

**MINUTES
FOXFIRE VILLAGE COUNCIL
REGULAR MEETING
Foxfire Town Hall
August 13, 2019 – 4:30 PM**

1. **Call to Order:** Mayor McCue called the meeting to order at 4:30 PM
2. **Members Present:** Councilman Don Boito, Mayor Pro Tem Frusco, Councilman Ed Howze and Councilman Sedlak were in attendance.
3. **Others Present:** Lisa Kivett-Village Clerk, Chief Chad Shue, and several Village Residents
4. **Moment of Silence:** Mayor McCue requested those present to pause for a moment of silence followed by the Pledge of Allegiance
5. **Approval of the August 13, 2019 Agenda:**

Mayor Pro Tem Frusco added *Budget Amendment* and Councilman Boito added *Plow and Pickup* to their reports.

Mayor Pro Tem Frusco made a motion to adopt the agenda as amended. The motion carried unanimously.

6. Consent Agenda

All items listed below are considered routine and will be enacted by one motion and without discussion

1. Approval of Minutes
 - July 9, 2019 Regular Meeting
 - July 25, 2019 Worksession
2. Appearance Committee Board Appointment
 - Martha Vance Thornton – 4-year term expires August 31, 2023
3. Planning & Zoning Board Re-appointments
 - Mary Gilroy – 2-year term expires August 31, 2021
 - Tom McClellan – 1-year term expires August 31, 2020

Mayor Pro Tem Frusco made a motion to approve the consent agenda. The motion carried unanimously.

7. Public Comment Period

Mike Cole – 12 Sunset Lane said he recently purchased a trailer and was issued an ordinance violation warning for having it parked on his property. He asked if the council would consider making an amendment to the trailer ordinance to allow utility trailers up to 14' in length.

8. Zoning Administrator's Report – Lisa Kivett

Zoning Administrator Lisa Kivett reported the following activity from July 10 thru August 13:

Thirty-one (31) homes are currently under construction or in the beginning stage of lot clearing. Two (2) of them located within the ETJ.

Two (2) Requests for Certificate of Occupancy received (Richmond Rd. and Woodland Circle). The request for 16 Woodland Circle is on hold until the builder properly screens the HVAC units as required in Sec 7.2.13 (3) – Site Design Standards. The builder was notified of this via email on 8/6/2019.

Permit applications were received for the following:

- Four (4) Single Family Residence Ridge Road (two), S. Shamrock Dr., and Woodland Circle
- Two (2) Accessory Building
- Three (3) Fence
- One (1) Structure Modification
- One (1) Barn
- One (1) Propane Tank

Permit applications were received and DENIED for the following:

- One (1) Detached Garage

Proposed location encroaches in rear setbacks by approximately 25'. Applicant has applied for a variance with the Board of Adjustment. A meeting has been scheduled for August 27, 2019.

- One (1) Fence

Applicant would like to construct a 4' wooden picket fence. The fence did not meet the 60% opacity requirement. The applicant was notified by certified mail of the denial and provided with an application to file for an appeal of interpretation with the Board of Adjustment. I have had no further communication.

Resident Complaints Received

- Dogs Running at Large
- Failure to clean-up after pet
- Public Nuisance- unkempt yard and trash on property
- Solicitation

Updates

- Wedgewood Drive – Sergeant Ritter and I both made contact with the property owner. He was in the process of removing the trash and yard debris from the property. The trailer had three flat tires which he needed to repair before removing the trailer. Upon reinspection, the trailer, trash and debris were removed.
- Letter mailed owner of the maintenance area property on Richmond Rd. (Wingfield Properties), reference the dilapidated fence gate. Second notice will be mailed if not repaired by August 17, 2019.
- Letter mailed to owner of the lot on Richmond Rd/S Shamrock (King) reference removal of deadfall trees. Second notice will be issued if lot has not been cleaned by September 17, 2019.

Ordinance Violations

Four Warning Citations were issued for continued violations from May. They consist of two unkempt yards, parking of recreational vehicle and a trailer and all are corrected.

Chief Shue and Sergeant Ritter followed-up on all recent ordinance violations. Of the 26 violations found in July 18 have been corrected. Six remain and will be issued a Warning Citations. The remaining two are for unkempt yards and the property owners are in the process of cleaning.

July's workload did not allow me time to drive through the Village and look for violations. I have plans to do so the last week of August.

9. Council Member Reports:

A. Finance – Leslie Frusco

Mayor Pro Tem Frusco reported as of July 31st, the General Fund balance was \$936,439 of which \$727,500 is unrestricted. \$208,939 is restricted for the Capital Reserve, Debt Service, Street Maintenance, and Separation Allowance. The Water Fund balance was \$771,162 of which \$505,086 is unrestricted. \$266,076 is restricted for a future well(s) and tank maintenance. The second to last loan payment was made for the Village Park at the beginning of August.

