

MINUTES OF THE MEETING OF THE MAYOR AND THE TOWN COMMISSIONERS OF
BILTMORE FOREST HELD FEBRUARY 8, 2022

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 taken by the Clerk:

Mayor George F. Goosmann, III, present

Commissioner Doris P. Loomis, present

Commissioner E. Glenn Kelly, present

Commissioner Fran Cogburn, present

Mr. Jonathan Kanipe, the Town Manager, and Mr. William Clarke, the Town Attorney, were also present. The meeting was held remotely via Zoom for purposes of limiting the spread of Covid-19.

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

Commissioner Kelly made a motion to approve the minutes from January 11, 2022. The motion was seconded by Commissioner Cogburn . Roll call was taken by the Clerk and the minutes were unanimously approved.

Assistant Chief Zach Cicillian gave the report for the Skyland Fire Department. There were 21 calls for service. Chief Cicillian told residents to check their carbon monoxide detector batteries and make sure they are functioning properly. Commissioner Kelly asked if the fire department has any N95 masks left to give away. Mr. Cicillian said they do not but they can go to the United States Postal Service website and request up to four COVID at home tests and two masks will also be distributed. Mayor Goosmann thanked the Skyland Fire Department for all their hard work.

Chief Chris Beddingfield gave the report for the Police Department. There were a total of 508 calls last month. One of the new hybrid police vehicles are now in service. The second vehicle

should be in service very soon. Two residential break-ins occurred in the Ramble subdivision. They are still working extensively on this. Chief Beddingfield said a new officer has been hired who is a Brevard College student and is finishing up Basic Law Enforcement Training. Chief Beddingfield said the Police Department worked well with Public Works during the snow storm. There was a significant car crash which damaged a power pole and concrete wall at Cedarcliff and Hendersonville Road. The driver was impaired and charged for this. Mayor Goosmann thanked the police department for all their hard work.

Mr. Harry Buckner gave the report for the Public Works Department. There were two substantial snow events that kept staff very busy. Mr. Kasey Lake was introduced and as a new hire. Mr. Lake is from Virginia and they are thankful to have him on board. Mr. Buckner said the leaf and brush collection is continuing. Mr. Buckner said the guys did a wonderful job working in the snow and was very pleased with their hard work. Three additional dog waste stations have been installed. Mr. Buckner said there will be some paving in the late spring/early summer. In February, Mr. Buckner said the meter bases and power supply for street lights is under way. The work should start at the end of February. Water bills will also go out in the middle of February.

Mr. Jonathan Kanipe gave the report for the Town. Like many individuals and organizations, the Town experienced a tough January due to the Omicron surge. Several staff members were out but thankfully, all experienced mild cases and have returned to work. We worked diligently during this time to make sure our facilities were deep cleaned and disinfected, even more than we do on a regular basis. We are continuing these measures and all staff have been reminded to be considerate of wearing their face coverings and social distancing.

The Town's traffic study is nearly complete. Mr. Kanipe asked the consultant to hold off on presenting this to the Board until our March meeting. This will provide Town staff additional time to review their final document and provide feedback and comments before presenting a final document. The study focuses on both short-term traffic safety recommendations and long-term projects the Town may want to consider in the future. The survey results and information gleaned from residents is being utilized extensively in the development of the study.

Regarding the Greenwood Park Stream Restoration project, Town staff continues to await final authorization to proceed from the Division of Water Infrastructure. Staff and consultants have checked with DWI staff over the course of the past month to ensure we have provided all documents and information needed to move forward.

Town staff met with the property owners adjacent to the road stabilization project along Cedar Hill Drive on February 1st. The meeting was fruitful, with the property owners receiving the new proposal warmly. They continue to be excited about this project and are looking forward to working with the Town to create a strengthened stream channel that protects the integrity of Cedar Hill Road.

Mr. Kanipe discussed the trash container project and said containers were ordered in late January. All told, the Town ordered 80 65-gallon containers and 700 95-gallon containers. These will be stamped with the Town logo on both sides and will be the dark brown color as reviewed by the Board previously. The lids will be hot-stamped with the words “Trash Only” on them so that there is no issue with residents mixing up the containers. We also ordered some replacement recycling containers as well. While we wait for delivery of these containers, the trash trucks will be outfitted with the grabbers necessary to remove the trashcans mechanically.

