



**VILLAGE COUNCIL
MINUTES FOR REGULAR MEETING OF MARCH 23, 2021
ASSEMBLY HALL
395 MAGNOLIA ROAD
PINEHURST, NORTH CAROLINA
4:30 PM**

The Pinehurst Village Council held a Regular Meeting at 4:30 p.m., Tuesday, March 23, 2021 in the Assembly Hall of Pinehurst Village Hall, 395 Magnolia Road, Pinehurst, North Carolina and via the electronic meeting platform ZOOM. The meeting was streamed in real time on the Village's website.

The following were in remote attendance:

Ms. Judy Davis, Mayor Pro Tem
Ms. Lydia Boesch, Councilmember
Mr. Kevin Drum, Councilmember
Ms. Jane Hogeman, Councilmember

The following were in attendance in Assembly Hall:

Mr. John C. Strickland, Mayor
Mr. Jeffrey M. Sanborn, Village Manager
Ms. Kelly Chance, Village Clerk

And approximately 10 attendees, including 2 staff and 0 press.

1. Call to Order.

Mayor Strickland, called the Village Council meeting to order.

Mayor Strickland reminded the audience, not in attendance, that if they had comments they wanted read at tonight's meeting they could submit those to the Village Clerk via publiccomments@vocnc.org. He stated those comments would be read by the Village Clerk or himself potentially at the end of the meeting. Mayor Strickland welcomed all those in attendance and viewing virtually.

2. Reports:

Village Manager

- Jeff Sanborn, we have our new Transportation Planner on board, Genesis Harrod who started last week and we will be hearing a lot from her over the next several months as we work through many transportation related issues. Staff is diligently working on our 2022 Strategic Operating Plan, which includes the upcoming year budget and the five years beyond that. This week we are working hard on the individual Department budget requests and he noted that three years ago we were in a position where we had to deal with the issue of recycling glass changes and the impact that created, as well as the new state mandated escalation of withholdings increase for pensions. To accommodate these changes we have been slowly increasing the tax rate, which will be 31 cents this year in 2022. We also took into consideration the planned absorption of the library services, which will require an additional one cent. This will place us at a planned increase of 32 cents for FY 2022. As we move into planning for the increased expansion of the library services and need for staff we will be looking at an increase in

FY 2026, which is the last year of our plan. This may be potentially ½ cent to one cent.

Village Council

- Councilmember Boesch stated she wanted to share her appreciation and respect for Virginia Fretz “Ginsey” Fallon, who passed away last week, for her service as a Councilmember and Mayor. She said Ginsey epitomized grace and she is so grateful for the example she set for all of us.
- Mayor Pro Tem Davis stated Ginsey was certainly a friend and she would want everyone to enjoy Pinehurst as much as she did and it definitely leaves a hole in our hearts.
- Councilmember Drum stated TriCities met today and had a discussion on Tourism. Aberdeen Mayor feels he is being left out of the mix in advertising and promotion and he agrees with him and he feels it is time we move forward and represent more than just golf. There is an assumption that is all that we represent. Even Pinehurst wants to be more represented than just golf. We have a great Harness facility and other assets that we need to represent in tourism.
- Councilmember Hogeman stated she attended the Pinehurst Business Partners meeting last night. They expressed appreciation for their relationship with Parks & Rec with events and the Village. Their biggest problem is parking and we should look at that as we are looking at our small area plans. She will also miss Ginsey as she taught her a lot and was a very remarkable person.
- Mayor Strickland stated Ginsey was a longtime friend of my family and was considered to be the first lady of Pinehurst for many of us and we will remember her well. He attended the Dedication of Moore County Sports Complex a week ago Monday and it is a very nice facility. He said it was nice to see the county stepping in and providing the funds for that and he looks forward to the partnerships and collaborations we will have with them. It will not be duplications, but allow the delivery of a host of programs for that facility, our own facilities, as well as the plans for Aberdeen and Southern Pines.

