

MINUTES OF THE MEETING OF THE MAYOR AND TOWN COMMISSIONERS OF
BILTMORE FOREST HELD SEPTEMBER 8, 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 and Mr. William Clarke, the Town Attorney, 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 August 11, 2015 meeting. The motion was seconded by Commissioner Kelly and unanimously approved.

Mayor Goosmann called on Assistant Chief Ryan Cole representing the Skyland Fire Department. Mr. Cole said that August was a fairly quiet month. Mr. Cole reminded everyone that when clocks are changed for daylight savings time, the batteries in our smoke detectors should also be changed. Mr. Cole also said it is a good idea to replace your smoke detector after ten years.

Mayor Goosmann thanked Assistant Chief Ryan Cole for all the Fire Department does for the Town and thanked him for attending the meeting.

Mayor Goosmann asked Mr. Terry Crouch for the Public Works monthly report. Commissioner Loomis mentioned that she saw a Public Works employee on Labor Day painting a fire hydrant. Commissioner Loomis said there is so much we take for granted and there is so much that

Public Works does to keep our community looking well. Commissioner Loomis expressed gratitude and thanked Public Works for their dedication and asked Mr. Crouch to pass on her thanks to the department employees.

Mayor Goosmann thanked Mr. Crouch for all the wonderful work Public Works does for the Town. Mayor Goosmann said the two new Public Works employees are very nice and seem like hard workers. Mr. Crouch agreed and said they are working out well as Town employees.

Mayor Goosmann called on Sgt. Shane Burrell for the monthly report from the Police Department. Sgt. Burrell said there were 236 calls for the month of August. The majority of arrests were warrants taken out by other agencies. None of the arrests were town residents. The domestic disturbance was mentioned and was a verbal matter, so no further action was taken.

Commissioner Kelly asked if there were any coyotes reported. Sgt. Burrell said there were no calls regarding coyotes.

Mayor Goosmann thanked Sgt. Burrell for all the Police Department does for the Town.

Mayor Goosmann called on Mr. Jonathan Kanipe to discuss the sale of the Dodge Charger to Skyland Fire Department. Commissioner Loomis then moved for Adoption of the Resolution for sale of the vehicle for seven thousand and five hundred (\$7,500.00) dollars to Skyland Fire Department. Commissioner Cogburn seconded the motion. All were in favor and was unanimously approved.

Mayor Goosmann discussed the paving proposal for the pull off along Brookside Chase. After requesting new bids, the lowest bid was now three thousand and five hundred (\$3,500.00) dollars from Affordable Paving Company. Commissioner Kelly made the motion to approve Affordable Paving's proposal for \$3,500.00. Commissioner Cogburn seconded the motion. All were in favor and was unanimously approved.

The next matter for discussion was the subject of wildlife and exotic animals. Mr. Clarke discussed with Commissioner Kelly regarding regulating livestock and other animals and whether chickens are defined as household pets. Commissioner Kelly stated his belief that the Town's current animal control ordinance was inadequate in regards to animals allowed within the Town limits. Commissioner Kelly noted that the ordinance does not allow a cow, calf, horse, mule, or sheep to run at large in the Town but the only animal expressly prohibited in the current ordinance are pigs and hogs. Commissioner Loomis asked whether we have something that says we cannot feed ducks and wild animals. Mayor Goosmann said we need to get an amendment to the ordinance to ensure that Town officials can feed animals in conjunction with the deer control program. Commissioner Loomis said that a town employee can feed wild animals for purposes of controlling, which helps, but we need to have something that says our residents cannot do this. Mr. Clarke indicated working on these amendments in conjunction with the recodification. Mayor Goosmann said at this time we will just table this matter.

Mayor Goosmann moved on to the solar panel discussion. Mr. Kanipe relayed that this came to the Board because of solar panels being defined in the town ordinance as roofing material. Mr. Kanipe and Mr. Clarke had reviewed the issue and believe the Town can still regulate its use as an accessory structure through the Board of Adjustments. In this particular situation, the proposed solar panel is low glare or no glare. Mr. Clarke mentioned the recent enactment of Senate Bill 25 and how it severely restricts what a Town can regulate in regards to building elements. The new legislation restricts how a Town can regulate building elements for one and two family dwellings unless they are in a historic district. Biltmore Forest does not have a historic. Mr. Clarke then referenced the specific section of the Town's ordinance that relates to the solar panels is in section 1119 (1), starting at subparagraph (b).

- 1) Permitted roofing materials: asphalt/fiberglass shingles, cedar shakes or shingles, clay or concrete tile, slate, copper, factory painted metal shingles or standing seam with concealed fasteners, or as approved by the Design Review Board.
- 2) Prohibited roofing materials: tin, unpainted aluminum, galvanized steel, asphaltic roll roofing, composition rubber, EPDM or PVC single ply

roofing fabric, tar and gravel, asphalt and gravel, solar panels (unless integrated into new construction).

