricted in both the Capital Reserve, assigned funds for future debt services, and the Stonehill fund. Total un-restricted in the general fund is \$886,904. The water fund which is all un-restricted has a balance of \$329,961. In addition, the Village still has in an escrow account with BB&T \$135,915 which is restricted for a new well. Total cash balance in the Village from both general and water funds is \$1,534,494.

As of the end of October, the Village has collected 41% of the budgeted ad-valorem taxes. Friendly reminder notices will be sent out the beginning of December. There have been some comments to why the Village spends the money to send notices but there are a number of residents who greatly appreciate this. We send out tax bills in the beginning of August and taxes are technically not due until January 4th. Sometimes people forget and put the bill aside. This reminder is to tell people that they have a tax bill coming due, not to tell them they are past due in paying it.

The yearly audit has been completed and there are no issues within the Village. She and Sharon Sanchez have gone over the audit report with a fine tooth comb and sent back a large number of questions and adjustments to the auditor. We expect the final report to be issued sometime in the next couple of weeks and it will then go to the State Treasurers office for final approval.

- Motor Vehicle Tax Issue

Councilwoman Frusco reported that some problems have been encountered with the new combined motor vehicle registration /personal property tax bills. It was reported recently in the newspaper that Seven Lakes had some issues with the tax revenue going to another municipality

and this is now affecting Foxfire Village. This is a concern because the municipality designation is who receives that motor vehicle tax revenue and this is a big revenue source for Foxfire. Some people who live in the Village have had Robbins or Pinehurst on their bills and some have been correct. We have alerted residents on the website and by email notification to look at their combined bills and the Village staff is trying to work with the county to see what kind of report they can provide to us either by address vs. municipality so we can be proactive about this. This may be difficult, we may know who our residents are but not what vehicles they have. If the municipality is not listed as Foxfire, they need to contact the Moore County Tax Department who will then do the correction.

- Monthly Permit Compliance Inspections

Councilwoman Frusco reported that within the last 4-6 weeks, that some residents have been undertaking various construction projects without the required permits. Anything on the interior of the house is not affected. Anything that possibly affects setbacks needs a permit from Foxfire and goes to the Appearance Committee for review. Most of these items also require permits from Moore County. She would like to remind residents to first contact the Village office to see if a permit is required before undergoing any construction projects.

Two recent instances were reported from people out on the golf course. Not every home backs up to the course so some things may not be seen. She asked that as part of the Appearance Committee duties, they make a monthly drive-through of the Village and observe, not for enforcement violations but for things that may require permits and review. Mayor Pro Temp Durham agreed that this is a problem.

Councilman McCue agreed the Appearance Committee should handle this but we must first find out what remedies we have when someone builds without a permit and is not in compliance. He asked that Lisa Kivett contact the Village attorney with this question. Discussion continued. It was decided by consensus to have Mayor Erickson speak with the Appearance Committee regarding the monthly inspections.

- Village Street Sign Post Damage

Councilwoman Frusco reported that Village street name signs were very expensive when purchased and also to replace. Many have become damaged or defaced by the placement of "yard sale signs" and other signs on them with duct tape. When signs are ripped off, the tape removes the paint or leaves adhesive on the posts. This has become an appearance issue in the Village. Signs are not permitted to be attached to Village street name signs and will be removed by law enforcement. All personal signs must be free-standing.

Councilman McCue reported that Village ordinance, (**Section 30-3 Tampering with, damaging, lights, signs, etc.**) deals with this issue and suggested an amendment to the ordinance. This particular ordinance is within the Village Code and will not require a public hearing to amend. Each member of council received a copy of this ordinance and suggested amendment drafted by Councilman McCue.

Councilman McCue made a motion to amend Section 30-3 by adding after the word "deface" in the first line "nor affix any sign, bill, poster, or other material to". The amended ordinance will then read as:

No person shall damage, tamper with, remove, paint, or deface nor affix any sign, bill, poster, or other material to any sign, sign post, street light, traffic sign or signal, bulletin board, or other municipal property on the streets, rights-of-way, or other public grounds of the Village except employees of the Village in the performance of their duties.

