

MINUTES OF THE MEETING OF THE MAYOR AND TOWN COMMISSIONERS OF  
BILTMORE FOREST HELD TUESDAY, AUGUST 11, 2015.

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 E. Glenn Kelly, present  
Commissioner Doris P. Loomis, present

Mr. Jonathan Kanipe, the Town Administrator, Mr. William Clarke, the Town Attorney, and Mrs. Helen Stephens, Tax Collector, were also in attendance.

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

Motion was made by Commissioner Cogburn to approve the minutes of the July 14, 2015 meeting. The motion was seconded by Commissioner Loomis and unanimously approved.

Mayor Goosmann called on Mrs. Nikol Shuler to come and explain her intentions for building a driveway access onto Stuyvesant Crescent. Mrs. Schuler said they would like to add an extra driveway for safety purposes. Mrs. Shuler said this second entrance would prevent them from having to back up into Stuyvesant Road which was a big safety issue. Pictures were supplied for the Board to view.

Commissioner Cogburn moved to approve the request for a second driveway entrance onto Stuyvesant Crescent. Commissioner Kelly seconded the motion and it was unanimously approved.

Chief Dennis Presley said there were no major incidents and it was a quiet month, but noted that Skyland FD was concerned about radio traffic in a certain area. Chief Presley asked Chief Tinsley about their radio traffic and Chief Tinsley was not aware of any issues. Chief Presley said they are looking into the issue. Chief Presley indicated that he had left calls for Senator Apodaca

regarding the sales tax issue but had not received any reply. He noted that the Firefighters Association was assembling in Raleigh the following day and would walk the halls to speak with legislators.

Mr. Kanipe relayed to the Board and Chief Presley that the Senate's sales tax measure passed its third reading in the Senate and is going to the House at this point. Mr. Kanipe called April Riddle who is the Governor's Western Representative and left her a message regarding the Governor's stance; it appears the Governor still plans on vetoing the bill if it passes the House. While the House vote was unknown at the time, the Senate vote was 36-12 with Senator Van Duyn voting against it. Mr. Kanipe noted that the breakdown of the Senate vote made it a veto proof majority in the Senate.

Mayor Goosmann thanked Chief Presley for all the fire department does for the Town and thanked him for coming to the meeting.

Chief Tinsley said it was a quiet month. Mayor Goosmann asked about the car break-ins on the Parkway. Chief Tinsley said it has occurred in both locked and unlocked cars, and officers are looking into this. Commissioner Kelly inquired about the body cameras. Chief Tinsley said it appears that it is going to be similar to the bullet proof vest program and the Town has never been denied that, and in that program the grant is a 50/50 match. Mr. Kelly said the way he read the legislation was that for every two dollars spent, the state would give one dollar back for body cameras. Chief Tinsley said that was also the way he read it. Mayor Goosmann asked if the cameras were much better than the ones the officers currently use. Chief Tinsley said they were not much better but the new ones hold a lot more data.

Mayor Goosmann asked Chief Tinsley to explain the Mutual Aid Agreement on the agenda. Chief Tinsley said this is something we have done since he was the Chief, and they have asked every agency within a reasonable distance to enter into a mutual aid agreement. With the new take home policy, Chief Tinsley thought it advisable to have a mutual aid agreement with each jurisdiction that an officer will drive through coming and going to work in case anything bad happens. The other agency has to request our help in order for the aid to be active. If an officer is

fighting on the side of the road, our officers will stop and assist and still be covered by their powers of arrest.

Commissioner Loomis made a motion to adopt the Resolution authorizing mutual aid assistance with other law enforcement agencies. Commissioner Cogburn seconded the motion and it was unanimously approved.

Mayor Goosmann asked Chief Tinsley about the conflict of interest policy. Chief Tinsley indicated that the Officer Protection Grant that Lt. Davenport was working on required a conflict of interest policy. The grant was changed to in-car cameras instead of the wall penetrating radar units. I believe it is a 100% grant but the grant required the conflict of interest policy.