Mayor Pro Tem Frusco presented Budget Ordinance Amendment #2019-09. The Village received a grant for \$25,000 which will be used to renovate the Police Dept. and purchase some police supplies. It was originally thought to be a straight reimbursement grant i.e., we do the work, send the State invoices and the State pays the invoice. If this were the case, it would not need to go thru the budget. This amendment will set up grant proceeds of \$25,000, and two line-item police expense accounts for supplies and renovations.

Mayor Pro Tem made a motion to adopt Budget Ordinance Amendment #2019-09. The motion carried unanimously.

B. Streets and Park – Don Boito

- Foxlair Ct.

Councilman Boito asked to move this item to Old Business.

- Speed Limit Signs

Councilman Boito reported a decision was made to change the Village speed limit to 25 mph. Once the speed limit signs are changed out, an announcement will be made by the police dept. Boito is considering purchasing new signs, however, was able to find a vendor who sells replacement number stickers for \$7.60 each.

- Drainage Quote

Councilman Boito met with Sandford Contractors and drove thru the Village to identify drainage issues. Sandford Contractors will work with Neil Smith Engineering on how to attack the issues found. Boito hopes to receive a quote within a couple weeks.

- Pool Landscaping

Gilbert Brown did plantings, planted seed, and put down gravel and some pine straw at the pool facility.

- Plow and Pickup Truck

Councilman Boito reported that Drew Canady stopped by to look at the surplus plow and pickup. Mr. Canady decided it would cost too much money to modify the plow to fit his equipment. It was suggested to sell the equipment on an auction site such as the GovDeals surplus website.

C. Public Safety – Ed Howze

- Police Dept. Update

Councilman Howze reported the 16th Annual Rick Rhyne Fishing Tournament was held last Saturday and was a huge success. Approximately 250 children and adults attended, and Moore County Wildlife released about 400 fish the week prior.

As Mayor Pro Tem previously mentioned, the Police grant was approved, Chief Shue met with the contractor today and finalized plans for reconfiguration and construction of the Police Department.

The Village purchased two digital speed limit signs to be placed at various locations in the Village. One sign was wired incorrectly, and the wires fried when it was hooked up. A new sign will be sent to replace it. Howze and the police staff have received positive feedback on the signs.

- Fire Dept. Update

Councilman Howze reported as of August 1st, fire department staffing is back to full 24/7 coverage.

Chief Stromberg is taking some energy saving initiatives and recently changed the outside area lights to LED. He plans to put R30 insulation in the drop ceiling at the Foxfire station.

Chief Stromberg suggested the South Shamrock/Hoffman Rd. gate be replaced with a wider siren activated gate. The existing gate is not wide enough for emergency vehicles to go through. He will provide information on a siren gate for council to review. Mayor Pro Tem Frusco raised concerns about emergency vehicles running their sirens while driving past the gate. Assistant Fire Chief Mike Cole addressed her concerns and explained how siren operated gates work.

The Fire Department is preparing all equipment in advance of hurricane season.

D. Water – Jon Sedlak

- Amending the Village Ordinance Establishing Rules and Regulations for the Village Water System.

Councilman Sedlak drafted a proposed amendment to the Ordinance Establishing Rules and Regulations for the Village Water System. He provided copies to council.

This amendment changes wording in paragraphs IV (a), and X (c) to be consistent with the wording and intent of the ordinance pre-amble regarding tap-on fees and minimum monthly billing.

Mayor Pro Tem Frusco commented that if there is a Certificate of Occupancy or a meter installed, the resident would be billed. Sedlak replied yes but if no meter is installed and the resident uses a well, we would wait until a Certificate of Occupancy is issued before billing.

Councilman Sedlak made a motion to Amend the Ordinance Establishing Rules and Regulations for the Village Water System. The motion carried unanimously.

Councilman Sedlak reported the test well has not yet been drilled due to some issues with Graham Currie and well #10. He hopes the driller will be out this week.

E. Mayor's Report – E.M. McCue III

Mayor McCue said he will be out of town August 26 thru September 3.

The Village recently completed an agreement to purchase approximately 2.5 acres on the corner of Hoffman and Jackson Springs Rd. This property will be purchased outright and there will be no debt. This purchase will allow the Village to control the entrance to the Village. If we chose to sell it in the future, we can control what goes there and the appearance. Closing will be scheduled for week.

Mayor McCue reported that House Bill 675 was signed into law a couple weeks ago and became Session Law 2019-174. This law amongst other things strips us of authority to regulate minimum square footage for single-family homes or duplex homes within the Village.