Consideration of a tax penalty waiver at 398 Vanderbilt Road. Request from a resident to waive a tax penalty which was \$540.33. The tax payer has paid the full taxes owed and requests a waiver of the initial interest penalty that remain on the account. In this case, the tax notice was mailed to the resident’s old address (also in Biltmore Forest) after they had moved and processed an address change with the Town. This is a similar circumstance to a waiver granted by the Board in April 2017. Commissioner Cogburn made a motion to approve the tax penalty waiver, Commissioner Kelly seconded the motion. Roll call was taken by the Clerk. The motion was unanimously approved.

Consideration of Ordinance 2022-03 which is an Ordinance amending the Town of Biltmore Forest Town Code. This is in regards to the “no trespassing” signs. Mr. Billy Clarke spoke and included a draft copy of the statute with the new sections highlighted in the attachment.

Mr. Clarke changed the signage distance to ten feet and also discuss the number of signs on the property. Mayor Goosmann said four feet above ground is too high. Mr. Clarke said real estate signs and political signs are allowed to be up to four feet above the ground. Mr. Clarke asked the Board for more input on how many signs a resident can have and where they can be placed.

Commissioner Loomis asked if we can refer to driveway entrances and exits. Commissioner Loomis also said if we are allowing to put a sign in between neighbors, should we refer to the setbacks. Mr. Clarke said there could be one at each driveway entrance. Mr. Clarke said there is an issue with properties that back up to the Blue Ridge Parkway or the Biltmore Estate and may want to give people an option to put a sign on the rear of their property.

Commissioner Kelly said he had the same thoughts as Commissioner Loomis and also asked what contents can be put on a sign. Commissioner Kelly also wanted to make sure the signs are not reflective and what color they can be. Mr. Clarke said lighting is already prohibited for signs. Mr. Clarke said in terms of content on signs, one must be careful but suggested saying the content should say “no trespassing and advice intruders not to enter the premises.” Commissioner Kelly said the wordage should just simply say “no trespassing.” Also, how close it should be to the neighbor’s property. Mr. Kanipe suggested a rear sign could be installed if it backs up to non-residential properties.

Mr. Perry Bartsch said the purpose of the no trespassing is to keep intruders from entering property and it doesn’t matter if they back up to a commercial property. Most of the time, intruders enter a property from places other than the front of the property. If the Town is going to allow ideological signs exactly on the lot line, Mr. Bartsch wasn’t sure why the Town wouldn’t allow “no trespassing” signs in the same location. Mr. Bartsch also mentioned the color of the sign and said, if one puts a green sign that is shielded by a rhododendron, it is not likely to be seen. Mr. Bartsch said the way Mr. Clarke wrote this with one sign on each side is a reasonable compromise. It also needs to be seen clearly.

Mr. Rich Wyde and Ms. Angela Branch responded by saying the point is the written by Mr. Clarke to comply with State law, the sign should likely come to the attention of intruders. Mr.

Wyde said if the sign is on the side of the house on the setback, it is highly unlikely to come to the attention of intruders. Mr. Wyde said blaring red and white signs is not aesthetically consistent with the neighborhood. The signs on Browntown are green and easily visible. Mr. Wyde said one can also create a waiver or have an exception made. Mr. Wyde said standards should be set and a sign should be placed no more than twenty feet from the road.

Mr. Bartsch said the State Statute needs to be followed and intruders can come from anywhere. A green sign behind a bush is not adequate visibility.

Mr. Clarke asked Mr. Wyde asked what he meant when he said no more than twenty feet from the road. Mr. Wyde said twenty feet or closer to the street.

Mr. Bartsch said one cannot predict where an intruder will enter a home. The intent is to be able to protect yourself on all sides which is a reasonable request. Mayor Goosmann verified with Chief Beddingfield as to where the intruder entered the home in The Ramble that was recently broken into. Chief Beddingfield said they were not sure because they were gone when officers arrived, however, the front door was busted in.

Commissioner Loomis said we can make a difference about placement of the sign whether it backs up to a non-residential property or residential property. You could say it can't be in the back yard setback if it's a residential property but have no restrictions if it backs up to a non-residential property. It would be good to warn the people who are coming from the Biltmore Estate that this an area you are not supposed to enter.

Commissioner Cogburn said the number of signs need to be addressed and we do need to allow signs on the property line if it's backing up to non-residential property.

Mr. Wyde said this is about notice. A notice that is reasonably likely to inform intruders not to enter the home. The definition that has been included is about notice. A sign will not keep someone out but is to give someone notice.

Commissioner Kelly addressed Mr. Bartsch about his comment he made regarding the green sign behind the green bush. Commissioner Kelly said any sign behind a bush will not give anyone notice no matter what color it is. Mr. Bartsch said in the particular case he is involved in, the neighbor of Mr. Wyde decided to plant bushes in front of the “no trespassing” sign and it needs to be reasonably visible. No one can predict where an intruder will enter the property.