Commissioner Loomis asked if Mr. Clarke looked had reviewed the proposed policy. Mr. Clarke said the Conflict of Interest policy looks fine.

Commissioner Cogburn moved to accept the Conflict of Interest Policy. Commissioner Kelly seconded the motion and it was unanimously approved.

Mayor Goosmann moved on to the resolution declaring town property as surplus. This has to do with the Dodge Charger. Chief Tinsley said the unmarked Dodge Charger that he and Lt. Davenport both drove was eligible for surplus. It is the oldest vehicle in the Department, has over 100,000 miles on it, and is time for it to be sold. Mr. Kanipe said the car would be sold online via GovDeals as was previously done with the other Dodge Chargers. Mayor Goosmann said there were also some other items, including a Mossberg 16 gauge shotgun. Chief Tinsley said it is an older gun and not in the greatest condition. He indicated there is also a .22 rifle. Sgt. Shane Burrell is over our evidence room and it has been there a long time. Chief Tinsley is confident that when Shane says we can sell it, we can do it. Mr. Kanipe said there is a process on GovDeals where firearms are sold but only to authorized persons.

Commissioner Cogburn moved to accept the Resolution. Commissioner Kelly seconded the motion. Commissioner Kelly also asked if Chief Tinsley got a replacement vehicle for the

Dodge. Chief Tinsley said yes, last year we got two cars instead of one. The vote was unanimously approved. Chief Presley said he is interested in the purchase of the Charger.

Mr. Terry Crouch presented his monthly report and said it was a fairly normal month. Commissioner Kelly asked Mr. Crouch about the status of the new truck. Mr. Crouch said it looks like it will be late November or December before it is delivered. It will be January or February before we actually get started with the recycling program, and it will take 6-8 weeks for the containers to get here. Mr. Crouch indicated there is not sufficient room to store the containers right now. Commissioner Kelly asked if we are going to give a container to every household or are you going to ask if they want one. Mr. Crouch said we really have not discussed it yet. Mr. Kanipe said the ones who have expressed they do not want it, we want to work with them. Mr. Crouch also said, the containers will say Property of the Town of Biltmore Forest on them. People can also use the blue recycling bags if they do not want the containers.

Mayor Goosmann thanked Mr. Crouch for all the wonderful work Public Works does for the Town. Mayor Goosmann said you all do a wonderful job.

Mayor Goosmann said we are tabling the paving proposal for the Brooklawn Chase pull off until additional bids can be received, so let's move on to the budget amendment. Mr. Kanipe said this is actually for last year's budget. When we worked with the auditor's last week, we transferred all the funds appropriately and the numbers have been correct for the water loan payoff. The auditors found that an additional component was needed in the original budget amendment. Staff presented a proposed amendment to the staff auditors, who then spoke with their higher-ups about approving this retroactive budget amendment for FY14-15. The auditors indicated this was acceptable and appropriate and would get us where we need to be. That is what this Budget Ordinance request is for. The accounting side was already done but just the Ordinance side needed to be amended.

Commissioner Kelly made a motion. Commissioner Cogburn seconded the motion and it was unanimously approved.

Mayor Goosmann moved on to discussion of wild and exotic animals. Mr. Clarke checked with the Board of Commissioners and said you all do not want to allow wild animals in homes in Biltmore Forest, is that correct? The Board agreed. The Mayor also clarified that people can feed birds.

Commissioner Loomis asked whether the codification company would supply suggestions for ordinance changes that needed to be made. Mr. Kanipe indicated he had spoken with a representative from the company and that editorial, legal, and substantive reviews would be performed during the process. Mr. Kanipe informed the Board that the review was ongoing, and indicated that any changes made with the Animal Control Ordinance and Zoning Ordinance would be sent to the company and hopefully included within the first codification

Mayor Goosmann moved to the Tax Settlement. There are three people that this affects. The first one is, "In God We Trust." They currently owe, \$3,384.92. If they haven't paid by January 5<sup>th</sup>, they pay 2% and then ¾% each month. Mayor Goosmann said the house was currently for sale and before they sell the house, the taxes must be paid, is that correct? Mrs. Helen Stephens said they should pay it. It is usually part of the real estate closing process but if for some reason it is overlooked, that does stay attached to the house. Mayor Goosmann asked if we need to apply a lien to that house now. Mrs. Stephens said the tax is the lien.

