

**MINUTES
FOXFIRE VILLAGE COUNCIL
PUBLIC HEARINGS / REGULAR MEETING
Village Hall Meeting Room – May 9, 2023-4:30 PM**

1. Call to Order: Mayor Boito called the meeting to order at 4:30 PM
2. Members Present: Mayor Pro Temp Janice Gregorich, and Councilmembers Janet Nauman, Don Nelson and Gary Samuels
3. Others Present: Village Attorney Al Benschoff, Chief Shue, Mary Gilroy-P&Z Chair, and several members of the public
4. Moment of Silence: Mayor Boito requested those present to pause for a moment of silence followed by the Pledge of Allegiance.
5. Public Hearings:

- Public Hearing #1 – Rezoning of parcels located in the ETJ (Extra-territorial Jurisdiction) from their current zoning to RA-5 (Residential Agriculture 5-acre minimum)

Councilmember Nelson made a motion to open Public Hearing #1. The motion was carried unanimously.

Mayor Boito explained the purpose of the public hearing is to consider rezoning of properties located in the Foxfire Village ETJ from their current zoning to the newly created RA-5 zoning. He read aloud a list of potential questions if properties are rezoned and provided the following answers:

- There will be no change to permitted uses.
- There will be no impact on Bona-fide Farms. Should the property cease to operate as a bona-fide farm, the property would revert to the RA-5 zoning.
- The zoning will go into effect after being adopted by the council.
- There will be no specific tax impact.

In short, all that is being done is change the minimum lot size to five acres. The purpose is to keep a rural feel to the area which is consistent with the Village Land Use Plan and to avoid having developers moving in and building developments on parcels.

Mayor Boito pointed out that each speaker would have three minutes to speak and should approach the lectern when addressing the council.

Speakers

Gail McBride – 2315 Hoffman Road

Her family has owned property in the ETJ for over 95 years. She currently owns the remaining 55 acres. She asked what effect the rezoning would have on her selling her land.

Linda McDonald Beddingfield– 2477 Danny Bell Rd., Asheboro

She owns six acres and asked what would happen if she were to split the property between her two children. Mayor Boito replied she would not be allowed to divide the property and is bothered by this.

Sharon McDonald – 1580 Foxfire Rd.

She agrees it is difficult to leave things to children if you don't own a lot of property.

Rhonda Cole – 1015 Jackson Springs Rd.

She and her husband own Knatts Creek Nursery on Jackson Springs Road. She moved to the area 40 years ago and raised her children in the area because it was in the country. She is in favor of rezoning to limit development in the area.

David Cummings – 905 Foxfire Rd.

He was both in favor and against the rezoning. He had several questions and asked what the benefits are of the rezoning. He suggests the council consider other options for property owners who own less than 5 acres.

Mary Gilroy – P&Z Chair

Mary pointed out a provision in the count called “the family provision” that gives the ability to split a parcel for family members. The P&Z board will look into this provision to see where it will fit into the

Village zoning.

John Stone – 977 Jackson Springs Rd.

He supports the zoning change and would like to see the Village maintain its rural nature.

Roger Schwab – 3170 Roseland Rd.

He suggested there be clarity to the zoning map showing the parcels affected. He is not in favor of the rezoning and concerned about limiting the ability to divide property for grandchildren. He added the State is doing away with the ETJ. Boito replied the ETJ Bill has not yet made the crossover to the House and there's a possibility it won't. Mr. Schwab suggested the council wait to rezone until the State makes a decision.

Terry Kerr – Pinecrest Court

He feels the family provision is important. He asked if this rezoning would change the ordinances on noise, animals, or shooting guns.

Kelly Atkins - Pinecrest Court

She is interested in finding out more information on the family provision. She added her mother's property is currently land-locked and she suggested the council have an additional meeting to discuss RA-5.

Monica Rickard

Had questions on the zoning designations and what the change would actually do.

Jerry Rooney – Hoffman Rd.

He is in favor of rezoning to slow development.

Leslie Frusco – 7 Hillside Dr.

She is in favor of the rezoning and concerned about the available water. Even though the ETJ is not provided Village water, we all pull from the same aquifer. More development will deplete water very quickly.