Councilwoman Frusco seconded the motion and carried unanimously.

B. Public Safety – Councilman McCue

- Section 16-4, Yards to be Kept Clean, and Other Related Ordinances

Councilman McCue reported that he worked on an amendment to **Section 16-4, Properties to be Kept Clean, Notice of Violation; Abatement** of the Village Code and council members have received a copy of the proposed changes. He highlighted and elaborated on the changes proposed regarding noxious weeds; deadfall trees, etc. He also added "undeveloped properties" as an exception to the ordinance. Extensive discussion continued between council regarding

deadfall trees on undeveloped properties, contacting of the property owners and the ordinance in a whole.

Mayor Pro Temp Durham asked that this issue be put on hold until the next Council work Session and for the Village to consult with the Village attorney.

C. Streets – Councilman Koos

- Patching and Drainage Updates

Councilman Koos reported that there is a lot of sand on the road on Forest Lake Drive near the dam, North Shamrock, and Eagle Drive. In each case the sand is coming from the shoulder of the road due to the angle of the road. This is unsightly and unsafe. He asked that Gilbert Brown prepare a cost estimate for grading the shoulder of the roads to direct the sand away from the road.

In addition, he asked Riley Paving for estimates to patch five areas where there are holes in the road or on the edge of the road where you can see the base layer of sand. He is waiting for a return phone call.

D. Water and Mayor's Report – Mayor Pro Temp Durham

- Water Superintendent Job Search

Mayor Pro Temp Durham reported that one resume so far has been received for the Water Superintendent position however, this applicant does not have the required certifications. The closing date for applications is November 22, 2013. He will meet with Jon Sedlak later in the week to discuss further. In the anticipation of not finding a replacement, Jon will need to be recertified.

- Work Session Schedule Changes for November and December

Mayor Pro Temp Durham reported that the November work session falls on Thanksgiving, therefore it has been rescheduled for December 12, 2013. The December work session fall on Christmas and has been canceled.

- 2014 Village Council Meeting Schedule

Mayor Pro Temp Durham reported that a proposed schedule of all regular council meetings and regular work sessions has been presented to the council for approval.

Councilwoman Frusco commented that once again, the November and December work sessions will conflict with the holidays. She suggested that the regular work sessions for those months be dispensed and to be called later in the year. This schedule does not list the Special Budget work sessions.

Councilman McCue made a motion to adopt the 2014 meeting schedule seconded by Councilman Koos and carried unanimously.

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

Mary Gilroy asked the council to consider having Pat Ogren send out a blast email to remind residents about permits. She thinks that people just don't know about the requirements. In addition to mention something about placement of signs on street name signs.

She also expressed a concern about the Appearance Committee driving through the Village. She asked if they are only driving through or are they to knock on peoples doors to alert them to any situation. They need to understand that they have no authority to issue violations, just to observe and report.

13. Old Business

None

14. New Business

1. Moore County Road Name and Addressing Ordinance

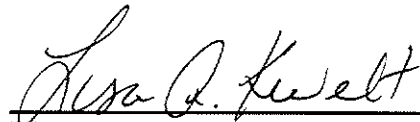
Mayor Pro Temp Durham reported that Lisa Kivett sent out information recently about a request to accept the Moore County Road Name and Addressing Ordinance and a workshop she attended. Moore County is asking that we either accept their ordinance by resolution or to establish an ordinance ourselves.

Mayor Pro Temp said that the council will further review and take action at a later date.

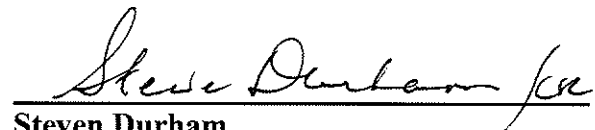
15. Adjournment:

Councilman McCue made a motion to adjourn seconded by Councilwoman Frusco and carried unanimously. The meeting adjourned at 8:55 PM.

As so incorporated to these minutes of November 12, 2013, 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
Village Clerk



Steven Durham
Mayor Pro Temp