

PROPOSED AGENDA

Meeting of the Town of Biltmore Forest Board of Commissioners

To be held Tuesday, September 11, 2018 at 4:30 p.m.

A. Roll Call by the Clerk

Mayor George F. Goosmann, III
Commissioner Fran G. Cogburn
Commissioner E. Glenn Kelly
Commissioner Doris P. Loomis

B. Approval of the Minutes

1. The minutes of the Regular Meeting held on Tuesday, August 14, 2018 will be presented for approval.
2. The minutes of the Special Call meeting and Public Hearing held on Tuesday, August 21, 2018 will be presented for approval.

C. Public Comment

D. Reports of Officers

1. Chief of Skyland Fire and Rescue
2. Police Department
3. Public Works Director
4. Town Manager

E. New Business

1. Consideration of Resolution 2018-06
Authorizing Sale of Surplus Town Equipment
2. Discussion of Potential Zoning Ordinance Amendments
 - a. Driveway Gates as Accessory Structure
 - b. Construction Timeline/Permit Expiration
3. Review of Town Ordinances related to Feeding Wild Animals
4. Open House Schedule and Information

F. Petitions, Motions, and Other Business

G. Public Comment

H. Adjourn

MINUTES OF THE MEETING OF THE MAYOR AND TOWN COMMISSIONERS OF
BILTMORE FOREST HELD AUGUST 14, 2018.

Be it remembered by those that follow these proceedings that the Governing Board of the Town of Biltmore Forest met and conducted the following business:

Roll call by the Clerk:

Mayor George F. Goosmann, III, present
Commissioner Fran G. Cogburn, present
Commissioner Doris P. Loomis, present
Commissioner E. Glenn Kelly, present

Mr. Jonathan Kanipe, the Town Manager, and Mr. William Clarke, the Town Attorney, was also present.

Mayor Goosmann called the meeting to order at 4:30pm.

Mayor Goosmann asked for a motion to approve the July 17, 2018 minutes. A motion was made by Commissioner Cogburn to approve the minutes. The motion was seconded by Commissioner Loomis and unanimously approved.

Mayor Goosmann asked if there was any Public Comment. Mrs. Cynthia Justice asked about a green chain link fence at 5 Browntown Road. Mrs. Justice thought it was a new fence and asked why it was there. Mr. Kanipe was not aware of any new fence at that address but he said he will look into it.

Chief Ryan Cole gave the monthly report for Skyland Fire Department. It was a busy month and Chief Cole thanked the Board for inviting them to the 4th of July parade. Chief Cole discussed water rescues when people go tubing and white water rafting. A fan motor went out on an HVAC unit in Town. The police department helped with this, and the result was a lot of smoke. Mayor Goosmann thanked Skyland for all their hard work.

Chief Beddingfield gave the monthly report for the Police Department. There were approximately 700 calls this past month. An armed man was chased through the woods, but he was later detained. There were several suspicious person calls, and items were taken from a residence on Bourne Lane. There were also many bear calls. Chief Beddingfield will also be chairing a meeting for the State Police Chief's Association. Mayor Goosmann thanked the Police Department for all their hard work.

Mr. Terry Crouch gave the monthly report for the Public Works Department. Commissioner Cogburn asked about the status of the pond. The engineers are going to meet with Mr. Kanipe and Mr. Crouch next week to review the work.

Mr. Jonathan Kanipe discussed the Consideration of Order for Tax Settlement for FY 17-18. The percentage collected was 99.9637%.

Pursuant to the provisions of NCGS 105-373, the following is the Tax Collector's Report of Settlement for 2017 taxes for Fiscal Year 2017-18 as of August 9th, 2018.

| | |
|--|--------------|
| 2017 Levy from Scroll (<i>Real & Personal Property Tax</i>) | 2,541,189.03 |
| Exemptions, Releases & Deferrals | (102,532.13) |
| Afterlist | 3794.34 |
| Public Service Companies | 16,005.56 |
| Total 2017 Levy | 2,458,456.80 |
| Penalties, Costs & Interest (all years) | 4,467.21 |
| Total 2017 Charges | 2,462,924.01 |
| Collected (2017 Real & Personal) | 2,462,028.75 |
| Uncollected (2017 Real & Personal) | 819.12 |
| Percentage of Levy Collected | 99.9637% |
| Prior Years Collected During Period (<i>includes interest & Penalty</i>) | 1,571.69 |

List of 2017 Delinquent Taxes - Real Property

| | | |
|----------------------|-----------------|--------|
| Pankow, Joanne F | 964774933200000 | 796.90 |
| Rector, Judith Eller | 965608142100000 | 22.22 |

List of 2017 Delinquent Taxes - Personal Property

Total Delinquent Taxes- By Year

| | | | | | |
|--------|-------|--------|-------|--------|-------|
| Year | 2011 | 2012 | 2014 | 2015 | 2016 |
| Amount | 48.19 | 162.28 | 18.14 | 247.83 | 35.18 |

The second item was Consideration of Order for Tax Collection of FY 18-19. Commissioner Kelly made a motion to approve the Order of Tax Collection for Fiscal Year 2017-2018 and 2018-2019 Commissioner Cogburn seconded the motion. The motion was unanimously approved.

