

The Smithfield Town Council held its regular meeting on Tuesday, May 6<sup>th</sup>, 2025. The meeting was called to order at 6:30 p.m.

**Members present:**

Michael Smith – Mayor  
Bill Harris – Vice Mayor  
Valerie Butler  
Jeff Brooks  
Steven G. Bowman  
Mary Ellen Bebermeyer  
Darren Cutler

**Staff present:**

Michael Stallings – Town Manager  
William H. Riddick, III – Town Attorney  
Lesley King – Town Clerk  
Tammie Clary – Community Development & Planning Director  
Ed Heide – Director of Public Works  
Judy Winslow – Director of Tourism  
Laura Ross – Treasurer  
Alonzo Howell – Chief, Smithfield Police Department  
Chris Meier – Deputy Chief, Smithfield Police Department  
Ashley Rogers – Director of Human Resources  
Amy Novak – Director of Parks and Recreation  
Charles Bryan – Member, Planning Commission  
Leigh Abbott-Leaman – Board Member, Board of Historic and Architectural Review (BHAR)  
Eric Jaudzimas – Board Member, Board of Zoning Appeals (BZA)

**Press:**

Stephen Faleski – “The Smithfield Times”

**Citizens:** 45

Mayor Smith welcomed all attendees to the meeting and asked all present to stand for the Pledge of Allegiance.

**Manager’s Report:**

The Town Manager reported that the previous month’s activity and summary reports were contained in the information packet provided and he would answer any questions the Town Council had.

**Presentations:**

**Update on Legislative Session by Senator Emily Jordan**

**Public Comments:**

Tommy Gehring of 15 Cary Street in Smithfield reported that he would like to speak about the speed limit on Cary Street. He noted that Cary Street was the only street in the Historic District that had a speed limit that was over 25 mph. He acknowledged that there had been speed studies completed, and they reported that the average speed on the road was 32 mph. He questioned when the hours of the study were completed, adding that during rush hour the speeds seen were crazy. Mr. Gehring reported that the studies were completed using radar, but he had never seen them in process. He stated that he was coming to the Council to see what could be done to slow drivers down.

Councilman Brooks stated that he felt that there were several members of the Council that shared Mr. Gehring's concern. He reported that when the law that would allow localities to change speed limits was passed by the State earlier in the year, he thought that they would be able to enact those changes. He shared that what they had found was that the existing speed limit must be posted at 25 mph or less and it could be changed to no less than 15 mph. He noted that the speed limit on Cary Street was 30 mph, which meant that any changes must go through the Virginia Department of Transportation (VDOT) as a result. He assured Mr. Gehring that the Town would continue to fight for a lower speed limit in that area.

Mr. Gehring reported that for almost 40 years he had been living on a road that goes from the County into another city and the speed limit drops from 55 mph to 35 mph. He pointed out that he did not see the required drop in 10 mph increments as reported. He asked why they could not just make the entire Historic District 25 mph or less.

Mayor Smith recognized that the issue had been present for an extended period of time and thanked Mr. Gehring for speaking.

Mr. Gehring observed that there is a speed monitor on the road, and he has seen it report up to 55 mph for drivers. He recalled that years ago the police used to run radar in the vicinity of the water tower, which had been great.

Leigh Abbott-Leaman of 111 Thomas Street in Smithfield spoke about the history of Estelle Jameson's immigration to the United States in 1958 from Belfast. She reported that Mrs. Jameson had started work helping her husband at his medical practice, working to bring blood mobiles to an underserved donation area in Isle of Wight, and would go on to serve on the Board of the America Red Cross in Norfolk. She stated that Mrs. Jameson left an indelible mark on those that knew her. Mrs. Abbott-Leaman stated that it was clear the Mrs. Jameson was the force behind starting the 6-time yearly blood drive in Smithfield that had been held for an astounding four decades. She continued that when Mrs. Jameson wanted to step down nearly ten years ago Charlie Maudlin had recommended her, and she service as the volunteer coordinator for steady Smithfield drives. Mrs. Abbott-Leaman related that the Smithfield Drive was somewhat legendary in Norfolk, giving the example of Smithfield being the only public blood drive still held in the entire district during the shutdowns for Covid thanks to the tireless support of the volunteers, naming Elaine Abbott and the American Auxiliary that had manned the drive. She recalled that they had hoped during that drive to get 25 donors, but had to stop at 80 after reaching capacity. Mrs. Abbott-Leaman thanked the volunteers who participated over the years, most of whom Mrs. Jameson had coordinated, including Danny and Rita Mason. She thanked Councilwoman Butler for sharing her

contacts which helped increase donorship in the African-American Community which was vital in treatment for Sickle-cell Anemia. She reported that the current database following blood bank consolidation was all that she could work from, but she wanted to announce that they were reaching two major milestones. She stated that she was asking for collaboration from the Town to be able to attain those goals. Mrs. Abbott-Leaman reported that 2027 would be the 20<sup>th</sup> year on record with the current consolidated database, as the first 15 or so years that Mrs. Jameson had lead did not have very solid records. She continued that they were at 8,319 units over the course of 101 drives, and she wanted to see Smithfield make to 10,000 units. She said that among the 8,704 donor visits Smithfield maintain solid retention that was ranked higher than other areas. She noted that the Town Attorney, Bill Riddick, donated steadily and thanked him as his blood help 6 to 8 patients ever time he donated. She recognized several members of the Bebermeyer family for their numerous donations. Mrs. Abbott-Leaman requested the Councils and, where permissible, Town Staffs support by their participating in blood donations. She said it was their plan to reach that 10,000 unit goal to show the American Red Cross an example of how great a “small” blood drive can be. She stated that the blood drive information was posted on the Smithfield Rotary page, and asked, if allowed, for the Town to share that information on their social media. She reported that the next blood drive would be held on May 22<sup>nd</sup> at Trinity United Methodist Church.