Councilmember Nauman made a motion to close Public Hearing #1. The motion was carried unanimously.

Mayor Pro Tem Gregorich commented that considering an RA-2 opposed to an RA-5 is not sufficient to control growth and should not be considered.

Councilmember Samuels favors the “family provision” and would like to see language within the ordinance. Gregorich and Nauman concurred.

Albert Benschoff – The Brough Law Firm was in attendance and representing the Village. Mr. Benschoff explained to the council there are four options available regarding the rezoning. Options include approving the RA-5 proposal, denying the RA-5 proposal, re-opening and continuing the public hearing to a date certain they would pick, or tabling the matter and resuming at a future meeting. The RA-5 rezoning can be adopted at the upcoming work session without having another public hearing. Councilmember Samuels asked if the rezoning could be approved with a proviso on the upcoming “family” verbiage. Benschoff replied, it would be a bad idea however council could adopt RA-5 with direction to the P&Z Board to return an amendment about family subdivisions within 30 or 60 days. P&Z Chair Gilroy added the board would have language written within two weeks.

Mr. Benschoff continued, when the P&Z Board sends a recommendation to amend the ordinance, another public hearing is required before it can be adopted. Written notice to property owners for text amendments is not required.

Councilmember Nelson made a motion to adopt the RA-5 rezoning. Mayor Pro Tem Gregorich said she would feel more comfortable waiting a couple weeks before approval. The motion failed.

Mayor Pro Tem Gregorich made a motion to table the vote to rezone to RA-5 until the May 25, 2023 Work Session. Councilmember Nauman seconded the motion, and it was carried unanimously. **TABLED**

- Public Hearing #2 – Sec. 21-6-5 - Zoning Districts – Adding Zoning *District CZ-Conditional Zoning*

Councilmember Nauman made a motion to open Public Hearing #2. The motion was carried unanimously.

P&Z Chair Gilroy explained the Conditional Zoning is an administrative option for the Village to approve zoning without having a special use permit. She further explained and used the Aberdeen, Winston Pines development as an example.

John Stone – Hoffman Road asked if there were a statutory requirement for a hearing. Mayor Boito agreed to have Mr. Benschoff answer. Mr. Benschoff replied, conditional zoning is permitted by case law by our Supreme Court, and by statute. It is just like regular zoning except, the applicant presents a more specific proposal by adding conditions, creating a unique zoning district in the village. All other due process requirements are the same. There was back and forth discussion with Mr. Stone and P&Z Chair Gilroy, and Mr. Benschoff regarding the wording of the CZ zoning.

Mayor Pro Tem Gregorich made a motion to close Public Hearing #2. The motion was carried unanimously.

Mayor Pro Tem questioned why we wouldn't have the zoning administrator vs. the P&Z Board approve minor revisions. P&Z is an advisory board only and the Zoning Administrator is the sworn administrator who knows what is going on. Gilroy is just concerned the developer might put pressure on the administrator. She would like P&Z to review the changes just to be sure something isn't missed. Mayor Boito suggested a change to the wording to clarify this. Besnchoff suggested saying "reviewed by and recommendations of the Planning and Zoning Board."

Mayor Boito read aloud the consistency statement, "*The amendments in the following document are consistent with applicable elements of the 2021 Foxfire Village Land Use Plan and Long Range Plan and are reasonable and in the public interest in order to provide clear and consistent guidance to property owners.*"

Mayor Pro Tem Gregorich made a motion to adopt the consistency statement. The motion was carried unanimously.

Councilmember Nauman made a motion to adopt Conditional Zoning District #2023-07 with changes as noted. The motion was carried unanimously.

- Public Hearing #3 – 21-16-1 – Definitions – Adding *Dimensional Standard* and *Single-Family Manufactured Home* – **Ordinance Amendment #2023-08**

Councilmember Nelson made a motion to open Public Hearing #3. The motion was carried unanimously.

Mayor Boito explained the hearing was to consider amending UDO Section 21-16-1 – Definitions by adding the following:

Dimensional Standard, *A development requirement that establishes maximum size of buildings and structures on a lot and the buildable area within which the building can be located, including lot coverage, yard requirements, height, and floor area ratio.*

Single-Family Manufactured Home, *A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein.*

David Cummings – Foxfire Rd. asked if these definitions would affect properties in the ETJ. Boito replied all this does is define what each item is.

