

**MINUTES
FOXFIRE VILLAGE COUNCIL
PUBLIC HEARINGS
REGULAR MEETING
Foxfire Town Hall
November 13, 2018 – 4:30 PM**

1. **Call to Order:** Mayor McCue called
2. **Members Present:** Councilman Don Boito, Councilman Ed Howze and Councilman Sedlak were in attendance.
3. **Members Absent:** Mayor Pro Tem Frusco
4. **Others Present:** Lisa A. Kivett-Village Clerk, Police Chief Chad Shue, Laura Douglas – The Pilot, Andy Moody, Barbara Okula, Cynthia Lathrop, John and Carole Hunter, Gladys Knight, Mary Gilroy, and Linda Straczewski.
5. **Moment of Silence:** Mayor McCue requested those present to pause for a moment of silence followed by the Pledge of Allegiance

Mayor McCue asked to move agenda item #8 Comprehensive Transportation Plan Endorsement ahead of the scheduled public hearings as several Transportation Committee members were in attendance. **Councilman Boito made a motion to move agenda item #8 ahead of the public hearings. The motion carried unanimously.**

6. Comprehensive Transportation Plan

The Village has discussed endorsing the Comprehensive Transportation Plan at several past meetings. During these discussions, some specific questions arose, and all addressed by Scott Walston from the NCDOT. Mayor McCue briefly listed the questions and responses.

Mayor McCue introduced Brandon Jones and Bryan Kluchar from NCDOT Division 8, Scott Waltson from NCDOT, and County Commissioner and Moore County Transportation Committee Chair Frank Quis, who were in attendance and available to answer further question.

Councilman Sedlak asked if the committee checked with the railroads for the possibility of using any of the area along the railroad on NC 5. Brandon Jones replied that historically, railroads have not allowed encroachment of their right-of-way for road projects. Plans being developed do not include encroaching on their right-of-way.

Councilman Boito questioned if the NC 5 improvements will have an impact on traffic fifteen years from now. Mr. Jones replied the plan will benefit NC 5 in the short-term and the 2040 predictions show that it will become very congested.

Councilman Howze had questions about the Pinehurst traffic circle improvements. Mr. Jones replied its currently a funded improvement project and an engineering firm is looking at several options. The current plan is for improvements following the US Open in 2024.

Brief discussion on the plan continued. Mayor McCue added that the number one priority for the Village is that the Western Connector/Pinehurst Bypass was not Roseland and Hoffman Road. He asked that Foxfire stay engaged with the Transportation Committee in the future.

Councilman Boito made a motion to adopt Resolution #R18-02 Adopting the Moore County Transportation Plan. The motion carried unanimously.

7. PUBLIC HEARINGS:

Mayor McCue asked for a motion to open the public hearings and to waive reading of each amendment. The amendments will be addressed one at a time and he will provide a brief summary of each. Those wishing to comment were asked to approach the lectern and state their name and address before making comments.

Councilman Sedlak made a motion to open the Public Hearings and Dispense with the Readings of Each Ordinance Amendment. The motion carried unanimously.

- 1) Amend Article VII - District Regulations, Sec. 7.8 EU-Equestrian, Sections 7.8.2(b,c) Permitted Uses, 7.8.8(c,e,f,g) Building Area, 7.8.11(e,f) Building Height and 7.8.12(a,c,f,g,h,j) Accessory Buildings**

Mayor McCue commented this amendment has a number of minor changes to make it more in-line with what happens on a horse farm. Planning & Zoning concentrated on setbacks and distances between structures. Changes to terminology of some structures and some screening requirements for accessory buildings eliminated.

There were no public comments.

- 2) Amend Article VII – District Regulations, Sections 7.1.2(a), 7.2.2(a), 7.3.2(a), 7.4.2(a), 7.5.2(a,b,c,e), 7.8.2(a), and 7.12.2(a) Permitted Uses, 7.4.3(a) Uses Permitted With Conditions and;**

Amend Article XIII – Definitions - “Duplex”, “Dwelling, Single Family Attached”, “Multi-Family Housing”, Multi-Unit Dwelling”, “Single-Family Residential”, and “Garage-Private”.