Mayor Goosmann noted that Western Carolina Family Practices owes \$13.47, and further remarked that he and Mr. Kanipe spoke about talking to 1 Cedarcliff Road about cleaning their property. Mayor Goosmann asked for a motion. Mr. Kanipe said the General Statutes require the Board has to be presented with the annual settlement and has to approve that before ordering the collection of the taxes for the coming year. Mayor Goosmann thanked Mrs. Stephens and said she was doing a fantastic job as Tax Collector. Mayor Goosmann thanked her for all she does.

Commissioner Kelly asked Mr. Kanipe about the location of the property listed as discovery. Mrs. Stephens said it is the area north of I-40 and west of Vanderbilt Road which includes the gate house. It includes four houses and two commercial structures, and is 248 acres.

Commissioner Kelly asked if we just discovered that property this year. Mr. Kanipe stated that he and Mrs. Stephens had worked with the Buncombe County tax office and the Biltmore Estate for several months last year. The property itself was not broken out specifically into exact acreage and buildings on the land, but rather was more or less one chunk of property. As staff started looking at what was actually on the property, the total taxable amount owed increased by \$8,980. Commissioner Kelly asked if this \$21,000 figure now charged to the Biltmore Estate is one year worth of taxes or three years. Mr. Kanipe and Mrs. Stephens replied it was one year. Commissioner Kelly said we can go back three years, and asked whether this should not be approximately in the low \$60,000 range. Mrs. Stephens said we had previously billed for something that was more or less just a percentage of the whole Estate because it was not isolated into a specific parcel within the Town. There was approximately 3,000 acres that the Town simply took a percentage of and staff could not correlate that back to anything. For 2013, they were actually billed \$12,381, so they have been billed something. Commissioner Kelly said last time I looked the tax payer who had mistakenly paid could go back three years and tell the Town or the County that I want my money back and similarly the Town or County could go back three years and say, you have not paid and we want our money. Mrs. Stephens said she believed the Machinery Act allowed municipalities or counties to go back seven years. Commissioner Kelly asked if Biltmore was comfortable paying this \$21,000. Mrs. Stephens said they were not happy but they paid promptly. Mrs. Stephens also said they have a deferred assessed value of approximately 27 million dollars. If they ever change the present use of that, we are looking at an additional \$107,000 in tax revenue at our current rate.

Mayor Goosmann mentioned the parking lot area and the area where the maintenance shed belongs to the BFCC adjacent to Hendersonville Road. The Club has paid taxes for years, and Mayor Goosmann recalled Lou Bisette researched it when the BFCC was considering building something in that area. They discovered that the Club did not own it but rather Biltmore Farms owned it. Biltmore Farms was going to sell it to BFCC at one time for \$200,000-\$300,000. BFCC did not want to buy it because they previously paid taxes on it when they were not the owners. Mayor Goosmann asked Mrs. Stephens to follow up with this matter.

Commissioner Kelly asked how large this lot was. Mayor Goosmann said it is a large area that goes from Amherst to Hendersonville Road.

Commissioner Loomis made a motion for the annual settlement of taxes. Commissioner Cogburn seconded the motion. All were in favor and was unanimously approved.

Mayor Goosmann asked for consideration of the Order for the Tax Collector to collect the taxes. Commissioner Loomis made the motion for Mrs. Helen Stephens to collect taxes. Commissioner Cogburn seconded the motion and it was unanimously approved.

Commissioner Cogburn moved to go into Public Hearing regarding a proposed zoning text amendment. Commissioner Loomis seconded the motion and it was unanimously approved.