UNAPPROVED

ORDER OF COLLECTION

State of North Carolina
Town of Biltmore Forest

Order of the Board of Commissioners
Pursuant to NCGS 105-321 for the
Collection of 2018 and Prior Years' Taxes

To the Tax Collector of the Town of Biltmore Forest:

You are hereby authorized, empowered, and commanded to collect the taxes set forth in the tax records filed in the office of Administration and in the tax receipts herewith delivered to you, in the amounts and from the taxpayers likewise therein set forth. Such taxes are hereby declared to be a first lien upon all real property of the respective taxpayers in the Town of Biltmore Forest, and this order shall be a full and sufficient authority to direct, require, and enable you to levy on and sell any real or personal property of such taxpayers, for and on account thereof, in accordance with law.

Witness my hand and official seal, this 14th day of August, 2018

George F. Goosmann, III
Mayor, Town of Biltmore Forest

Attest:

Jonathan B. Kanipe
Clerk, Town of Biltmore Forest

Mr. Kanipe discussed the Consideration of Resolution 2018-02 approving the Town's Water Shortage Response Plan. Commissioner Loomis moved to approve the Water Shortage Response Plan and Commissioner Cogburn seconded the motion. The motion was unanimously approved.

Mr. Kanipe also discussed the Consideration of Resolution 2018-03 approving the Town's General Fund Balance Policy. Mr. Kanipe said Town personnel have been working on Fiscal Management policies. The first policy Mr. Kanipe asked the Board to consider is a General Fund Balance policy. This policy codifies what the Town is doing already. The Town historically has never gone below a 20 percent fund balance unless it is an emergency. This policy says we will keep 25-30 percent in our General Fund balance. Mr. Kanipe reiterated the importance of fiscal management policies. Mr. Kanipe said that Assistant Finance Director Helen Stephens is submitting the financial documentation to the Government Finance Officers Association for the distinguished budget award.

A motion was made by Commissioner Cogburn to approve the Consideration of Resolution approving the Town General Fund Balance policy. Commissioner Kelly seconded the motion. The motion was unanimously approved.

The Consideration of Agreement with Buckeye Bridge for bridge repairs was discussed. There are two bridges in Town that require inspection every two years. WithersRavenel also inspected to confirm the engineering of the bridges. The initial plan for work indicated a start date around mid to late September, taking approximately 2-4 weeks. No permits are required, as this type of work is performed under a nationwide maintenance permit.

The Country Club wants to redo the creek on Hendersonville Road coming west to the bridge that the Town is working on. It will occur December 1st-January 31st. Buckeye said they are willing to wait a little bit so both projects could be conducted at the same time, thereby limiting the disruption in this area of work.

A motion was made by Commissioner Kelly to approve the work of the bridges with Buckeye Construction and delay the work in conjunction with the creek repairs the Biltmore Forest Country Club is having done. The cost for the bridge repair work is \$28,000. The motion was seconded by Commissioner Cogburn. The motion was unanimously approved.

The Public Works building was discussed along with the Consideration of Resolution 2018-04-approving application with the Local Government Commission for the installment financing agreement. A Public Hearing is set for Tuesday to discuss the proposal. Requests for proposal (RFP) will come in Thursday at 5pm.

Commissioner Loomis moved for adoption of Resolution approving the application with the Local Government Commission for the installment of the financing agreement. Commissioner Cogburn seconded the motion. The motion was unanimously approved.

Mr. Kanipe discussed the Consideration of Amendment to the Town Code Traffic Schedule and Traffic Pattern Changes Discussion. Commissioner Cogburn asked when this would go into effect. Mr. Kanipe said it could go into effect immediately if the Board approved it. Commissioner Kelly suggested informing the residents first before changing the speed limit from 35 mph to 25mph around the entire Town. The engineers suggested putting rumble strips and making a four way stop at the intersection of Cedarcliff and Vanderbilt. The Board agreed to inform the residents before changing the speed limit and installing a four way stop at the intersection of Cedarcliff and Vanderbilt.

The presentation of proposed Amendments to the Accessory Structure Ordinance were discussed. Three options were noted for the Board. The first is an accessory structure ordinance to include the word "gates" as part of the fences and walls. This does not include a prohibition on driveway gates. The proposed ordinance does not say that fences, walls, and gates are not allowed in the front yard. If the Board does not want to allow gates across the driveway, this should be explicitly noted.

The second version of the Ordinance is with the changes that were reflected at last month's Board of Commissioner's meeting. Gates were not included.

The third document was additional Zoning Amendments that were discussed back in April.

Commissioner Cogburn discussed side yard structures and asked for clarification on whether structures are allowed in the side yard. Mr. Kanipe said they were allowed if all other requirements of the Zoning Ordinance were met.

Commissioner Loomis said she did not favor driveway gates, but she recognized that she represents the residents of the Town who may want them. If residents desire that driveway gates be allowed, she would be in favor of approval of applications for such gates by administrative action of the Town Manager. Mr. Clarke said a separate section should be added regarding the specifics of driveway gates. Commissioner Kelly was in favor of allowing fences in the back yards. Mr. Clarke suggested proposed changes to the Zoning Amendments to the Planning Board. Commissioner Kelly asked if something could be put in the newsletter with the proposed changes. Mr. Kanipe said there is too much information to put in the newsletter, but suggested putting information on the website and reviewing the potential changes at a public meeting in September. The Board agreed to have information presented to the public at the Open House in September.

Commissioner Cogburn asked for clarification on the topic of mature vegetation and how it should be required so fences are sufficiently screened from neighboring properties.