Mayor Strickland stated he also wanted to cover Village policies on public comments at our meetings and he reflected on some of the recent comments we have had at our meetings. He stated the Comment Section of our meetings promote transparency and open communication between the Village Council, Village staff, and the citizens of Pinehurst. These comments help us be more responsive to the desires of our residents. He stated that while state law only requires an opportunity to have public comments once a month, it has been a longstanding policy to exceed that state requirement by providing for public comments at the end of every regularly scheduled Council meeting. He stated this is a good policy and it should continue.

Mayor Strickland noted that same state law, which is GS168-81, authorizes all city councils in North Carolina to adopt reasonable rules governing the conduct of the public comment period. He noted some of those rules include fixing the maximum time allocated for each speaker, and our longstanding policy has been 3 minutes per speaker. Mayor Strickland provided another example as allowing a designated spokespersons to speak on behalf of large groups supporting or opposing a particular, local matter being considered by the council. A third example he provided was, for the maintenance of order and decorum. Public comments should be directed to the Council as a whole and not to an individual councilmember. The Council encourages every speaker to be respectful and courteous to others and to refrain from personal attacks while speaking. Mayor Strickland stated that audience members should also be respectful and not interrupt speakers who have the floor.

Mayor Strickland noted State law recognized the importance of maintaining order and decorum during our public meetings and therefore authorizes the Mayor, if necessary, to authorize the removal of any person who is disrupting or interrupting the meeting at hand. He noted that finally, the Council encourages every speaker to focus their comments on matters that are within the authority and the jurisdiction of the Village of Pinehurst. He stated local governments, like Pinehurst, have no authority to make or change Federal or State laws. He stated speakers that wish to comment on such matters are encouraged to direct their efforts to the appropriate State or Federal forum.

Furthermore, Mayor Strickland noted the Village of Pinehurst is a municipality in the state of North Carolina and we intend to abide by laws of the state. He stated councilmembers to oaths to defend the Constitution of the United States and of North Carolina. To that end, he said, Village government has been following and enforcing the Governor’s Executive Order related to the COVID-19 pandemic. Mayor Strickland read Executive Order 195, Section 2, with respect to face coverings. He stated that during the work session, immediately following the regular meeting, Council will be reviewing these policies for potential enhancements and definitions of the Village Policy on Public Comments.

3. Motion to Approve Consent Agenda.

All items listed below are considered routine or have been discussed at length in previous meetings and will be enacted by one motion. No separate discussion will be held unless requested by a member of the Village Council.

Mayor Strickland made one exception to the items listed under the consent agenda. He noted that the audit contract is listed under the consent order will be pulled out to allow Brooke Hunter, Finance Director, to discuss and answer any questions councilmembers might have. Mayor Strickland made a recommendation to pull out item C and make it a separate item listed as Number 5. Councilmembers were in agreement.

- Public Safety Reports
 - February 2021 Police Report
 - February 2021 Fire Report
- Approval of Village Council Meeting Minutes.
 - February 18, 2021 Special Meeting
 - February 23, 2021 Regular Meeting
 - February 23, 2021 Work Session

End of Consent Agenda.

Upon a motion by Councilmember Hogeman, seconded by Mayor Pro Tem Davis, Council unanimously approved the Consent agenda by a vote of 5-0.

4. Discuss and Consider Ordinance #21-06 for Proposed Amendment to the Pinehurst Development Ordinance

Jeff Sanborn stated this is a continuation of comments and presentation from the last meeting. The opportunity is here for the council now to consider adopting these changes. Mayor Strickland said we will now hear from Mr. Burich to address where we are at.

Darryn Burich, Planning & Inspection Director, joined by staff Alex Cameron and Kathy Liles, Town of Aberdeen Planning Director, via zoom, stated that following the March 9th public hearing, staff and Council received several comments on the proposed amendments. Mr. Burich stated staff has taken these recommendations into consideration and has made revisions to the draft ordinance with staff suggested changes. He presented a PowerPoint noting the changes to the proposed text amendments to Section 9.5, Section 9.14, and Chapter 10 – Definitions of the Pinehurst Development Ordinance. Mr. Burich explained how the ratio for the number of trees is compiled according to factors such as side yard, front street, and other existing ordinances. He stated there has been some expressed concern about the spacing requirements.