The way the Ordinance currently reads, Mr. Clarke did not think the Town could prohibit solar panels, but this law does not prohibit you from requiring use of buffering or screening to minimize visual impacts to protect the privacy of neighbors. Mr. Clarke's belief was that the applicant could go to the Board of Adjustment for a conditional use permit. Mr. Clarke said he thought the real impact is for people driving along the road. Commissioner Kelly agreed and also added the people playing golf. Mayor Goosmann said the reflection and how hazardous it could be may also be a significant issue. Mr. Kanipe said the application states it is no glare or low glare and that it would be incorporated into the same color as the existing roof, and appears to be flat and not elevated. Mr. Kanipe also said he had requested renderings and sketches so the Board of Adjustment has more information to review. This discussion is basically so you all are aware of what is going on for the next Board of Adjustment meeting.

Mr. Clarke said this really raises a larger issue for the Commissioners and Design Review Board in regulating building elements for the Town. Commissioner Loomis suggested changing the name of the Design Review Board to the Advisory Board so there is some sort of clarity. Mr. Clarke also said we can have some form of caveat language that said the decisions of the Design Review Board are advisory only. In regards to an earlier mentioned NC Department of Transportation study, Mr. Kanipe had reviewed this document which was produced in 1989-1990 and looked at the eligibility statement. It identified each property included in the original development of the Town, but this area of Town was never determined as an historic district itself for the purpose of inclusion under this new statute.

Mayor Goosmann asked Chief Eric Tinsley to make a presentation. Chief Tinsley apologized for being late and presented Sgt. Keith Mackey with his Advanced Law Enforcement Certificate. This certificate combines years of service, education, and training. He is the second Officer to achieve this. There are about 10-12 of these awarded per year in the state of North Carolina. Chief Tinsley, the Mayor, and Board of Commissioners all expressed their appreciation and congratulations to Sergeant Mackey.

Chief Tinsley also noted that one item was left off the incident report. It was a motor vehicle accident on Busbee Road coming from Hendersonville Road and involved an intoxicated driver. The driver went airborne and hit a utility pole. There were no injuries but our officers worked the wreck and did a good job.

Another incident happened and officers suspect it may be the person who is doing the car break-ins along the Parkway. A couple of officers got into a foot chase with him but officers were able to get tag numbers so we think we may know who it is.

Commissioner Kelly asked Chief Tinsley to elaborate on the car break-ins at The Ramble and what Biltmore Forest officers did to assist. Chief Tinsley said officers were able to get confessions of the break-ins and we got a bunch of stolen merchandise. With the car break-ins, we are working to assist the Sheriff's Department and it is mainly just information sharing and collecting.

Mr. Kanipe presented his monthly report and began by reviewing the cases before the Board of Adjustment in the prior month. Mr. Kanipe then pointed out the crosswalk at Carolina Day School at Stuyvesant Road. A resident at 115 Stuyvesant Road is concerned about the crosswalk because she believes the Town is directing foot traffic onto her driveway. Mr. Kanipe and Mr. Crouch started looking into it a little bit more and talked with representatives from J.M. Teague Engineering, a transportation engineering firm out of Waynesville, to get ideas about how best to put the crosswalk back. Mr. Kanipe indicated that they wanted to put the crosswalk back so that students and other pedestrians would utilize it coming from Carolina Day School, and that will likely involve working cooperatively with Carolina Day School by getting their coaches and teachers to encourage the kids to go a certain way. The tricky issue is that we need to figure out a way to get them down the Eastern side of the road and then direct them straight across. We have discussed installing a strip of asphalt, similar to some areas in town where we have an asphalt drain in the right of way. If we did install this small strip of asphalt down, pedestrians could walk down the eastern side of the road and then come straight across the crosswalk in front of that last speed bump. The reason I wanted them to look at it was to get their expertise on how to place it and to make sure we are in total compliance. I just want to make you all aware of that and please let me

know if you have any other suggestions or questions about this. Mr. Kanipe said they should probably be getting back to us by the end of the week. Commissioner Loomis asked if it was the people walking to and from school or runners. Mr. Kanipe said it is both. Commissioner Cogburn wanted to confirm that the crosswalk is going to be put back. Mr. Kanipe said yes but wanted to make sure you all approved and were aware of what was going on. We want to make it as safe as possible.

Mayor Goosmann expressed his gratitude on the updates Mr. Kanipe gave about the Board of Adjustment. Mayor Goosmann asked Mr. Kanipe for an update on any changes to the state's sales tax distribution method. Mr. Kanipe said the Speaker's office released information that they hoped to have a Conference Budget Report by the end of the week, but it was unclear whether that would include H 117 as well since that's a separate bill.

Mayor Goosmann adjourned the meeting at 5:25 pm. The next Board of Commissioners meeting is scheduled for Tuesday, October 13th at 4:30 pm.

ATTEST:

Jonathan B. Kanipe
Town Administrator

George F. Goosmann, III
Mayor