Mayor McCue summarized the amendment which addresses changes to Residential District Regulations and definitions concerning dwellings. The amendments are designed to prevent homes that are in fact a “duplex”, but technically do not meet the definitions of one. Changes to the definitions should address any confusion.

Barbara Okula – 4 Foxtail Circle asked if these changes affect someone who wants to build an in-law apartment. Mayor McCue replied it would not prevent a mother-in-law suite, and he read the definition to clarify that. There were no further public comments.

Councilman Sedlak asked if an in-law apartment could be rented out to someone other than the in-law. Mayor McCue responded that if they could or couldn't, it would be addressed in a different ordinance.

- 3) Amend Article VI - General Provisions Section 6.10 Fence and Wall Standards, Section 6.10 A (4,5) and;**

Add New Sections 6.10A (8,9,10)

Mayor McCue summarized the amendment and recommendations by the Planning & Zoning Board. No fencing is allowed in the front yard with exception of decorative hardscape, which could be accent fencing. Language was added requiring fences be maintained, in good condition and repaired or replaced when dilapidated. Fencing on property lines abutting the golf course is limited to 3 feet in height unless enclosing a swimming pool. A section added that non-conforming fences would not be replaced or repaired when the cost of repairs is 50% or greater of the fence value.

Cynthia Lathrop – 1 Magnolia Circle asked if the fence recently built in the front yard on Richmond Rd. was grandfathered in. Mayor McCue replied yes under the provisions on non-conforming fences and as long as it is kept in good repair.

Mary Gilroy – Planning & Zoning Board Chair added that the non-conforming changes also address other current fences in the Village such as stockade fencing. She suggested changing “50% or greater of the value” to “50% or greater of the length or linear feet of the fence.”

Jon Hunter – 30 N. Shamrock Dr. asked for clarification on the front yard fencing. He has a fence that runs along the front of his property and is concerned the changes would require removal.

Mayor McCue asked if the council would like to further discuss the amendment and issues with 50% value vs. length. There was brief back and forth between council. Mayor McCue will

take the comments from this evening and prepare something for council to review at the next work session.

***TABLED**

4) *Amend Certain Square Footage Requirements - RS40 District, Section 7.3.7*

This amendment would simply change to increase sq. footage requirements in the RS40 Zoning District. However, since publishing notice of the public hearing, there's been some informal discussion with council. Mayor McCue suggested that with the help of the P&Z Board, square footage requirements should be reviewed in all zoning districts. McCue read aloud suggested changes. It was the consensus of the council to further explore the square footage requirements.

***TABLED**

5) *Amend Chapter 32 – Subdivision Regulations of the Village Code, Section 32-3 Definitions, and Section 32-37 General Procedures for Plat Approval, Section 32-42 Review of Minor Subdivisions, and Section 32-43 Review of Major Subdivisions*

This amendment changes the process for approving minor subdivisions of property within the Village. We currently have a complex process and would like to simplify it. McCue read aloud some of the changes.

6) *Amend Article VI – General Provisions – Signs*

Mayor McCue commented that regulating signs has become difficult to do since the recent Supreme Court Case from Arizona. He thanked the P&Z Board for the tremendous amount of work they did on the proposed amendments. P&Z tried to create regulations that make sense for the Village, are not content based or violate the 1st Amendment. Mayor McCue provided to council a simplified alternative signs ordinance which is less regulatory or restrictive.

Cynthia Lathrop – 1 Magnolia Circle asked if a sign located on Bobolink that advertises window-washing and other services was permitted. She also questioned temporary signs vs. permanent signs.

Chief Chad Shue addressed the council about Ms. Lathrop's concern. If this sign was located on the right-of-way, which it is not, it would be in violation. This construction sign is located on personal property where the work was being performed. Mayor McCue added this is permitted under the current regulations and the new ones as well. Mayor McCue suggested this amendment be discussed further before voting by council.