Mr. Burich stated the overall objective was to enhance the current landscaping/buffering requirements within the Pinehurst Development Ordinance (PDO) in line with the recently adopted 2019 Comprehensive Plan specifically within the areas listed as: create buffer yards for development; maintain tree lined streets; update landscaping standards for single-family development; allow credits for existing qualifying trees to meet the landscaping requirements; and the allowance of tree removal to continue. He reiterated that we do currently have an existing landscaping ordinance, (SFD) 9.14.6, which defines the number of trees per dwelling, size of trees required, foundation plantings requirements, and mechanical unit screening requirements. Mr. Burich further stated we also have 9.5.1.2 buffering requirements for non-residential uses.

Mr. Burich stated the approach would be to simply look at the yards and divide them into the different type of yards and based on the calculations of your type lot, the number of trees that must be in the yard is established. He stated the approach was adjusted based on comments made, which led to adding rear buffer yards and side street buffer yards, which would cover corner lots. He further clarified that the ratios (1 tree per 15') could be adjusted per council's needs.

Mr. Burich stated another aspect of the approach was in order to incentivize retention of existing, mature vegetation, the proposed ordinance would allow an applicant to receive credit for the required number of plantings for existing trees greater than 8" in diameter at breast height (DBH). He stated credit would be further given for any trees preserved that are greater than 16" DBH at a rate for 1 tree for every 4" DBH. Mr. Burich added the proposed ordinance creates a new section specifically to address clearing and grading of vacant parcels. This section would contain a "Clearing and Grading permit" requirement when there is no active application for a development permit as required by the PDO. The requirements of the information to be provided would include a

tree survey, proposed construction entrance and an explanation of how the required standards would be met.

Mr. Burich discussed the staff proposed minor modifications to the previously submitted proposal, taking into consideration Council's suggestions, which included removing the spacing requirement column in Table 9.14.6 allowing for the 15' tree separation to be staggered, adding a table to 9.5.1.4 making it plain that property can be cleared and graded but noting trees must be replanted if removed, and clarifications on potential conflicts with private deed restricted communities. He noted that items needing further direction from Council included: tree spacing/grouping, street frontage ratio, single-driveway credit, percentage requirement of longleaf pines, tree survey inclusion, and violation procedures for tree removal. Alex Cameron added that on these last items, staff did make changes to the language based on Council and public comments, giving it more detail.

Mr. Burich stated that Council held the required public hearing on March 9th and received comments on the proposed ordinance and thus, the Council may now choose to adopt the proposed ordinance, reject the proposed ordinance, or recommend additional changes. He noted that if significant changes are contemplated, Council would have to reschedule consideration to a future meeting. Also, he stated that staff's recommendation was to delay action until April 27th to allow for review during a work session on April 13th, due to the need for clear Council direction on desired amendment changes. Alex agreed that Council direction is needed on these issues before staff can move forward on the proposed changes.

Mayor Pro tem Davis asked for clarification about whether a time line is included on the table modification discussed earlier. Alex stated we are requiring a development permit that requires 365 days and if you are not finished you must come into compliance before final inspection and if a change of ownership occurs during that time, the time frame does not restart. Councilmember Drum inquired what the process was if no development is planned and they just go in and plant trees. Mr. Burich stated that this ordinance contains the requirement to get a permit and the buffer yards must be established. Jeff Sanborn, Village Manager noted that we do need to be careful we do not infringe on harvest rights, particularly with properties in the ETJ. Alex stated they did draft the ordinance with the statutory forestry harvesting rights language built in.

Mayor said we will require another meeting, but he stated that the last meeting made it clear that we need to do some better communication with the public and continue to answer some of the specific questions from the last meeting. He stated we need to over the next few weeks, make sure we educate the public on any questions they have and provide adequate clarification. Mr. Burich said staff will do a FAQ and put it out and continue to meet with as many people as possible, such as the Homebuilders Association. He stated staff has addressed many of the comments, but some of the concerns were related to portions of the ordinance that we did not plan to make changes to. Alex stated he and Mr. Burich have worked through many of the questions and a lot of the questions were in fact due to a lack of education on the proposed ordinance changes. He noted many comments were on section 2 on landscaping and a lot had to do with additional costs to builders. Mr. Burich said there is also some concerns on planting in the side yards, but said he did not see R10 properties as having issues complying with the number of trees required. He noted the intention was not to create another fee for taking down a tree on your lot, but just want to ensure that everything is okay.