Mr. Kanipe spoke about the proposed amendment that would revise the Town's ordinances in regards to rental properties and, specifically, prohibit a short term rental of ninety (90) days or less. The Planning Commission recommended a ninety (90) day minimum rental with a maximum of two (2) rentals per year. Mr. Clarke prepared the language in the ordinance amendment. Mr. Kanipe noted a reference in the amendment to the Permitted Use Table and changes regarding the short term rentals as well as the maximum rental two time policy. Mr. Kanipe also pointed out the changes in the definitions that regarding a short term rental under the definitions.

Commissioner Loomis made a motion to go out of Public Hearing. Commissioner Cogburn seconded the motion and was unanimously approved.

Commissioner Kelly moved the amendment to the Town's Zoning Ordinance be adopted. Commissioner Cogburn seconded the motion and the vote was unanimously approved.

Commissioner Kelly suggested sending letters to those who are now in violation of the short term rental Ordinance.

Mayor Goosmann indicated he would reply to Dr. Charlie Cummings's phone call regarding walkers and deer. Mayor Goosmann is also concerned about the multiplying of deer and would like to get that number increased with approval from the Board.

Commissioner Kelly asked if the Town is going through the audit right now. Mr. Kanipe said they just left yesterday and we should have the report in September or October.

Mr. Kanipe briefly went through his report and stated that a permit request for a new home at 27 Hemlock Road was tabled during last month's Board of Adjustment meeting.

The Town is working with VC3 right now and the on-site project manager will be here next Tuesday breaking down what the Town has in place infrastructure wise for our IT changeover. The engineer will determine where we need to position servers. Staff recently received an update pm the website, including screen shots and these look really nice.

The next Board of Commissioners meeting is scheduled for Tuesday, September 8, at 4:30pm. Mayor Goosmann adjourned the meeting at 5:35pm.

ATTEST:

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Jonathan B. Kanipe  
Town Administrator

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George F. Goosmann, III  
Mayor





**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 2015 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 11th day of August, 2015:

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

Attest:

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Jonathan B. Kanipe

Clerk, Town of Biltmore Forest



**TAX COLLECTOR  
ANNUAL SETTLEMENT  
FY 2014-2015**

Pursuant to the provisions of NCGS 105-373, the following is the Tax Collector’s Report of Settlement for 2014 taxes for Fiscal Year 2014-15.

FINANCIAL REPORT FOR FY 2014-15 TAXES

2014 Levy from County Scroll <i>(Real &amp; Personal Property Tax)</i>	\$ 2,335,743.53
Exemptions, Releases & Deferrals	\$ (14,432.27)
Discovery-Biltmore Company*	\$ 21,364.04
Discovery-All Others	\$ 131.67
Public Service Companies	\$ 16,479.29
Total 2014 Levy	\$ 2,359,286.26
Collected (Real & Personal)	\$ 2,352,836.45
Uncollected (Real & Personal)	\$ 6,449.81

Percentage of Levy Collected	99.73
%	

Penalties, Costs & Interest <i>(amount includes all interest charges in FY 14-15, including prior year delinquencies )</i>	\$ 2,793.96
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*\*The Tax Collector worked with Buncombe County Tax Appraisers to identify the specific portion of the parcel and property that is located within the Town limits. As a result the Buncombe County Tax Office has assigned a separate parcel number for this property and all future appraised values for this property should be included on the tax scroll issued by the Buncombe County Tax Office.*

LIST OF 2014 DELINQUENT TAXES – REAL PROPERTY

<u>Parcel</u>	<u>Owner</u>	<u>Amount</u>
9646-88-7958-00000 3,384.92	INGODWE TRUST	\$

9646-83-8064-00000	Lenz, William B	\$
	2,049.82	
9647-74-9332-00000	Pankow, Joanne F	\$
	1,000.62	

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\$  
6,435.36

LIST OF 2014 DELINQUENT TAXES – PERSONAL PROPERTY

<u>Parcel</u>	<u>Owner</u>	<u>Amount</u>
0000796966 13.47	Western Carolina Family Practice	\$

TOTAL DELINQUENT TAXES – BY YEAR

<u>Year</u>	<u>2014</u>	<u>2013</u>	<u>2012</u>	<u>2011</u>	
Amount	\$ 6,448.83	\$ 448.88	\$ 106.56		\$ 34.73