***TABLED**

***Councilman Boito made a motion to Table the Adoption of Ordinance Amendments #2018-08 Fencing, #2018-09 Sq. Footage Requirements, and #2018-11 Signs. The motion carried unanimously.**

Councilman Sedlak made a motion to Close the Public Hearings. The motion carried unanimously.

Councilman Sedlak made a motion to Adopt Ordinance Amendment #2018-06 District Regulations-Sec. 7.8-EU. The motion carried unanimously.

Councilman Sedlak made a motion to Adopt Ordinance Amendment #2018-07 District Regulations and Definitions. The motion carried unanimously.

Councilman Sedlak made a motion to Adopt Ordinance Amendment #2018-10 Subdivision Regulations. The motion carried unanimously.

8. Approval of the November 16, 2018 Agenda

Councilman Sedlak added *Well Site* to his report.

Councilman Boito made a motion to adopt the agenda as amended. The motion carried unanimously.

9. Consent Agenda

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

1. Approval of Minutes
 1. October 9, 2018 Regular Meeting
 2. October 9, 2018 CLOSED SESSION
 3. October 25, 2018 Work Session
- B. Board of Adjustment Resignation and Appointment
 1. Sally Cook – Resignation as Regular Member (term to expire 9/30/2019)
 2. Jon Hunter – Change Current Alternate Member Appointment to Regular Member, filling the unexpired term left by Sally Cook. (new term to expire 9/30/2019)
3. Village Audit Report

End of Consent Agenda

Councilman Sedlak made a motion to approve the consent agenda. The motion carried unanimously.

10. Public Comment Period

None

11. Ordinance #2018-12 Amending Section 1-6. General Penalty; Enforcement of Ordinances; Continuing Violations of the Village Code

This ordinance amendment is part of the Village Code and will not need a public hearing for its adoption. Mayor McCue, Councilman Howze and Police Chief Shue discussed and discovered the need for slight changes to the penalty provisions in the General Code. Mayor McCue elaborated on some specific changes and the option to issue a State Citation for certain offenses.

Councilman Boito made a motion to adopt Ordinance Amendment #2018-12 Amending Section 1-6. The motion carried unanimously.

Mayor McCue added he completed a report required by the State Legislature for all Village ordinances that allow misdemeanor punishment. The report will be sent before the December 1st deadline.

12. Zoning Administrator's Report – Lisa Kivett

Ms. Kivett reported the following Zoning related activities for the month of October 2018:

Twenty-three (23) homes are currently under construction or in the beginning stage of lot clearing. Three (3) of them located within the ETJ.

Two (2) Single-Family Residence Construction Applications received. (Richmond Rd. and Forest Lake Dr) Approval was pending, needed a revised landscape plan and More County Septic. The Contractor submitted required documents last week and both plans were reviewed and approved.

Received a Request for a Conditional Use Permit from Strata Solar for a 30 acres Solar Farm (next to existing Wilson farm). This request was forwarded to the P&Z Board for review.

Other Permits Issued

Two (2) Fence

One (1) Extension of Existing Fence

Three (3) Accessory Building

I forwarded several complaints about parked trailers to the Police Department.

I received and addressed phone calls and texts re: non-working street lights, dead animals, open burning, and questioning if permits were issued for construction.

Per the Mayor's request, a Construction Application Checklist was drafted, and the Zoning Compliance/Construction Application was revised.

I attended a short meeting at Moore County GIS Department reference updates to their new requirements for annexation and zoning filing.

13. Councilmember's Reports:

A. Finance – Leslie Frusco

Mayor McCue reported in Mayor Pro-Tem Frusco's absence. He reported that each council member received a copy of the End of Year Report.

