

MINUTES OF THE MEETING OF THE MAYOR AND THE TOWN COMMISSIONERS OF
BILTMORE FOREST HELD APRIL 11, 2023

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.

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

The Pledge of Allegiance was conducted.

Commissioner Cogburn made a motion to approve the minutes from March 14, 2023. Commissioner Loomis seconded the motion. The motion was unanimously approved.

Assistant Chief Zack Cicillian gave the report for the Skyland Fire Department. There were a total of 27 calls for service for the month. Mr. Cicillian emphasized the importance of using fire extinguishers and keeping them in your house.

Chief Chris Beddingfield gave the report for the Police Department. There were zero arrests this month. The Police Department had their first faculty lock down drill at Carolina Day School last week and several more will be scheduled in the months coming up. There have been a multitude of trees down that have caused a lot of work keeping the roads open. Chief Beddingfield said it is National Telecommunicators Week and often they are overlooked. They are an integral

part of the operation of the Police Department and all of them do a great job. Commissioner Kelly asked Chief Beddingfield what a faculty lockdown drill is. Chief Beddingfield said anytime there is an active shooter event or violent event on the school grounds, the staff will go into lockdown mode and everyone will shelter in place and lock everything down. They will go through the motions of dealing with the active shooter event or whatever the emergency is. The Police Department wanted to get the staff involved first before the student body. Commissioner Kelly asked when the children will be involved. Chief Beddingfield responded and said the children will participate in the drill after summer break in August.

Mr. Harry Buckner gave the report for the Public Works Department. Mr. Buckner said one of the Public Works employees is out for several weeks due to a workplace injury. This employee may be out six weeks or longer, but he is on his way to recovering. The Public Water Supply Plan was submitted to the State of North Carolina and is being reviewed. There has been an increase of water usage this year. We use about 150,000 gallons of water per day as a Town on average. In the peak of the summer in July, the Town uses about 250,000 gallons per day.

Mr. Buckner discussed the maintenance of Greenwood Park. Public Works staff mowed the park and did some maintenance around the creek area.

Mr. Drew Stephens asked about details about irrigation lines. Mr. Buckner said a resident can request to have an irrigation line installed at their house for outside watering. This is not connected to the sewer system so there is no sewer fee.

Commissioner Loomis asked about the repairing of the curbing around the triangles in Town. Mr. Buckner said this is something that will be repaired soon, and they will hire a contractor to fix these issues.

Commissioner Kelly asked Mr. Buckner for a further explanation of the 12% water loss for the Town. Mr. Buckner said this is where water is flushed through hydrants, small leaks, and leaks that occur on the Town's side of the meter that aren't captured.

Mr. Jonathan Kanipe gave the monthly report for the Town. Mr. Kanipe discussed the meeting with the City of Asheville which included Mayor Goosmann, Mr. Buckner, Chief Beddingfield and Mr. Kanipe who met with Asheville City officials. The City officials apologized for the outage and impact, which included the lack of communication during this outage. Town

staff explained how our system works relative to Asheville's system and relayed some of the conversations and experiences we had during this outage. City officials were very understanding, and the conversation was a positive experience.

In addition to the water outage, the Town staff also discussed Hendersonville Road traffic safety with Chief Zack from the City of Asheville. Chief Zack indicated their desire to utilize new speed trailers on Hendersonville Road. The Police Department has already placed one of our radar signs on Hendersonville Road at the Busbee intersection, which should improve the situation. Mr. Kanipe has spoken with the North Carolina Department of Transportation regarding a speed limit reduction and additional safety reviews and will continue pushing this process from the Town's perspective.

The Town Planner position has been filled and we have an excellent candidate who will fill this position starting May 8th. Mr. Kanipe thanked Mr. Clarke, Mr. Buckner, Mr. Dale, and Ms. Jacobs for assisting with the interview process.

Mr. Steve Allan will speak at the May meeting regarding the presentation of the space needs project.

Ms. Levonia Reese from Carter P.C. conducted the FY22 audit presentation. There was a budget violation of \$1,500 which was a formula error. There was no disagreement with staff or management. Nearly all the journal entries posted were GASB adjustments, but they are all typical routine entries.

Ms. Reese said there is also a new audit standard. The audit report is much longer and changed the report around. The Local Government Commission also issued a letter called the Financial Performance Indicators of Concern which was due to the late audit. An audit is considered late if it is issued after December 1st. The reason it was issued late is due to the NC ORBIT retirement system. There were numerous clients throughout the State that had reporting issues with the NC ORBIT system. There was an unmodified audit opinion. The total assets increased nearly \$1,000,000. The total liabilities increased almost \$600,000. The pension related liabilities also increased by \$300,000. Net position increased about \$515,000 for a total of \$6,700,000 and \$5,400,000 of that is investments and capital assets. The total revenues increased about \$500,000. The expenses increased by \$415,000. In the general fund, the actual revenues

were about \$400,000 more. The General Fund balance was \$4,200,000. The water fund increased about \$42,000. The expenses increased by \$100,000. The net position decreased \$150,000. The ending fund balance was \$2,300,000.

A motion was made by Commissioner Loomis to go into Public Hearing. Commissioner Cogburn seconded the motion. The motion was unanimously approved and the Board went into Public Hearing at 5:00pm.

The ZTA 2023-01 Ordinance to amend the Town of Biltmore Forest Zoning Ordinance was discussed. The updated draft was shown to the Board specifying the charging station will still be screened if visible. Ms. Martha Barnes asked if this is retroactive. Mr. Clarke said when the ordinance was written, it would apply.