Councilmember Boesch expressed concern that Senator McInnis and Representative Boles had said if we pass this ordinance as it was two weeks ago they would immediately write legislation to override it. She stated that she is not sure this would pertain to this current ordinance with the changes, but would like Council to consider this. Councilmember Boesch stated her second concern was that some of these changes are completely in opposition to the Pinewild covenants put forth by the Architectural Review Board. She further stated there was word circulating that there could be potential legal suits if this is approved and this is also something Council should take into account. Lastly, she referred to the guiding principle number 7, which encouraged preservation on private property. Councilmember Boesch stated Kevin Brewer had done the tree survey based presentation on public property, which was good, but she was uncertain if this ordinance was encouraging preservation on private property or is going more in the direction of dictating.

Mayor Strickland reiterated that we have some education to do, including with the General Assembly on the changes that have occurred since the initial proposed changes were released. Councilmember Hogeman said she is pleased with the way the ordinance is shaping itself and is falling into place and is more understandable and workable. In reply to Councilmember Boesch's point on addressing Pinewild's and other private covenants, Councilmember Hogeman said her understanding was that on Point C, on page 2 of Mr. Burich's memo,

Councilmember Hogeman said she is pleased with the way the ordinance is shaping itself and is falling into place and more understandable and workable. She stated that point C on Mr. Burich's memo seems to go a long way toward alleviating any conflicts between the Village of Pinehurst and private covenants. It states that if you have a golf or lake front/back yard, there would be no planting required in that buffer yard. She stated front and lake back setbacks do need defined in 9.5.1.4 to help the reader. Councilmember Hogeman further stated that if we have some more flexibility on spacing for groupings for planting trees we could work a little more towards fixing those private situations. Lastly, she said she would like to see it explained more definitively in 9.5.1.7 what the violation would be or if it is not really a violation that is going to have a punitive response to it, than we need to remove the word violation.

Councilmember Drum stated that in the items for further discussion slide, Item A (Tree Spacing/Grouping), he agreed that we want the quantity of trees but isn't concerned with the spacing. He stated that he has been told by many that they have moved here directly because of the long leaf pines. On Item B (Street frontage ratio of 1 per 15 feet and single-driveway credit), for two driveway (or circular), a change to 25 foot would fix this. He further stated that on Item C (50% of the required plantings being longleaf pines) he feels it should be more than 50% on longleaf pines. Next, on Item D (Tree Survey), Councilmember Drum said he sees the added cost of tree surveys but, should we educate resident Landscapers by offering a class which would force them to be educated by an arborist, instead of a tree survey. He stated he doesn't want to see the tree survey to go away and he is listening to Jeff Cutler and Kevin Brewer, who both know that some lots need to be clear cut because there is nothing there that is any good. He stated education of resident landscapers is vital.

Lastly, Councilmember Drum said in reference to Item E (Trees removed in violation), he understands what Councilmember Hogeman is saying about the section on violation, but he doesn't understand what happens if they don't plant the trees. Mr. Burich said we would follow the processes listed in the PDO as with any other ordinance violation that requires them to come into compliance. Councilmember Drum said as for Lydia's comments about private covenants, have we talked to CCNC or other private developments to make sure we are not having any other conflicts. He thanked the staff for their hard work on the project and suggested the public should show up whether you are for or against something so we can have your input.

Councilmember Hogeman stated we need to remember that we already require a tree survey only for a new development or commercial and currently, for a developed residential lot all you need is a landscaping plan. Mr. Cameron said staff understands that it would be difficult to validate who is qualified to educate, but they suggested the end goal is to preserve existing vegetation and that he and Mr. Burich will give some more thought on it. Mayor Pro Tem Davis said this is a daunting task and we have a lot of landscapers in this area. Maybe it can be something they could view a YouTube webinar or something verses attending a class (to be educated).