Councilmember Nelson made a motion to close Public Hearing #3. The motion was carried unanimously.

Mayor Boito read aloud the consistency statement, "*The amendments in the following document are consistent with applicable elements of the 2021 Foxfire Village Land Use Plan and Long Range Plan and are reasonable and in the public interest in order to provide clear and consistent guidance to property owners.*"

Councilmember Nelson made a **motion to adopt the consistency statement**. The motion was carried unanimously.

Mayor Pro Tem Gregorich made a **motion to adopt Ordinance Amendment #2023-08**. The motion was carried unanimously.

- Public Hearing #4 – Table 6.1 – Table of Authorized Uses – Repeal and Replace Entire Table

Mayor Pro Tem Gregorich made a **motion to open Public Hearing #4**. The motion was carried unanimously.

P&Z Chair Mary Gilroy presented the most recent draft of Table 6.1 and explained the additions and changes the board felt were needed. The existing Table 6.1 will be repealed and replaced with the new Table 6.1.

Mayor Pro Tem Gregorich made a **motion to close Public Hearing #4**. The motion was carried unanimously.

Gregorich suggested “accessory buildings” under “accessory dwelling” in the “single family” category, and adding they are authorized everywhere except in the RM district.

Mayor Boito read aloud the consistency statement, *“The amendments in the following document are consistent with applicable elements of the 2021 Foxfire Village Land Use Plan and Long Range Plan and are reasonable and in the public interest in order to provide clear and consistent guidance to property owners.”*

Councilmember Nelson **made a motion to adopt the consistency statement**. The motion was carried unanimously.

Mayor Pro Tem Gregorich made a **motion to adopt Ordinance Amendment #2023-12 repealing and replacing Table 6.1-Appendix A with the changes made this evening**. The motion was carried unanimously.

Councilmember Nauman made a **motion to recess the May 9th meeting until 6:00 PM**. The motion was carried unanimously.

Councilmember Nelson made a **motion to reconvene the May 9th meeting**. The motion was carried unanimously, and the May 9th meeting reconvened at 6:00 PM.

6. Approval of the May 9, 2023, Regular Meeting Agenda

Mayor Pro Tem Gregorich added *North Carolina Capital Trust Semi-Annual Report* to her report.

Councilmember Nelson made a **motion to adopt the May 9, 2023 agenda as amended**. The motion carried unanimously.

7. Consent Agenda

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

a. Approval of Minutes

- April 11, 2023 Public Hearing/Regular Meeting
- April 14, 2023 Special Meeting
- April 27, 2023 Work Session

b. ARPA Resolutions and Policies

- Resolution #R23-02 -In the Matter of Receiving Federal Funds Under the ARPA
- Resolution #R23-03 -Eligible Use
- Resolution #R23-04 -Allowable Costs and Cost Principles for Expenditures
- Policy – Record Retention
- Policy -Conflict of Interest

c. Board Appointments:

- Boyd London – Board of Adjustment ETJ Member – 2 year term
- Kent Manning- Board of Adjustment Alternate Member - 2 year term

Councilmember Nelson made a **motion to approve the consent agenda as written.** The motion carried unanimously.

8. Public Comment Period

Lydia Conard – 74 Richmond Road said she requested information from the Village office about the Woodland Circle Road paving project and any documents pertaining to the inclusion of utility installation during that project. She added her request had not been answered. She also commented on the proposed pool hours. Village Clerk Lisa Kivett replied, the Village office was in receipt of her request, and it is taking time to research and find any documents should they exist. The Village staff is working as quickly as allowed to fulfil her request.

9. Zoning Administrators Report - Lisa Kivett

Lisa Kivett provided the following zoning activity from April 12, 2023 through May 9, 2023.

Currently a total of Fifty-two (52) homes are under construction or in the beginning stages of lot clearing. Fifty-three (51) in the Village Corporate Limits and One (1) in the ETJ.

No single-family residence permits were received.

