



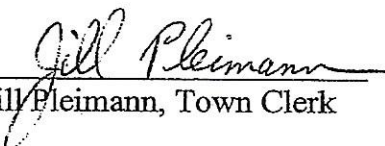
TOWN OF MATTHEWS

TRADITIONAL VALUES • PROGRESSIVE LEADERSHIP

CERTIFICATION

I, Jill Pleimann, Town Clerk of the Town of Matthews, North Carolina, do hereby certify that the attached is a true and exact copy of the minutes of December 10, 2007.

WITNESS my hand and the corporate seal of the town of Matthews, North Carolina, this the 7th day of October, 2009.


Jill Pleimann, Town Clerk



Motion by Commissioner Query to appoint Commissioner Gulley as the alternate to the ASC. Seconded by Commissioner Dixon and unanimously approved.

CHAMBER REPRESENTATIVE

Motion by Mayor Pro-Tem Taylor to appoint Commissioner Dixon as the representative to the Matthews Chamber of Commerce. Seconded by Commissioner Gulley and unanimously approved.

ATTORNEY'S REPORT

Town Attorney Charles Buckley said Tuesday, November 27, there was a hearing in Superior Court – Town of Mathews vs Wright. On Friday, November 30, a verbal order was granted to the motion by the Wrights for partial summary judgment. The judge issued a very terse order stating that the motion was granted. Mr. Buckley said he and the Wrights' attorney both had questions as to what that meant and discussed it on a conference call with the judge late last week. The judge told the attorney for the Wrights to draw the order and what to put in it. In the order, Mr. Buckley said, they granted summary judgment as to the plaintiff's claim, meaning that they were out of court. He was making his ruling on the fact that there had been a prior Court of Appeals case in this case and a ruling on remand back to Judge Boner and before the Zoning Board of Adjustment, dealing with the issue of whether Home Place is a public or private road. With the drafting from the attorney for the Wrights they have submitted an order this afternoon by e-mail to Linda Brooks, who is the Superior Court Judges' secretary. One of the things the judge has done is he is certifying that as to the claim of the Town of Mathews this is a final determination and therefore has certified it is eligible for immediate appeal. Mr. Buckley said the reason he was bringing it to the Board this evening is that this matter was originally scheduled, and is still scheduled, on the December 31 trial calendar. The only thing left to be tried now, he said, would be the counter claims of Mr. and Mrs. Wright. The attorney for the Wrights, Mr. Buckley said, concurs that they should appeal this decision now and not get involved with a trial because the determination of the Court of Appeals, if they appeal this, will have a major impact on the trial. Mr. Buckley said it should be appealed now. What he is doing tonight is seeking the Board's approval to file and give notice of appeal to the North Carolina Court of Appeals wherein they are making technical legal arguments that this was not a determination by the Court of Appeals prior to this. It simply was a Board of Adjustment decision and it simply remanded and reversed that decision, but that was not an adjudication on the merits of whether it is a private or public street. Mr. Buckley said it is a very technical argument. He said they are recommending this because there are seven other residents on that street (Home Place) and all of them need this to be a public street, and the Town had taken action to make it a public street. They would not be able to sell their houses until they abut a public street, he said.

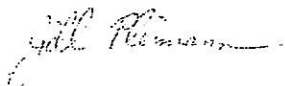
Mayor Pro-Tem Taylor moved to direct the Town Attorney to appeal this as soon as possible. Seconded by Commissioner Gulley. Commissioner Dixon asked how long this dispute has been going on. Mr. Buckley said since 1985. Commissioner Dixon said he finds it hard to believe that they have not been able to resolve it in all this time.

Motion to appeal the decision carried unanimously.

ADJOURNMENT

Motion by Commissioner Dixon to adjourn. Seconded by Commissioner LaFond and unanimously approved. Meeting adjourned at 9:30 p.m.

Respectfully submitted,


Jill Pleimann,
Town Clerk