Mr. Kanipe gave the Manager's report for the Town. On Wednesday, September 12th, from 4:00pm-6:00pm, there will be an open house at the Town Hall to inform residents about what is going on in the Town regarding various projects. Residents will also be able to meet Chief Beddingfield, and the Town will be able to distribute information regarding the CodeRED system and Eye on Water system.

Regarding the Greenwood Park Master Plan, everything is on track and going well. The engineers are working on the storm water master plan update. Mr. Kanipe said he should have an update by the end of the week.

Mr. Kanipe said he contacted Senator Van Duyn and Representative Turner regarding the Commission's willingness to move to even year elections.

Mr. Kanipe informed the Board that there are concerns from the neighbors regarding the cellular tower behind the Town Hall. Some are concerned about the noise and lights. They are also concerned about safety issues with branches falling off. This is definitely a safety concern and we need to make sure American Tower is following safety guidelines. Mr. Kanipe and Mr. Clarke will draft a letter to American Tower regarding these concerns and report back to the Board.

The Board of Adjustment did not meet in July. The Design Review Board met in July. They approved the modification to the home at 9 Cedar Chine and the plans for the Biltmore Forest Country Club maintenance building.

Mayor Goosmann discussed trees on the Biltmore Forest side of The Ramble. The Blue Ridge Parkway is responsible for the maintenance and upkeep of these trees.

Mayor Goosmann asked if there was anyone in the audience who wanted to make Public Comment. A resident asked what a buttercup was. Mayor Goosmann explained their purpose.

There being no further business, Mayor Goosmann adjourned the meeting at 5:41 p.m. The next Board of Commissioners meeting was scheduled for Tuesday, September 11, 2018 at 4:30 p.m.

ATTEST:

Jonathan B. Kanipe
Town Manager

George F. Goosmann, III
Mayor

UNAPPROVED

MINUTES OF SPECIAL CALL MEETING OF THE MAYOR AND TOWN
COMMISSIONERS OF

BILTMORE FOREST HELD TUESDAY, AUGUST 21, 2018.

Be it remembered by those that follow these proceedings that the governing Board of the Town of Biltmore Forest met and conducted the following business:

Roll call by the Clerk:

Mayor George F. Goosmann, III, present

Commissioner Fran G. Cogburn, present

Commissioner Doris P. Loomis, present

Commissioner E. Glenn Kelly, present

Mr. Jonathan Kanipe, the Town Manager was also in attendance.

Mayor Goosmann called the meeting to order at 4:00pm. Commissioner Loomis made a motion to go into Public Hearing. Commissioner Cogburn seconded the motion. The motion passed unanimously.

The purpose of the meeting was to discuss the Public Works building renovation project, and specifically, the financing of a portion of the project with an installment financing agreement. Mayor Goosmann asked Mr. Kanipe to review the proposed financing agreement, and the process under which the financing requests were undertaken. Mr. Kanipe reviewed this material and recommended that the Board accept a financing proposal from Branch Banking and Trust (BB&T) to finance \$800,000.00 for a 10-year term at a 3.36 percent interest rate. There were no public comments. Commissioner Cogburn made a motion to exit the public hearing, and Commissioner Kelly seconded. The motion passed unanimously.

Commissioner Loomis then made a motion to approve Resolution 2018-05 accepting the proposal from BB&T for an \$800,000.00 installment financing agreement not to exceed 3.36 percent interest for a term of ten (10) years. Commissioner Kelly seconded the motion. The motion was approved unanimously.

There being no further business, Mayor Goosmann adjourned the meeting at 4:05 p.m.

ATTEST:

Jonathan Kanipe, Town Manager/Clerk

George F. Goosmann, III, Mayor



Biltmore Forest Public Works Department

Terry Crouch
Director Of Public Works
355 Vanderbilt Road
Biltmore Forest NC, 28803

Phone: 274-3919
Fax: 274-3921
Mobile: 777-4466
Email: tcrouch@biltmoreforest.org

PUBLIC WORKS MONTHLY REPORT **AUGUST 15, 2018 TO SEPTEMBER 11, 2018**

- Completed all of the normal routine services to the residents on schedule, garbage collection, recycling and brush removal.
- Changed out the 15 damaged encoders (antennas) and registers to for the cellular meter reading program.
- We have collected a total of 19 loads of brush for the residents and transported them to Asheville Stump and Dump.
- Repaired several road shoulder ruts due to contractors and cars parking on the road shoulders.
- Repaired 2 streetlights (general repairs).
- Collected 31.6 tons of garbage for the month of August and 15.74 tons of recycling.
- Completed 54 special requests from the residents, extra garbage collection, meter rereads, house no. signs, recycling request, etc and completed 41 utility locate request.
- Completed the 2 monthly bacteriological water samples for August 2018 and both were in compliance with the state.
- Trimmed several road shoulders and streetlights of hanging limbs and over grown debris.

- Mowed and weedeated the wooded area between Brookside road and Cedarhill drive .
- We are still continuing with the annual inspections of the residents RPZ devices (backflow devices).
- Completed repairs to several Public Works vehicles.
- 62 hours were spent maintaining the Town's parks and pond.
- Mowed and weedeated all of the road shoulders and parks as needed.
- We are still collecting litter on the road shoulders on Hendersonville road from Cedarcliff road to Busbee road weekly.
- We spent 269 hours maintaining the Town's roads and road shoulders.

Sincerely

A handwritten signature in black ink that reads "Terry Crouch". The signature is written in a cursive style with a prominent horizontal line above the first name.