Jeff Sanborn, Village Manager noted in reference to Item B, it appears we are hearing a lot of comments on small lots and maybe we need to recognize that the depth is different on each varying zoned lot. For instance, on an R30 lot, there is more room. So maybe we need to have a different standard for each type zoned lot. Like with a circular lot, you should be able to achieve one every 15 feet and not utilize all that front footage unless you are at the end of a cul de sac, but you would not be able to get two driveways there anyway. With regards to the tree survey, he stated you need it to accurately identify tree species and size characteristics, and to be able to locate the appropriate trees on that lot diagram, you need to have a trained surveyor. If the property owner has this survey, he can bring it in to staff to determine what trees qualify for the credit and you have a validated plan before you start removing stuff.

Councilmember Drum asked how a landscaper could become a tree surveyor and Kathy Liles, Town of Aberdeen Planning Director stated it is more than a course. She said it requires a long time period to become an established surveyor, and Mr. Burich replied you must have a survey certification. Kathy stated the language helps determine whether or not the work can be done by a landscaper or requires a certified surveyor. She noted that Jeff Sanborn's point about needing to accurately identify tree species and being able to locate them really supports doing the tree survey.

Mayor Strickland stated Council will come back to Mr. Burich and staff with comments on these last five crucial items. Mr. Burich replied that staff really needed a general consensus from Council most specifically on Items A, B and C as they will take the most work. Mayor Pro Tem Davis stated the FAQ is a very good idea for the public and she would like Mr. Burich to send Council the memo stating what he needed. Mr. Burich stated Kathy and the staff will continue working on the changes and send the information out to Council.

5. Audit Contract for Fiscal Year 2021

Village Manager Sanborn introduced the annual approval of the audit contract, stating that although Council has given him authority to approve contracts under a specific amount, general statute requires the audit contract to be brought before Council. Brooke

Hunter, Village of Pinehurst Finance Director stated each year at this time we award the Village's audit contract to an independent auditor in accordance with North Carolina General Statutes. Based upon the professional service we have received from our current auditors, I recommend the Village continue its relationship with the firm Dixon Hughes Goodman, LLP. The proposed base fee for this year's audit is \$30,180, which is \$880, or 3.0%, higher than the \$29,300 paid the previous year (excluding the Single Audit fee of \$4,800). The audit contract cost increases over the past few years, averaging approximately 1.5% annually.

As of today, Brooke stated she did not anticipate a Single Audit being required for FY 2021 due to the reduced amount of State funding we received from the Powell Bill program. However, if we receive State grants before June 30, 2021 that cause us to exceed the \$500,000 threshold, a Single Audit will be required. In the event a Single Audit is required, the proposed fee for this service is \$4,800, which is the same price as last year. Funding for this contract will be appropriated in the FY 2022 Budget.

Brooke further stated that as the Village's financial staff is able to complete financial statement preparation and all required audit schedules in-house, we are able to maintain the audit fee at what I consider to be a very reasonable amount. Therefore, she recommended the Village Council approve the attached audit contract with Dixon Hughes Goodman, LLP in the amount of \$30,180 for the financial statement audit and \$4,800 per major program if a Single Audit is required. Upon a motion by Councilmember Boesch, seconded by Councilmember Drum, Council unanimously approved the authorization of the Mayor or his designee to enter into an audit contract with Dixon Hughes Goodman in the amount of \$34,980.00 by a vote of 5-0.

Mayor Strickland asked Jeff Sanborn if he has received any word on the funds from the ARP. Sanborn responded that the Village of Pinehurst is going to receive a little over \$ 4.8 million in funds. Half of the funds will come in June and we will not likely be able to use all of in this fiscal year. The second payment will come later next year, twelve months from the first distribution, stated Brooke. Sanborn stated the funds will go into a restricted account for general funds and monies not spent will just roll over into the next year.

6. Other Business.

Other business was accidently bypassed, but Mayor Strickland acknowledged they would return to it following the comments from attendees.

