

Upon motion of R. Q. Woody, seconded by A. M. Bennett, the following resolution was unanimously adopted by the Board:

Whereas, the Town of Bryson City is the owner of a tract of land on the waters of Deep Creek in Swain County, containing approximately 5.92 acres, which tract of land is located within the Great Smoky Mountains Park area, and the Park Commission have signified their desire to acquire title to said land, and

Whereas, in the opinion of the Board of Aldermen the said tract of land is no longer needed by said Town, it being a portion of a former hydro-electric development, which has been abandoned by the Town, and

Whereas, the North Carolina Park Commission have offered for said land the sum of Three Hundred (\$300) Dollars, said amount to be applied as a credit on the subscription of the Town of Bryson City to the fund raised by popular subscription for the purchase of park lands, and the Board being of the opinion that the price offered is the full value of said land:

Be it, therefore, ordered that the proposition for the purchase of said land by said Park Commission be accepted.

Be it further ordered that the Chairman of the Board of Aldermen and the Town Clerk be and they are hereby directed to execute a deed to the State of North Carolina, conveying all such title as the said Town may own, and to take

credit for the consideration upon the subscription of the Town of Bryson City to the park fund.

I, K. C. Marr, Town Clerk of the Town of Bryson City, do hereby certify that the foregoing resolution was passed and ratified at a special meeting of the Board of Aldermen of the Town of Bryson City held on the 25th day of October, 1930, at which the full Board was present, same consisting of S. W. Black, ~~Chairman~~, A. M. Bennett and R. Q. Woody; that the said three aldermen voted in favor of said resolution and none against. I further certify that the foregoing is a true copy of said resolution.

Witness my hand and official seal, this the 25th day of October, 1930.

K. C. Marr

Town Clerk



Asheville, N. C.,
November 8, 1930.

RECEIVED FROM The Town of Bryson City, to apply on subscription to the Great Smoky Mountains National Park Purchase Fund, the sum of \$300.00 in land value, having been paid by a deed from the Town of Bryson City to the State of North Carolina, dated October 28, 1930, conveying the title to a tract of land known by the survey of the Smoky Mountain National Park made by the North Carolina Park Commission as Tract No. 156, containing 5.92 acres.

NORTH CAROLINA PARK COMMISSION

By

Treasurer.

STANLEY W. BLACK
ATTORNEY AT LAW
BRYSON CITY, N. C.

October 28, 1930

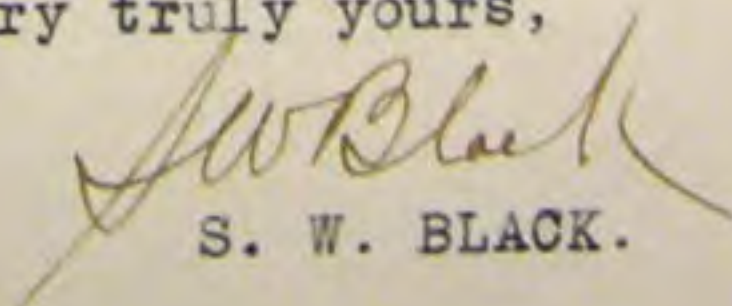
North Carolina Park Commission,
Asheville, North Carolina.

Gentlemen:

I am herewith enclosing you deed of the Town of Bryson City, conveying the small tract of land on Deep Creek to the State of North Carolina for the consideration of three hundred (\$300) dollars, which amount is to be credited on the subscription of the Town of Bryson City to the park fund.

If you find the deed in proper form, kindly acknowledge receipt and forward receipt for the three hundred dollars.

Very truly yours,


S. W. BLACK.

SWB:mf

encl.

NORTH CAROLINA PARK COMMISSION

ASHEVILLE, N. C.

October 24, 1930.

REPORT ON THE TOWN OF BRYSON TRACT - NO. 156, 5.92 ACRES

LOCATION: This tract is located on Deep Creek, about one mile inside the southern line of the Park boundary.

DESCRIPTION: This tract was originally purchased by the town of Bryson City for the purpose of a power site for lighting the town, and was abandoned a few years ago after having been in use for many years. A dam was built on the property, but it rotted down. There were also some buildings on the property, which have been removed.