Terry Crouch
Director of Public Works

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www.biltmoreforest.org



George F. Goosmann, III, Mayor
Fran G. Cogburn, Mayor-Pro Tem
E. Glenn Kelly, Commissioner
Doris P. Loomis, Commissioner

Jonathan B. Kanipe,
Town Manager

MEMORANDUM

To: Mayor and Board of Commissioners

From: Jonathan Kanipe, Town Manager

Re: Town Manager's Monthly Report

Date: September 5, 2018

Public Works Building Update

After a whirlwind few weeks, the Town submitted our application to the North Carolina Local Government Commission for their October 2, 2018 hearing. The Town must receive permission from the LGC before we can enter into a contract with BB&T for the \$800,000 financing portion of the project. As we are awaiting this hearing, the Town will open bids for the project from sub-contractors on September 18, 2018. The Board's selection of Beverly-Grant as the Construction Manager at Risk in spring 2018 has enabled to move along with prequalifying sub-contractors, working to finalize the design, and helping us arrive at this bid date. Once these bids are opened, the Board will likely need to hold a special meeting to finalize the winning bidders. The bids received are the only outstanding item for the LGC application and the Town previously received permission from the LGC to send this over after the application deadline. During our last project meeting, the timeline of beginning construction in mid-October was still the target date.

Even-Year Elections Update

Several other Buncombe municipalities have expressed interest or are reviewing the possibility of requesting an even year election cycle. Black Mountain is considering this proposal, and Weaverville is reviewing the changes in cost for their elections. I reached out to Senator Van Duyn and Representative Turner approximately one week ago to express our thoughts and again asked what the Town needs to do request this from the State. I will follow up as soon as more information is available.

Citizen Information on Invasive Pests and Disease

Recently, boxwood blight was confirmed at two properties in Biltmore Forest. Boxwood blight spreads rapidly and easily and there are not many methods of appropriate disposal for the diseased materials. The Town is working with the North Carolina Cooperative Extension office in Buncombe County to develop a town meeting/information session in late October or early

November regarding this and other invasive pests. We are drafting an informational brochure to go out to residents regarding this blight. This will likely be distributed as information within the next month.

West NGN/Broadband Project

The Town is continuing to work toward bringing more broadband offerings to our area. I did not feel that the timing was right to conduct a public meeting for broadband in October since there are so many variables and moving pieces with the Public Works building and other projects at present. My hope is to reconvene this public meeting toward the latter part of 2018. In the interim, we plan to offer a survey at our open house for residents to give us their feedback and opinion on broadband and their thoughts about it in the long term.

Board of Adjustments and Design Review Board Meeting

The Board of Adjustments met in September and approved a temporary variance for a front yard structure at 12 Cedar Hill. A deer fence was approved for 130 Stuyvesant Road. This location borders the Blue Ridge Parkway. A solarium was approved for construction at 39 Cedar Hill Drive, and an accessory storage building was approved for the rear yard at 957 Hendersonville Road. The Town presented plans for the Public Works Building to the Design Review Board and received approval of this design.

Town Lecture Series

The Town's lecture series will take place this fall at the Biltmore Forest Country Club. This year's lecture is on cabins in Biltmore Forest, and architect Robert Griffin will present information related to the vast history of many cabins in town. The Country Club offered space to hold this event, as the Town anticipated beginning construction on the Public Works Building in early September.

BILTMORE FOREST POLICE DEPARTMENT

Department Head Report

September 11 14th, 2018 Board of Commissioners Meeting

Chris Beddingfield, Police Chief

Police Dept. Monthly Report 08/01/2018--08/31/2018

Calls for Service:

Officers responded to 616 calls for service.

| | |
|------------------------|-------------------------|
| Accident - 3 | Accident - PI -1 |
| Alarm - 35 | Animal Carcass - 0 |
| Assist EOC - 11 | Assist Motorist - 5 |
| Assist Other Agency -7 | Assist Resident - 14 |
| Bear Report – 20 | Business Check - 58 |
| Busy -6 | Crime Prev. - 18 |
| Chase-0 | Direct Traffic -1 |
| Distressed Animal -5 | Disturbance - 1 |
| Dog Complaint - 22 | Escort - 1 |
| Fire – 5 | Gun/Gunshots - 2 |
| Hit and Run - 1 | House Check - 89 |
| Improper Parking –2 | Incomplete 911- 1 |
| Investigation – 9 | Intoxicated Driver-3 |
| Mental Patient - 0 | Missing Person - 0 |
| Noise Disturbance – 1 | Ordinance Violation - 9 |
| Out of Service - 0 | Out of Town - 6 |
| Person Down – 1 | Power Outage -1 |
| Radar Operation – 6 | Road Blocked -9 |
| Service of Car - 5 | Sign Ord Violation - 3 |

| | |
|--------------------------|------------------------|
| Special Assignment – 0 | Special Check - 7 |
| Speed/Reckless Driving-1 | Suspicious Person - 13 |
| Suspicious Vehicle - 25 | Vandalism - 0 |
| Vehicle Stop - 36 | Well-being Check - 2 |

Total Number Of Calls: 616

Time Consumption Summary:

Approximations

Business Checks-21 hours

House Checks-43 hours

Radar Operation-6 hours

Vehicle Crash Invest.-12 hours

Notable Calls and Projects:

Annual Firearms Training-Transitioned to new handguns. All sworn personnel are required to do a day time marksmanship qualification, night time marksmanship qualification, day time combat shooting course, night time combat shooting course, day time shotgun, night time shotgun, and day time rifle. We ran these courses with 12 fulltime and 4 part-time officers over 3 days at the Madison County Sheriff's Office Range. We fired approximately 3,200 rounds of ammunition during this qualification period.