After returning to Other Business following comments from attendees, Councilmember Drum spoke about the governor's change of capacity that will impact business occupancy. He noted the quantity of number of people that can be allowed in had increased indoors capacity to 50% and outdoors to 100%. Mayor Strickland and Village Manager Jeff Sanborn said they have not had time to review it yet as it had been released around 2 p.m., but they would review it and make some adjustments as required. There was no other business. As there was no other business matters from Council, Mayor asked if there was a motion to adjourn the meeting.

7. Comments from Attendees.

Mayor Strickland opened the floor for comments from attendees. He reminded the first speaker, Mr. Hoffman, of the recap on the procedure of public comments from earlier in the meeting. Mr. Hoffman stated that on Magnolia Road, past the Magnolia Inn, there is a sign that speaks about the old town paths original vision of Olmstead. He stated Olmstead's plan consisted of a streetscape plan that protected the sand clay paths. His plan consisted of plants and landscape to blend in with the environment. He stated he would like to see the pathways restored and bushes replanted between existing trees near the Pinehurst Elementary. He further encouraged the Village of Pinehurst to create a streetscape renewal program to help maintain our Historic Preservation status. Mayor Strickland stated he would get his comments to the beautification committee and invited him to provide his comments to the Village Clerk.

Laura McNeil, of 20 Sawmill road west stated she wanted to speak on the group Freedom Matters and our mask issues. Mayor Strickland stated this was a topic that had been heard by Council quite a few times over the last few weeks and that Village Council could not hear comments on Freedom Matters because they are beyond the scope of the jurisdiction and authority. He invited her to leave her written comments to the Village Clerk and they will be part of the public record. Ms. McNeil stated the policies had not been adopted but Mayor Strickland said we have been following the same policies for several years and as such, Council would not be able to hear comments on this matter because they are beyond the scope of authority of the Council. He verified her written comments left with the Village Clerk would become part of the public record.

Justin Bradford requested to speak on issues that were beyond the scope of the jurisdiction of Village Council and supplied the

Council with a report of his comments. Mayor Strickland acknowledged that Village Council will not deal with these comments tonight. He reported he would pass Mr. Bradford's notes on to the Village Clerk. Mr. Bradford stated he did some additional remarks that he believed are within his rights. Mayor Strickland acknowledged that he would be happy to discuss his comments outside of the council meeting, and if they are within the authority of the council, he could present them the next meeting.

Ashley Corcia of 330 Wheeling Drive requested to speak on the topic of public health advocacy. Mayor Strickland stated that if her comments were related to the same topic as those prior, Village Council would be unable to hear those and invited her to leave her written comments with the Village Clerk.

Frank Pacifico of 55 McKenzie Road requested to speak on the topic of yard debris. He stated he had taken some yard debris recently to the Village site and was denied. He requested to know why the farmers could not use these resources. He stated he had heard his neighbors have taken truck loads in and that the lady yesterday would not let him. He said she recommended he take it to the county dump or she would send someone to his house to collect it. He stated he wanted to empty his village container so he could continue his yardwork for the day. Mr. Pacifico asked if Village Council would consider opening it from February to May. Mayor Strickland stated that Council and staff would get back to him on his comments.

Ms. Collette spoke in reference to Councilmember Drum's earlier comment on residents participating in community matters. She stated that as a person for 6 years that has been fighting for tree preservation, she has been present at many Planning and Zoning meetings and had been pushed back multiple times on documents she had supplied. She stated she was told this proposed ordinance change would not be brought to Council for some time and so she made other plans and was unable to attend when it did show up. Councilmember Drum apologized for his comments and noted they were not directed toward her.

Mayor Strickland advised that Council will take all comments into consideration and returned to Other Business, which had been accidentally skipped over.

8. Motion to Adjourn the Regular Meeting.

Upon a motion by Councilmember Hogeman, seconded by Councilmember Drum, Council unanimously approved to adjourn the regular meeting, by a vote of 5-0 at 6:29 p.m.

Respectfully Submitted,



Kelly Chance,
Village Clerk

A videotape of this meeting is located on the Village website: www.vopnc.org

Vision: The Village of Pinehurst is a charming, vibrant community which reflects our rich history and traditions.

Mission: Promote, enhance, and sustain the quality of life for residents, businesses, and visitors.

Values: Service, Initiative, Teamwork, and Improvement