*Two (2) Certificate of Occupancy were issued:
185 Vista Ridge
1 Birdie Court*

*Other Permits Issued:
One (1) Screened Porch
One (1) Propane Tank
One (1) Accessory Building*

10. Council Member Reports:

A. Finance - Janice Gregorich
▪ Financial Report

Mayor Pro Temp Gregorich reported as of April 30, 2023: The balance in the general fund is \$2,641,757 of which \$1,317,066 is reserved. The Street reserve has been increased. The balance in the Capital Trust account is \$1,918,279. The balance in the water fund is \$1,326,804 of which \$361,076. The Capital trust account for the water department has \$821,780. Year to date, the interest earned in the Capital Trust account between general and water funds is over \$40,000.

▪ North Carolina Capital Trust Semi-Annual Report

Gregorich received the NC Capital Trust semi-annual report. She will leave a copy with Lisa Kivett if the council wishes to review it.

B. Streets and Park – Janet Nauman

▪ Village Pool

Councilmember Nauman reported that Village pool season information was available on the Village website. In speaking with some residents, she was told many people are unhappy with this year's admission rates and operational hours. Nauman said the Village listened to all concerns and suggestions and that is what they based the admission and that is what the admission and hours are based on. She added the pool is open 6 hours per day, season passes are available for Village residents, and daily admission "pay at the pool" is also available. Nauman provided details on pool hours, days/times for Adult Swim, and the breakdown on season pass costs. Brief discussion followed.

Councilmember Samuels asked if the developer of Windy Ridge was responsible for cutting the grass along Richmond Road. Nauman replied yes, and they have been contacted about mowing it.

C. Public Safety – Don Nelson

- Department Updates

Councilman Nelson reported the new police car would be striped next week. Nelson and Gregorich will meet with Fire Chief Eric Stromberg to work on the fire department budget numbers.

D. Water Department - Gary Samuels

Councilmember Samuels thanked residents for their patience during the construction activity on the Ridge Road well house.

E. Mayor's Report - Don Boito

- Update on Meeting with Whispering Pines re: Affordable Housing

Mayor Boito met with the Whispering Pines Mayor, Town Manager, and a couple councilmembers. They discussed working together to combat the affordable housing initiative that is going on in the State Capital. Boito additionally met with the Pinehurst Mayor to draft a joint Resolution opposing the bills. The NCLM should have an update on the bills by the end of the week.

11. Old Business,

- Village Council Retreat

Mayor Boito reminded the Council of the Village Council Retreat scheduled for Thursday, May 18th beginning at 9:00 at the Moore County Chamber of Commerce building in Southern Pines. The meeting is open to the public.

12. New Business

- Planning & Zoning Board Recommendation – Accessory Buildings

A resident recently requested to build a larger than permitted accessory building has prompted the P&Z Board to review the accessory building ordinance and maximum sizes allowed. Gilroy reported after review, P&Z feels the maximum allowable size for a building on a parcel one-acre and less than two-acres should be increased to 550 sq. ft. An official recommendation to change the ordinance was submitted to the council and brief discussion followed. The recommendation to consider the change was accepted and a public hearing was called for June 13, 2023.

- 2023/2024 Budget Citizen Participation Meeting

Mayor Boito reported the Citizen Participation meeting is scheduled for Thursday, May 25th at 4:30PM and the regular work session will immediately follow. This meeting will allow citizens to review the budget draft and make comments or suggestions before a final draft is prepared for adoption in June.

- Public Hearing – 2023/2024 Budget

Mayor Boito reminded everyone of the June 13, 2023 Public Hearing to adopt the 2023-2024 Budget.

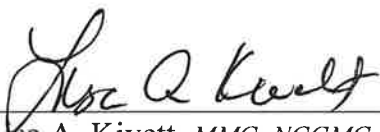
13. Public Comments:

Elizabeth Viera – 37 Woodland Circle voiced her concerns about the pool fees and limited hours of operation. She is concerned the season pass fees are too costly for families.

Jackie Leary – 4 Vineyard Place commented she would probably use the daily admission opposed to a season pass. She suggested the hours of operation be increased and that information about the history of the pool be available on the website.

14. Adjournment

Councilmember Nauman made a motion to adjourn. The motion was carried unanimously, and the meeting adjourned at 6:40 PM.



Lisa A. Kivett, MMC, NCCMC, CZO
Village Clerk



Don Boito
Mayor