1. Pool House

Mayor McCue reported on a memo he received from Mayor Pro Tem Frusco with the following information. The original cost estimate for the new pool house was \$138,000 for block and brick facing. Mayor Pro Tem Frusco had further discussions with Bruce McFadden about using split-faced block, saving roughly \$7,000. If the building cost is less than \$135,000, we will not need assistance of a licensed architect or engineer. If the building is under \$500,000, we will not need to go through a formal bidding process. The current building can be demolished for approximately \$8,000 and done by a separate contract. Moore County requires proper ADA accessible walkway from the parking lot and McFadden has suggested using concrete. Pool lifts are not required in the first year if we have a "plan" to install in the future. McCue went on to list specific costs associated with the construction totaling \$145,000 and said that Mayor Pro Tem Frusco believes this can be paid for from the Capital Reserve Fund and the required Fund Balance.

Mayor McCue would like to make a decision to move forward. If approved before the end of the year, the 2012 Building Code or the 2018 Building Code can apply. If approved after the first of next year, only the 2018 Building Code can be applied.

Councilman Boito is concerned the new building has no windows to add a natural light. Mayor McCue agreed and said it should be inexpensive to add some windows.

Councilman Sedlak said that based on the square footage of 1,225 square feet, it will cost well over \$110 per sq. ft. He thinks that's a bit high for a concrete building. Boito questioned if the project might need sent out for bid.

Mayor McCue suggested further discussion with the contractor on the cost.

B. Streets and Park – Don Boito

Councilman Boito is still waiting to hear from Mr. Graham regards to the Woodland Circle Survey. He is also waiting for a plan from the Civil Engineer about drainage.

C. Public Safety – Ed Howze

Councilman Howze asked Chief Shue to give an update. Chief Shue contacted the grant writer who told him they have begun awarding grants. If we are awarded a grant, they will notify us by mail. Shue reported that the PD is part of the Region 6 Traffic Task Force. Officer Garner is heavily involved with the Governors Highways Safety Initiative. By participating in Traffic Checkpoints and writing citations, the PD obtains points throughout the year. Chief Shue received notice earlier in the day that Foxfire was awarded \$10,000 worth of equipment for their efforts in assisting the County this past year. He expects delivery of new traffic cones, a \$4,000 handheld radar unit, and a \$5,000 in-car camera in the near future.

Councilman Howze attended the WEFD Board of Directors Meeting. They discussed the budget and the possibility of a 2-year budget.

The Fire Dept. has someone who will trim the trees on the Fire Department road for \$1,250. They will trim 8-10 feet and clear out the bamboo. Discussion continued on ownership of the road.

Councilman Howze reported that Chief Shue and Fire Chief Stromberg are working together on the signage for the Foxfire Blvd. apartments and tree-house units.

D. Water – Jon Sedlak

Councilman Sedlak reported talking with Pete Mace about a possible well located on one of his properties in Pineland Preserve. Sedlak provided a map of the property and location of the possible well site. Mr. Mace is willing to sell the area of the well for \$40,000 and requested the property along Hoffman Rd. be rezoned to business district.

Mayor McCue added that this property was once zoned business district per Mr. Mace's request and then rezoned back to residential per his request.

Councilman Boito asked what the likelihood of getting water from that site was. Mayor McCue said he was not in favor of changing zoning. Discussion continued. Sedlak will check with a realtor to see if the price was reasonable and give a counter-offer.

E. Mayor's Report – E.M. McCue III

Mayor McCue reported on the NCLM 2019 Advocacy Goals, legislation on post-employment benefits to public employees, and the liability on the special separation allowance for police officers. He explained in detail.

Mayor McCue continues to work on the Personnel and Pay Policy Manual. He will send the recent changes for review.

14. Old Business:

Mayor McCue handed out a memo from Jack Frusco who is assisting on creating a process for house plan review and zoning issues.

15. New Business:

None

14. Public Comment:

Mary Gilroy commented that the well purchase and rezoning are two separate issues and should be treated as such, not tied together.

16. Adjournment

Councilman Boito made a motion to adjourn. The motion carried unanimously. The meeting adjourned at 6:05 PM.

As so incorporated to these minutes of November 13, 2018 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