A motion was made at 5:06pm by Commissioner Cogburn to leave the Public Hearing. Commissioner Kelly seconded the motion. The motion was unanimously approved.

Consideration of Ordinance 2023-03 an Ordinance to Amend the Town of Biltmore Forest Zoning Ordinance. The Planning Commission has provided a favorable recommendation to the Board of Commissioners regarding a new zoning ordinance regulation on electric vehicle (EV) charging stations. The Planning Commission's draft ordinance adds a new section to existing Zoning Ordinance regulations governing residential screening of utility structures. These utility structures are generally considered pieces of utility equipment (HVAC, generators) associated with the operation of a residence. The draft ordinance strongly recommends placement of EV charging stations within garages or buildings, but when not possible, this ordinance provides specific regulations on the installation of a charging station outside.

Because this amendment falls within the Zoning Ordinance, the Board of Commissioners are required to hold a public hearing. This public hearing was published in the Asheville *Citizen-Times* on Wednesday, March 29 and Wednesday, April 5. These publication dates fall within the state law governing land use public notice requirements.

Commissioner Loomis made a motion to approve the ZTA 2023-01 Ordinance to amend the Town of Biltmore Forest Zoning Ordinance, Commissioner Kelly seconded the motion. The motion was unanimously approved.

Consideration of Tax Penalty Waiver at 15 Hilltop Road. Ms. Krystal Curtis said the homeowners at this residence requested to waive interest for their 2022 tax bill. This person is disputing the fact they did not have notice. The interest amount due is \$316.25. They have paid the actual principal in full. In this case, there were discrepancies between the County's records and an additional room listed on an MLS listing, although it was additional closet space and not a bedroom. The County reviewed the MLS listing and made a value adjustment that created a discovery bill, legally, for the current year plus the previous 5 years per the statute of immaterial irregularity. Per G.S. §105-360, interest must accrue from the initial due date forward for each subsequent month until the notice is paid in full, so interest has accrued on this account since January 6, 2018. The property owner at 15 Hilltop requests the waiver of penalties and interest per G.S. §105-348, which states that a tax "notice shall be conclusively presumed, whether or not such persons have actual notice". The property owner had no presumption, as this was a discovery bill for adding a closet to the home and adding unforeseen value. The discovery bills have been paid for the value assessed, but the interest has not been paid and the owner is requesting the interest and penalties to be waived.

A motion was made by Commissioner Kelly and seconded by Commissioner Cogburn. The motion to waive the tax penalty was approved unanimously.

The Town road striping proposal was discussed. Mr. Buckner said there was a desire to improve the marquees on the road starting at Hendersonville Road and moving more internally toward the Town. The Town staff has created an implementation program for the Board to review. This will result in striping many roads throughout Town within the next five years. This will cost roughly four dollars per square foot. Mr. Buckner provided a proposal that corresponds with the street map layout of where striping will occur. This decision will enable Town staff to budget for

next budget year. Ms. Barnes suggested Valley Springs Road be striped. Valley Springs has the volume and the access and she prefers not to have the striping wait until 2027.

Mr. Drew Stephens suggested striping the sides first, painting them white, and following through with the yellow later. This will be further discussed at next month's meeting with the Budget presentation.

The park restroom implementation follow-up was discussed for Greenwood Park. Mr. Kanipe reached out to other local governments and said the most feasible option would be put in the center of the park on the North side of the creek. Cost wise, they are trying to figure out if the sewer would be gravity fed. Mayor Goosmann said he spoke to a few local residents near the park and they do not want bathrooms in the park. Commissioner Kelly would like to see the proposal for Rosebank Park and not Greenwood Park. Mr. Kanipe said they will hold off on this for now.

Consideration of Planning Commission appointment was discussed. Nine applications were received and Mayor Goosmann and Mr. Paul Zimmerman met with one of the candidates, Diane Fourton. Mayor Goosmann said Ms. Fourton is very capable and would be a good candidate.

A motion was made by Commissioner Cogburn to approve the appointment of Ms. Diane Fourton. Commissioner Loomis seconded the motion. The motion was unanimously approved.

The last matter discussed is a request for new driveway construction to Vanderbilt Road with Angela and Todd Newnam of 394 Vanderbilt Road along with Kent and Kathy Davis of 394-A Vanderbilt Road. They have been notified by Buncombe County E911 they are not in compliance. A site drawing showed where the new drive would be located. The Town's Code of Ordinance requires approval from the Board for private driveways not associated with the Board of Adjustment review. Commissioner Loomis made a motion to approve the driveway, Commissioner Kelly seconded the motion. The motion was approved unanimously.

PUBLIC COMMENT

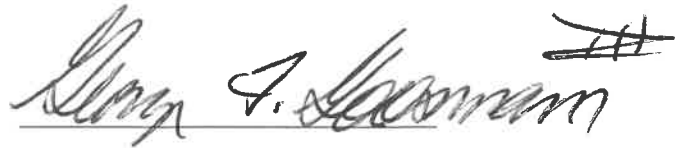
No public comment

The meeting was adjourned at 5:39 pm. The next meeting is scheduled for Tuesday, May 9, 2023 at 4:30 pm.

ATTEST:

A handwritten signature in cursive script that reads "Laura Jacobs". The signature is written in black ink and is positioned above a horizontal line.

Laura Jacobs
Town Clerk

A handwritten signature in cursive script that reads "George F. Goosmann, III". The signature is written in black ink and is positioned above a horizontal line. There are some additional scribbles to the right of the signature.

George F. Goosmann, III
Mayor