Mayor Goosmann said we will bring this up next month and make a decision.

Mr. Kanipe discussed the Tax Collection Report and Consideration of Tax Collection legal remedies schedule. Mr. Kanipe said NCGS 105-350 requires the Tax Collector to submit a report of the amount collected on each year’s taxes with which he is charged, the amount uncollected, and the steps to encourage or enforce payment of uncollected taxes.

NCGS 369(a) requires the Tax Collector to report on unpaid taxes for the current fiscal year on the second Monday in February. Since the February Commissioners meeting precedes the second Monday, this report is of current standings as of February 3, 2022. As of February 3, 2022, the total levy billed for fiscal year 2022 is 97.57% collected. After that amount is reported to the Board, the Board must order the Tax Collector to advertise tax liens. This is only done if the Board is not able to collect taxes from parties that are delinquent.

A motion was made by Commissioner Loomis to approve the Order of Collection and seconded by Commissioner Kelly. Commissioner Cogburn asked Mr. Kanipe if the Town sends notice to a resident before advertising. Mr. Kanipe said yes, notices are mailed on a monthly basis if they are past due. Ms. Krystal Curtis said 30 days notice is given to the resident. Roll call was taken by the Clerk and unanimously approved.

Artificial turf zoning regulations review was discussed by Mr. Kanipe. Last month, the Board of Commissioners requested staff review land use regulations related to artificial turf. This request came after a request that the Town consider regulating artificial turf installation on residential properties within the Town. Municipal or county land use regulations regarding artificial turf are not prominent in North Carolina, if in use at all. Mr. Kanipe was unable to find

any direct regulation through zoning ordinances related to artificial turf installation at private residences. There were regulations in North Carolina communities related to artificial turf installation, but those were all portions of parks and recreation guidelines. The most significant land use regulation related to artificial turf in North Carolina is along the coast. This is regulated through the Coastal Resources Commission (CRC) and not through a local government. The CRC's involvement is due to the 30-foot buffer rule that exists along the North Carolina coast, and not the result of any local land use regulations against artificial turf. I have provided a news article about the CRC's discussion of this issue, as well as a letter from the state agency designated with enforcing the CRC's 30-foot buffer rule.

There are examples of local zoning regulations throughout other parts of the United States, however, and Mr. Kanipe provided several of those to the Board. Nearly all zoning regulations found were from parts of the country where drought and water conservation efforts are mandated, so one will see several ordinances and staff reports that advocate for the inclusion of artificial turf as a landscaping element. Other places have modified their existing ordinances to allow limited use of artificial turf and devised specific regulations for doing so. Most of these ordinances were amended or created within the past 2-3 years as artificial turf has become increasingly popular in residential use. Mr. Kanipe said artificial turf cannot currently be regulated but could be considered an accessory structure if the zoning ordinance was amended. Mr. Clarke said criteria would have to be included like permeability and color. Commissioner Loomis said she needed more information about artificial turf before we enacted an ordinance containing specifications on approved types of turf, location and placement. She asked if there were a way in which to allow discretion in the Town Manager to approve artificial turf with the criteria for such turf being listed outside the Town Ordinances since they will likely change as we learn more about turf and its uses in residential areas.

Mr. Clarke said it can also be done outside the zoning ordinance. Mr. Clarke said Mr. Kanipe, Mr. Buckner, and him can come up with a way to address the issues like permeability and installation for future use.

Mr. Kanipe discussed the Duke Energy targeted underground project update. Duke Energy has started the construction process for Phase 2 of their targeted underground project (TUG). The first phase for the TUG project was completed last year, with lines and poles being removed from rear property lines in the late summer. Phase 2 is underway with the first construction work occurring through Carolina Day School property. Additional work during this phase will focus on Brookside, Westwood, and Hilltop Roads. Portions of Stuyvesant Road, Greenwood Road, and the eastern side of Hilltop Road and Ridgefield Place will be completed within this phase as well.

There was no public comment.

Mayor Goosmann adjourned the meeting at 5:30 p.m. The next meeting is scheduled for Tuesday, March 8, 2022 at 4:30 pm.

ATTEST:

A handwritten signature in cursive script, reading "Laura Jacobs", written over a horizontal line.

Ms. Laura Jacobs
Town Clerk

A handwritten signature in cursive script, reading "George F. Goosmann III", written over a horizontal line.

George F. Goosmann, III
Mayor