IMPROVEMENTS: There are no improvements.

VALUATION: The town appointed a party to appraise this tract with our appraisers, and the price of \$300.00 was agreed on. The town authorities have authorized a trade to be made on this basis, said sum to be applied on their subscription for the Park.

Wm. R. R. R.

W. H. Woodbury,
APPRAISERS.

606 City Building,
P. O. Box 1232,
Asheville, N. C.

October 24, 1930.

Mr. S. W. Black,
Bryson City, N. C.

Dear Mr. Black:

Your letter of the 21st received, relative to the purchase of a town tract on Deep Creek for \$300.00.

You asked us to prepare a deed, but in the absence of Mr. Weaver, who is campaigning, and in order to hurry the matter up, we are enclosing you one of our regular form deeds with the description filled in as we would like to have it, and request that you prepare a proper deed, with such preambles as may be necessary, referring to the resolution of the Board of Aldermen, etc., as well as its authority to make such deed; and submit same to us, so that we can show it to Mr. Weaver. The deed may be executed or not, as you prefer, and we will formally give you a receipt and credit on the town pledge to the Park Fund.

We trust that we are not asking too much of you in doing this, but we know that you know what will be necessary to do, and we would like to get the matter behind us as early as possible, and therefore make this suggestion.

Very truly yours,

NORTH CAROLINA PARK COMMISSION

By

W. H. Woodbury,
Purchasing Agent.

WHW:S
Encl.

October 21, 1930

North Carolina Park Commission,
Asheville, North Carolina.

Gentlemen:

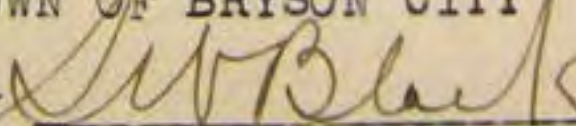
With reference to the lands owned by the Town of Bryson City on Deep Creek inside of the park area, these lands have been valued by a representative of the Town and a representative of your Commission at three hundred dollars.

You can, therefore, prepare deed to be executed by the Town, covering this boundary for the above consideration, and you are further authorized to give credit to the Town of Bryson City on its subscription to the park fund for this amount.

Yours very truly,

TOWN OF BRYSON CITY

By


Chairman Board of Aldermen

SWB:mf

NORTH CAROLINA PARK COMMISSION

ATTORNEY'S CERTIFICATE AND OPINION

Tract No. 156.

IT IS HEREBY CERTIFIED: That the title to the within described land as disclosed in the attached abstract which contains a full, complete and correct abstract of all instruments and court proceedings of record affecting the same from and including the beginning entry there of has been carefully examined and noted, and that the following named owner.....:

Town of Bryson City

is seized in fee simple of a good and valid title to the same, subject only to any lien, charge or encumbrance shown in this abstract and listed hereon.

ENCUMBRANCES

1. Subject to the title of Marion Eppley to a portion of Tract 156 containing about 1-1/3 acres embraced in what is known as the Eppley Tract No. 143. The Town of Bryson City constructed a power plant on Tract 156 after acquiring and flooded about 1-1/3 acres of the Eppley tract. Eppley brought an action in the Superior Court of Swain Co. against the Town and was awarded damages of \$150.00 for flooding this portion of his property. Since that time this power plant has been abandoned by the Town of Bryson City and the dam destroyed. The Town having acquired only an easement in the land and the power plant having been abandoned, the fee simple title to this 1-1/3 acres, constituting part of 156 on the map, would appear to be outstanding in Marion Eppley.

2. Subject to any defect in title of 156 extending North of the line of Grant 537 and also in portion extending up the creek above the line of Grant 695. The area involved in this criticism would be very small as indicated on the map, perhaps about one-half acre.

Analysis of Title

Tract 156.

Town of Bryson City - 5.92 Acres.

Tract 156 is almost entirely covered by grant 685 to John A. Hillsaps. Apparently a small portion of the extreme northern end of this tract lies north of the line of grant 587 to Love, Battle and Welch and part also north of the line of grant 685. This will be referred to hereinafter.