Several incidents involving herion and herion/drug paraphernalia as well as fentanyl this month. Several impaired driving incidents.

Still experiencing very high number of bear complaints
Working from educational/proactive side with the residents-many issues with bird feeders

Received and put our new speed signs into service

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George F. Goosmann, III, Mayor
Fran G. Cogburn, Mayor-Pro Tem
E. Glenn Kelly, Commissioner
Doris P. Loomis, Commissioner

Jonathan B. Kanipe,
Town Manager

MEMORANDUM

To: Mayor and Board of Commissioners

From: Jonathan Kanipe, Town Manager

Re: Consideration of Resolution Approving Surplus of Town Equipment

Date: September 5, 2018

The Town Code of Ordinances allows the Town Clerk to sell property if valued at less than \$500 provided the Board is notified after each sale, and if the items are no longer deemed usable by the Town.

The Board approved the purchase of new Police Department pistols in last year's budget cycle. It is common for officers to purchase their old service weapons when those items are declared surplus, and the Town has allowed sales of this nature previously. We have spoken with the Town's consulting law enforcement attorneys regarding this, and they believe this is an appropriate way to handle the sale and surplus. The attached resolution notes the serial numbers for each pistol. If approved, the pistols will be sold to each officer for \$250 apiece. For your reference, the Town paid \$425 for each new pistol, so this sale will help offset some cost of those new weapons and result in \$3,500 in revenue for the Town.

In the interest of full transparency, it is appropriate to approve the sale of these items even though each individual sale falls under the \$500 threshold. The attached resolution authorizes the Town to sell these pistols to each officer and creates an appropriate record for the disposal of these weapons.

STATE OF NORTH CAROLINA)
)
COUNTY OF BUNCOMBE)

TOWN OF BILTMORE FOREST
BOARD OF COMMISSIONERS

RESOLUTION 2018-06

WHEREAS, the Board of Commissioners of the Town of Biltmore Forest desires to dispose of certain surplus property of the Town;

WHEREAS, Town Code Section 33.01 authorizes the Town Clerk to dispose of surplus property valued at less than \$500; and

WHEREAS, each individual sale of these service weapons will be under this threshold, but in the interest or transparency, the Town has determined that a formal approval for this surplus property sale is appropriate.

NOW, THEREFORE, BE IT RESOLVED by the Biltmore Forest Board of Commissioners that the following described property is hereby declared surplus to the needs of the Town of Biltmore Forest:

| <i>Serial Number</i> | <i>Make</i> | <i>Model</i> |
|----------------------|--------------|-----------------|
| <i>RXW585</i> | <i>Gen 4</i> | <i>Model 19</i> |
| <i>RXW582</i> | <i>Gen 4</i> | <i>Model 19</i> |
| <i>RXM273</i> | <i>Gen 4</i> | <i>Model 17</i> |
| <i>RXM290</i> | <i>Gen 4</i> | <i>Model 17</i> |
| <i>RXM288</i> | <i>Gen 4</i> | <i>Model 17</i> |
| <i>RXM289</i> | <i>Gen 4</i> | <i>Model 17</i> |
| <i>RXM271</i> | <i>Gen 4</i> | <i>Model 17</i> |
| <i>RXM272</i> | <i>Gen 4</i> | <i>Model 17</i> |
| <i>RXM560</i> | <i>Gen 4</i> | <i>Model 19</i> |
| <i>SLP849</i> | <i>Gen 4</i> | <i>Model 17</i> |
| <i>SLP848</i> | <i>Gen 4</i> | <i>Model 17</i> |
| <i>RXM270</i> | <i>Gen 4</i> | <i>Model 17</i> |
| <i>SFD897</i> | <i>Gen 4</i> | <i>Model 19</i> |
| <i>RXW583</i> | <i>Gen 4</i> | <i>Model 19</i> |

BE IT FURTHER RESOLVED that the Town Manager is authorized to sell these service pistols to sworn law enforcement officers currently employed by the Town of Biltmore Forest for \$250.00 per pistol.

This the 11th day of September, 2018.

George F. Goosmann, III
Mayor

Attest:

Jonathan B. Kanipe
Town Manager

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George F. Goosmann, III, Mayor
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Jonathan B. Kanipe,
Town Manager

MEMORANDUM

To: Mayor and Board of Commissioners

From: Jonathan Kanipe, Town Manager

Re: Discussion of Driveway Gates as an Accessory Structure

Date: September 5, 2018

During last month's meeting, the Board of Commissioners asked to include driveway gates in the possible amendment to the accessory structure ordinance. The specific idea was that driveway gates may be allowed administratively in a uniform manner, similar to how fences in the rear yard will be allowed. Staff has reviewed driveway gate ordinances from around the country and found several that merit inclusion into a revised amendment. If the Board elects to move forward and allow driveway gates, staff's recommendations are as follows.

Height and Width Restrictions

Most jurisdictions require that gates be located a minimum of fifteen (15) feet off the road to allow for vehicle queueing while the gate opens. My recommendation is that the Town require driveway gates be located outside of the front setback, which ranges from 50-60 feet in the Town depending on zoning district. This would allow ample room for car storage while gates open, but it would also restrict the visibility of the gates/columns upholding the gates from the road or adjacent properties. In regards to height requirements, my recommendation is that gates do not exceed eight (8) feet in height from the front property line. In other words, if a property slopes up from the street along the driveway, the maximum height of the gate would be no more than 8 feet above the ground at the front property line.