Mayor McCue brought up the recent RV and trailer w/boat that were parked at the General Store and displayed for sale. He mistakenly thought the Village ordinance prohibited this but found it only applies to residential properties. McCue asked that council further discuss if this too should be regulated in the Village Business District. He drafted proposed amendments to the ordinance and asked council to review them. The proposed amendments were discussed with the Village Attorney in addition to possibly amending the permitted uses in the VBD. Another possibility would be to reinstitute some type of a privilege license requirement for businesses within the Village. The license would be at no charge and it will allow us to know what kind of business is operating in the Village. Mayor McCue would like to add this discussion to the upcoming Special Work Session in September.

Another item he would like to discuss at the Special Work Session is needed personnel changes. Mainly, is it time we need a Town Manager. He asked council to review Chapters 4 and 5 of *County and Municipal Government in North Carolina*. These chapters explain the difference between Council/Mayor and Manager/Council forms of government.

Councilman Sedlak asked if the signing of HB 675 by the Governor now allows anyone to build whatever size home they want, regardless if its size. McCue replied yes, that was his interpretation of the law. For instance, with a single-family home, the law now only requires the builder or developer to follow the North Carolina Home Builders Code.

Councilman Howze asked if HOA covenants supersede these requirements. McCue replied that HOAs can do much more than municipalities. The problem with this is HOAs are basically contracts with all people signing up. McCue read a recent article in the Pilot about Pinehurst creating a "how to book" for people in existing neighborhoods to create an HOA and thereby regulate design elements and design. He will contact Pinehurst for information to pass along.

Old Business:

- Foxlair Ct.

Mayor McCue explained that Foxlair Ct. is a road that is not an actual road. It goes from Foxfire Blvd. down to the Treehouse units on the side of the golf driving range. Village Clerk Lisa Kivett located an old file with information on Foxlair Ct. and dug into the County GIS for information. As far as we can tell, the treehouse units were once owned by the Foxfire Development Corp. and Resort and at some point, sold off. McCue had a couple of deeds for individuals from Foxfire Development Corporation. In the deed they retained in perpetuity an easement for a roadway or pathway from Foxfire Blvd. to the Foxlair treehouses. As far as McCue can tell, this is not Village property. There remains an issue of who owns property in between the individual treehouses. The Foxlair Ct. pathway was altered at one time and through the years has not retained its 25' easement required. If the pathway is widened to accommodate fire trucks, it will be very costly. He received an email from MC Public Safety Director Bryan Phillips. Mr. Phillips said that since the treehouses were built before fire code requirements, he does not think they can be forced to create a roadway or path wide enough. Assistant Fire Chief Mike Cole added if they had a fire, the only option would be to drive across the golf course. McCue has not yet

contacted Lydia Conard who owns the treehouse units. He suggested that Councilman Boito and Howze, police and fire contact the golf course about specific emergency response routes.

1. New Business:

- Deer Issue

Mayor Pro Tem Frusco received a call from a concerned resident about deer in her yard eating her plants and vegetables. The resident would like council to consider changing the ordinance to allow the discharge of firearms in the Village. She spoke to Chief Shue who also had a conversation with this resident. Frusco further discussed special permits, and the danger of having homes in close proximity. She added if there was a legal way to do this and we allow for one person, the council opens itself up to making an exception to anyone who wants it. Sedlak asked if there was a similar ordinance for bow and arrow. Chief Shue replied the ordinance prohibits any kind of projectiles.

- Discussion re: Setbacks and Tree Removal

Mayor McCue suggested since the passage of HB 675, council should look once more at setbacks, landscaping and tree removal ordinances. Councilman added he would also like to look at fencing and accessory structures setbacks and shared fence lines.

12. Public Comment:

Carlotta Young - 2 Pine Ct. had several comments.

Regarding HOAs- She said her cul-de-sac has an HOA deeded in. Regarding Foxlair Ct. – She has several maps and plats dated from the 1960's she could share with the Village if needed.

Regarding the deer, she encounters deer in her yard nightly and usually finds them on her deck. There were does on her deck eating her fig tree and she threw lit firecrackers at them to make them leave. She said they have destroyed her garden and plants and feels they are a safety issue.

Mayor McCue replied if her solution was to shoot firearms in the Village, he does not think council will even consider it. If she has another solution, please let council know. He is willing to discuss with the State or other people things she might be able to do to get rid of the deer.

Mary Gilroy -P&Z Chair said the board will look at setbacks. She has issues with sharing fence lines because of maintenance issues etc. however they will look at this.

14. Adjournment

Councilman Boito made a motion to adjourn. The motion carried unanimously. The meeting adjourned at 5:33 PM. As so incorporated to these minutes of August 13, 2019 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, CZO
Village Clerk



E.M. McCue III
Mayor