GRANT NO. 685.

1. Grant 685 was issued to John A. Hillsaps on December 29, 1860, covering a tract of 300 acres. This grant is fully set out on page 93 of the Abstract of tract 157 and is also referred to in the Analysis of tracts 154, 154-a and other tracts lying within the boundaries of grant 685.

2. John A. Hillsaps died leaving a will dated October 21, 1872, by which will E. Everett was appointed as executor with power to sell the lands under investigation. This will is set out on page 93 of the Abstract of title to tract 157.

3. E. Everett, executor of the will of John A. Hillsaps then conveyed to W. L. Morris by deed dated January 26, 1880, the lands embraced within grant 685 with two small exceptions - excepting a tract referred to as the Lellis tract and also excepting from that conveyance that portion of grant 685 covered by grant 587. As to any portion, therefore, of tract 156 lying within the boundary lines of tract 587, it is evident that such portion was not covered by this deed. This deed is fully set out on page 94 of the Abstract of tract 157.

4. W. L. Morris and wife, E. L. Morris, by deed dated October 2, 1911 conveyed to the Town of Bryson City a tract of land containing 4.75 acres, covering a large part of tract 156. This tract is the one upon which the old power plant of the Town of Bryson City is situated. This deed is recorded in Swain County and is fully set out on page 631 of this Abstract.

5. By a further deed dated March 16, 1912, W. L. Morris and wife, Louise Morris, conveyed to R. H. Waldrup, W. W. Wheeler and R. L. Shelson, Aldermen of the Town of Bryson City, a further tract containing one-half acre covering a small portion of tract 156. This deed is recorded in Swain County. Page 632 of this Abstract.

PORTION OF 156 COVERED BY EPPLEY TRACT.

6. A portion of tract 156 comprising one and one-third acres is a part of No. 143 known as the Marion Eppley tract. The title of Marion Eppley to tract 143-a is fully set out in the Abstract of that tract on pages 713 to 735 and will not be repeated. Apparently no deed was made by Marion Eppley to the Town of Bryson City for the portion of tract 156 belonging to said Eppley, neither have we found any condemnation suit. However, after the town had acquired title to the proposed power site from W. L. Morris, Marion A. Eppley began an action in the Superior Court of Swain County against the Town of Bryson City in which he undertook to enjoin said town from constructing said plant and flooding said land belonging to him. This action was tried in said Superior Court and was appealed on the question of the power of the defendant to construct its power plant as it had contemplated. The Supreme Court rendered an opinion in which it held that the Town had full authority to proceed in said construction and later the case was tried and upon the question of damages for the portion of land of said Marion Eppley covered by the dam constructed by the defendant, the Town of Bryson City. This was tried at the July Term, 1914 and the question of damage was submitted to a jury. The jury returned a verdict finding that the damages to the lands of the plaintiff, Marion Eppley, amounted to \$150.00. The records show that on December 14, 1914, that the defendant paid into the court the sum of \$156.50 to cover the amount of damage and costs of the action. There is also of record a plat showing the lands upon which this power plant and dam were situated. This plat will be found in file marked "obsolete civil cases, Spring Term 1912". The judgment rendered in this case is recorded in Book 9, page 63 in the Office of the Clerk of the Superior Court of Swain County and is set out on page 633 of this abstract.

7. The Town of Bryson City for many years operated this power plant on tract 156, subsequently, however, it was abandoned and a new power plant was constructed on the Oconee Lufky River and the dam and power plant removed from this tract. Apparently the town only acquired on the Eppley land the right to flood the same by reason of the suit above referred to. This probably constitutes only an easement in this portion of tract 156 and as the town has now abandoned this plant, the title to this portion of tract 156 is probably in Marion Eppley, subject to any rights the town may still have to flood this portion of tract 156.

8. It will also be noted that a small portion of the northern end of tract 156 lies north of the line of grant 685 and also north of the true line of tract 587. As to that portion of 156 and which was acquired by deed from W. L. Morris, we think the record title would be defective as the title acquired by Morris under grant 685 did not include any portion of that tract under 587.