Design Guidelines

The gate design, similar to fencing allowances, needs to match the scale, materials, and design quality of the home and/or other gates in the neighborhood. This element can certainly be approved and recommendations made from the Design Review Board.

Safety Guidelines

Any driveway gate approved by the Town must provide access for emergency services. This may be done via a lockbox code that is provided, a strobe or siren activation switch, or other demonstrated method so that first responders may adequately respond to the residence. Applications for driveway gates will be required to demonstrate this capability. Further, driveways

are required to be wide enough (with potential gate construction) for emergency vehicle access. If a driveway does not meet this width requirement, the application may be denied. The Town will work with Skyland Fire Department to ensure this provision complies with their needs.

Inclusion into Accessory Structure Ordinance

The latest accessory structure version reviewed by the Board included the word “gates” throughout and was indicative of the Board’s desire to include gates among fencing requirements. The logical placement for this allowance is within the same sentence allowing the Manager the ability to approve fencing, walls, or gates. The attached ordinance includes this revision and the other requirements as noted above.

This information will be provided to residents at the Open House scheduled for Wednesday, September 12. The Board’s request was for staff to provide this information at that event in the hopes of receiving feedback from the public. We will provide this information to the Board as soon as possible after it is compiled.

An Ordinance Amending the Town of Biltmore Forest Zoning Ordinance

§ 153.029 - ACCESSORY STRUCTURES AND BUILDINGS

(C) (1) The Town is a unique community concerned with historic continuity. The Town, originally part of the Vanderbilt Estate, was established almost 100 years ago. Since its establishment, Biltmore Forest has been a forested residential community with substantial open space. Preservation of the forest environment requires substantial open space for trees, plants and wildlife.

(2) Given Biltmore Forest's proximity to the Biltmore Estate, and the Estate's large deer population, a number of residents have had problems with deer. In response to resident requests, the Board of Adjustment has approved a number of requests for temporary deer fencing. Over the last several years, the Town has attempted to reduce the number of deer through depredation. The Board of Commissioners is committed to preservation and protection of the forested residential community concept. Current and prospective residents can participate in this effort by landscaping with plants that will not attract deer, confining dogs and other household pets with invisible fencing, limiting the construction of new fences, gates, and walls, and removing and not replacing existing fences, gates, and walls. In addition, fences, gates, and walls inhibit access to properties by the Town's Police Department, Skyland Fire Department and other first responders.

The effective date of this ordinance shall be [ENTER DATE OF ADOPTION]. As of the effective date of this Ordinance, construction of new fences, gates, or walls is allowed only as follows:

(3) (a) The fence, gate, or wall is constructed entirely within the backyard, is not located in any side or rear yard setbacks and is constructed of materials deemed acceptable in 153.029(C) (5). Mature vegetation or other buffering may be required. A fence, gate, ~~(including driveway gates)~~, or wall meeting the requirements of this section may be approved by the Town Manager and does not have to be approved by the Board of Adjustment. A driveway gate may not be located in the front or side yard setback of a property.

Except as set forth in 153.029(C) (3)(a), construction of new fences, gates, or walls is allowed only as follows:

(b) The fence, gate, or wall is necessary for safety, the protection of the public health, or is required as a condition of obtaining homeowner's insurance. Examples include the installation of a fence, gate, or wall around a swimming pool or along a steep grade or bank to prevent injury resulting from a fall. The property owner should provide written information from an insurance company documenting the need for the fence.

(c) Where a retaining wall is part of a landscape plan, and there is a structural requirement for the wall. Structural requirements for retaining walls must be in accordance with *The Retaining Wall Ordinance of the Buncombe County Code of Ordinances* as the same may be amended from

ORDINANCE DRAFT VERSION 1
Accessory Structure Ordinance including Driveway Gates

time to time, and must be certified by a Professional Engineer licensed in the State of North Carolina. . The wall must otherwise comply with this ordinance.

(d) On those properties abutting Hendersonville Road where, in the discretion of the Board of Adjustment, a fence, gate, or wall is necessary to provide protection from pedestrians and motorists on Hendersonville Road.

(e) Properties abutting the Blue Ridge Parkway and the Biltmore Estate shall be allowed to construct appropriate fencing to protect the property from deer. Fencing that does not meet the requirements of subsection (a) above or section (4) below shall be subject to review and approval by the Board of Adjustment.

(f) The Board of Adjustment may require a property owner to construct a wall, fence, or gate to provide buffering between incompatible land uses. See 153.063.

(g) Except as set forth in paragraph (a) and (e), the Board of Adjustment shall not approve a fence or gate for the purpose of confining or protecting dogs, other household pets or children, or for the purpose of preventing wild animals from entering a property.

(h) Electrified Fences, defined as an above ground fence carrying an electric voltage intended to deliver a shock if touched by a person or animal, are not allowed. Existing electrified fences should be removed within 180 days of the adoption of this ordinance whether or not the fences are currently carrying an electric voltage. Invisible fences, defined as underground cable systems carrying an electric voltage intended to trigger a shock through a compatible pet collar, are allowed.

4) Replacement of existing fences, gates, and walls. Replacement of an existing fence, gate, or wall is a conditional use, except as laid out in subsection (d) below, subject to the approval of the Board of Adjustment and the requirements of this zoning ordinance. An application to replace an existing fence, gate, or wall must include a photograph of the existing fence or wall, specify the type of fence, gate, or wall, include a map or sketch depicting the height and length of the fence, gate, or wall and state whether or not the fence, gate, or wall is located within any setbacks.

(a) Existing chain link fences or gates may not be replaced with new chain link fences or gates.

(b) Existing fences, gates, or walls in the front yard may not be replaced. No new fences, gates, or walls shall be allowed in the front yard.

(c) Repair of more than half of an existing fence, gate, or wall shall be considered a replacement and shall be subject to this ordinance.

(d) Replacement of an existing fence or wall in the side or rear yard may be approved by the Town Manager so long as the replacement fence is constructed of materials deemed

ORDINANCE DRAFT VERSION 1
Accessory Structure Ordinance including Driveway Gates

—acceptable in 153.029 (C)(5). Otherwise, replacement of an existing fence or wall is a conditional use subject to the approval of the Board of Adjustment and the requirements of this zoning ordinance.

5) Acceptable Materials and Standards for Fences and Walls / Maintenance. The following materials and standards for fences and walls shall be deemed acceptable.

- (a) Wooden fencing or gates shall be of natural color or painted in a manner compatible with the residence and the lot.
- (b) Non-wooden fencing or gates shall be black, dark green or brown to blend with surrounding trees or vegetation.
- (c) No new chain link fencing or gates shall be allowed.
- (d) Fences may not exceed six (6) feet in height without approval from the Board of Adjustments. Fences designed to prevent deer or other wildlife from entering the property may not exceed eight (8) feet in height. Driveway gates shall not exceed eight (8) feet in height, as measured from the slope of the driveway from the property line.
- (e) Walls should be constructed of stone or similar material, and should be compatible with the construction materials of the house located on the same property.
- (f) When a fence, gate, or wall is not properly maintained or fails to comply with a condition imposed by the Board of Adjustment, the Town may require the property owner to repair the fence, gate, or wall, or, remove the fence, gate, or wall at the property owner's expense. If the property owner fails to repair or remove the fence, gate, or wall, the Town may remove the fence, gate, or wall and recover the cost of removal, including the cost of disposal, if any, from the property owner.
- ~~(f)~~(g) Driveway gates shall be accessible at all times to emergency services and first responders. Before an application for a driveway gate is approved, the applicant must demonstrate the proposed driveway gate allows access approved by the Biltmore Forest Police Department and other emergency services. Driveways shall be wide enough after the gate is constructed for emergency service vehicles before approval is granted.

ATTEST: _____

Mayor

Clerk

Approved as to Form:

Attorney

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George F. Goosmann, III, Mayor
Fran G. Cogburn, Mayor-Pro Tem
E. Glenn Kelly, Commissioner
Doris P. Loomis, Commissioner

Jonathan B. Kanipe,
Town Manager

MEMORANDUM

To: Mayor and Board of Commissioners

From: Jonathan Kanipe, Town Manager

Re: Construction Timeline Amendments

Date: September 5, 2018

While not numerous, there are several construction projects in the Town that have exceeded their allotted two-year time limit. These projects are not out of compliance with their building permit, as issued by Buncombe County, but rather with the zoning permit issued by the Town. As a means to remedy excessive construction timelines while also recognizing that some projects may take longer than the two years to complete, the Town Planner conducted a review of our existing requirements and how other local jurisdictions, including Buncombe County, handle permit extensions. Ms. Isenhower's memo is attached for your review.

Based on these findings, staff recommends a two-fold consideration. First, we recommend the Board consider removing the existing \$250/day charge for exceeding the two-year timeline. We recommend the Board allow a permit renewal process, similar to that conducted by Buncombe County, for the remaining amount of work to be done on the project. This ensures the Town recoups funds for the additional time spent on the project and provides a mechanism for staff to continue regular discussions with the contractor or property owner on the completion deadline, thereby ensuring compliance is achieved or a penalty fee is recouped. From an administrative perspective, it makes sense for the Town's timeline to align with the building permit time period from Buncombe County. This ensures that the homeowner, contractor, and each reviewing agency works from the same timeline. Staff will increase cooperation and coordination with the County, and the Manager and Planner have a meeting scheduled with Buncombe County's Permit Director next Wednesday, September 12.

Certainly, other options may work as well. One such possibility is a cascading fine whereby the fine increases based on how long the project is overdue. Another option is to increase the time for construction, though a check of other jurisdictions reveals that two years is a typically allowed time. Staff requests Board direction on this matter and how best to improve this process.

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Jonathan B. Kanipe,
Town Manager

MEMORANDUM

To: Jonathan Kanipe, Town Manager
From: Adrienne Isenhower, Code Enforcement Officer
Re: Permit Fees for New Construction
Date: August 31, 2018

The current Town Code, based on standards mandated by North Carolina General Statutes, requires time limits for all new construction after relevant permits are issued. Section 153.091 deems a building permit invalid after six months with no substantial construction progress, and Section 153.092 requires construction or remodeling be substantially complete within two years of the date of issuance of the permit. The penalty for exceeding the time limit for construction completion is \$250 per day. This penalty proves troublesome because it does not set a cap and would likely be considered unreasonable if pursued.

In the past couple of years, there have been a few construction projects that have been unable to meet these deadline requirements. When reviewing the Town's options on enforcement, staff decided to research alternatives to the substantial fees currently required. The preliminary thought was to require projects needing additional time to renew their permit through the same process as they received the initial permit. Several fee schedules and policies of other jurisdictions were reviewed to compare options. It seemed fitting to review Buncombe County's fee schedule since building permits are required from that office after approval of zoning permits from Biltmore Forest. Their fee schedule for renewal permits is as follows: permits expire after six months if work has not commenced and after twelve months with no activity. The renewal permit fee is fifty percent of the original permit fee and amendment to residential plans requires a \$75.00 fee. They also require a \$75.00 fee for a change of contractor.

In order to provide a more reasonable approach to enforcing substantial completion of construction in a timely manner, staff recommends amending the current Town ordinance to omit the \$250 per day fee and instead require a renewal permit for projects requesting additional time, amending residential plans, or changing contractors. The fee would be based on work that has not been completed, omitting work already finished.

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Jonathan B. Kanipe,
Town Manager

MEMORANDUM

To: Mayor and Board of Commissioners

From: Jonathan Kanipe, Town Manager

Re: Review of Town Ordinances related to Feeding Wild Animals

Date: September 5, 2018

The Town has recently dealt with increased and significant wildlife issues. Specifically, the bear population has increased the past several years resulting in more interactions between humans and bears in Biltmore Forest. A review of our existing ordinances shows there is no prohibition on feeding wild animals, though previous iterations of the Town Board discussed this issue as well. The Police Department has been proactive in advising citizens with bird feeders to remove them, as this is a source of food for the bears. Several residents have refused to do so after repeated interactions with bears, and the Police Department continues returning to these properties to assist moving the bears on from the property.

The Board has requested staff provide recommendations for controlling this issue. Chief Beddingfield has spoken with North Carolina Wildlife Resource officers who agree that removing bird feeders altogether would result in a significant reduction in bear/human interactions. However, this will be exceptionally hard to enforce from an administrative perspective. Staff's recommendation at this point is for the Board to consider a "one warning" policy for residents who have bird feeders that attract bears. This would work as follows:

1. The resident calls the Police Department to alert them a bear is on their property. If the Police Department determines the bear has been drawn to the property due to a bird feeder, the resident will be advised to remove the bird feeder to prevent this from occurring again.
2. If the Police Department is called back and determines the bear was drawn to the bird feeder a second time (i.e. the resident did not remove the bird feeder(s) completely) then the resident will be fined. The proposed fine for this is \$250.
3. Each subsequent visit/determination that a bird feeder remains on the property will be doubled (i.e. a third visit from the Police Department results in a \$500 fine).

Clearly, the goal with this is to reduce the attraction for bears to enter the yard. There are other reasons bears may be attracted to a particular property (trashcans, grills) and education around these areas is necessary as well. The Town of Montreat requires trashcans cannot be placed out until the day of pickup, unless it is in a verified bear proof container. Residents in Montreat

with bear proof containers may put them out at their discretion. Montreal further fines or cites residents for failure to clean up after wildlife has gotten into the trash as well.

Please let me know if you have thoughts, questions, or would like us to conduct further research regarding these areas of concern.

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Jonathan B. Kanipe,
Town Manager

MEMORANDUM

To: Mayor and Board of Commissioners
From: Jonathan Kanipe, Town Manager
Re: Open House Schedule and Information
Date: September 5, 2018

The Town is holding an Open House and drop-in event on Wednesday, September 12 from 4-6 pm. This will be the first Open House in quite some time, and my hope is that the Town will be able to provide ample information on major projects and initiatives. Since our last meeting, I have spoken to several groups about attending and providing information. Those who are scheduled to attend are as follows:

- Land of Sky Regional Council
Information will be available on regional transportation projects, the Area Agency on Aging, and broadband improvement for our region.
- North Carolina Wildlife Resources Commission
A ranger or wildlife biologist will be available to discuss wildlife interactions with humans and how best to limit or eliminate these encounters.
- North Carolina Cooperative Extension Service
We hope to have representatives from the Cooperative Extension service available to discuss plant and forest health.
- Skyland Fire Department
Provide fire safety tips for residents and opportunities to view the fire engines and equipment.

In addition to these outside agencies, the Town will have the following information available for residents.

- Public Works Department renovation plans will be available for inspection and the current building open for review.
- The Police Department will be open, and a police cruiser, equipment, and other public safety information will be available. The department will provide information regarding citizen outreach such as the medicine drop, alarm registration, and house checks. Chief Beddingfield will also be available to meet with residents and listen to their concerns.

- Citizens will be asked to review and comment on traffic calming and pedestrian safety topics. The Board's recent discussion of reducing the speed to 25mph throughout the Town and consideration of all way stops at the Cedarcliff/Vanderbilt intersection and other areas will be available for citizen comments.
- WithersRavenel, our consultant for the Greenwood Park Master Plan, will be present to review the planned changes for the park and solicit public feedback. This is an important step in grant applications, and several of these will be due by the close of the year.
- Stormwater maps and information will be displayed along with projected remediation areas and methods that will be used to fix current storm water problems.
- We will also offer residents an ability to sign up, on site, for the CodeRED Emergency Alert System and advise them about utilizing this system. Likewise, we will provide information regarding the Eye on Water program that allows citizens to monitor their water usage in real time.

The Town's goal in this Open House is to achieve a high level of citizen engagement. We hope that those who come are able to relay information to others and provide us with suggestions for ways we can improve and receive feedback on projects within the Town.