**Council Comments:**

Councilman Cutler recalled the conversation had by the Town Council at the last set of Committee meetings regarding proffers. He said that after having follow-up conversations with the Town Attorney and other members, and then considering information he had learned while attending a course held at the Virginia Commonwealth University (VCU), he made the recommendation that they completed research on what other localities processes included in order to be fair to the citizens and school children. He gave the reminder that the schools were reaching the point of being at capacity.

**Consent Agenda:**

- C1. **Motion to Adopt the Investigations Memorandum of Understanding (MOU) between the Department of Forensic Science, DNA Labs International, Inc. and the Smithfield Police Department**
- C2. **Motion to Award Contract to Virginia Auction Company for the Collection of Delinquent Taxes**
- C3. **Motion to Adopt a Resolution to Appropriate FY 2023/2024 Highway Funds to FY 2024/2025 Highway Fund**
- C4. **Motion to Approve the Subdivision Agreement for ModWash and Cypress Crossing Pump Station**
- C5. **Invoices Over \$20,000 Requiring Council Authorization:**

a. Town Gun Shop, Inc	\$ 24,538.41
b. Core and Main - Water Meters	\$ 30,770.00
c. Epps Building Inc - Town Hall Window Replacements	\$ 24,600.00
d. Virginia Controland Electrical Services LLC	\$ 88,308.00
e. Flock Safety - Cameras	\$ 30,000.00

Councilman Brooks made a motion to approve the consent agenda as presented. Vice Mayor Harris seconded the motion.

Mayor Smith called for the vote. Seven members were on call for the vote. Councilwoman Butler voted aye, Councilwoman Bebermeyer voted aye, Councilman Brooks voted aye, Councilman Cutler voted aye, Councilman Bowman voted aye, Vice Mayor Harris voted aye, and Mayor Smith voted aye. The motion passed unanimously.

### **Action Section:**

#### **PUBLIC HEARING: Cottages at Battery LLC**

Tammie Clary, Community Development & Planning Director, reported that the applicants were seeking a proffer amendment for the construction of 104 single family-attached condominium dwellings in accordance with SZO Article 3.F.B.2. She stated that the proposed units would have zero lot line dwellings as attached residential and feature some units with attached rear detached garages. She noted that each lot would conform to the required setbacks, lot widths and minimums, as if lot lines existed and the zoning district would remain MFR (Multi-Family Residential). Mrs. Clary stated that the development will feature a clubhouse and pool, along with sidewalks connecting to Battery Park Road and Colonial Ave. She said that the applicants were providing 7.3 acres of common open space and 2.3 acres of active recreation open space. She reported that in order to facilitate this project, the applicants applied for the following:

- 1st Special Use Permit: Relief from Article 3.E.I.2.B, which requires 1 recreational vehicle parking space per 4 dwelling units. No RV parking is provided.
- 2nd Special Use Permit: Relief from Article 3.E.I.6.B, which requires not fewer than 3 attached units. The applicants are attaching not more than two units.

She reviewed that the application was tabled at the November 2024 Planning Commission meeting and favorably recommended to Town Council at the April Planning Commission meeting, with 1 dissenting vote. She detailed that the project reduced the number of previously approved units by 46 units and provided additional housing within Town. She observed that the Town treated condominium units in the Zoning Ordinance through SUPs if they did not comply with the Attached Residential (AR) requirements.

Mayor Smith opened the public hearing and reported that there were two members of the public signed up to speak.

Danny Belote of The Villas in Smithfield acknowledged that there would be construction completed at the site in question. He recalled that when the development was first proposed, the development team had come to meet with the residents at The Villas and present information about

the project. He reported that there had been meetings held since that time with the Planning Commission and Town Council, but they had not continued to communicate with The Villas. He reported that there was a problem in that area with traffic, and gave the reminder that there would also be the addition of 800 homes across the street from Wellington Estates. Mr. Belote observed that Battery Park Road was not set up to handle that amount of traffic. He reported that one of the residents of The Villas had discovered that in the Traffic Study completed, the entrance to The Villas was only counted as one driveway and did not take into account that there were 76 units. He stated that the residents of his community had requested that a stoplight be installed in the area to alleviate traffic attempting to turn left on Battery Park from the Villas, but they did not feel that would happen. He continued that they were still hopeful to get a stoplight updated at the corner of Church Street and Battery Park from just a “turn on red” to a complete “stop.” Mr. Belote stated that he did not want to badmouth the builder as he did not know much about them, but they would like to have better communication with them as they had a shared interest as neighbors.

David Hundley of 210 Villa Drive in Smithfield reported that his front door faced the proposed development and he opposed the development of the property for that reason.

Mayor Smith asked if there was anyone else present who wished to speak but had not signed up.

Mr. Belote asked to point out to the Town Council that there were 15 residents of The Villas present at the meeting.

Bob Hines of 216 Washington Street in Smithfield inquired if there were any plans to address the intersection’s signal at Church Street and Battery Park.

The Town Attorney stated that the question was not part of what the subject of the public hearing was, and said that he may add his comments on the matter.

Mr. Hines said that the question related to the project.

Mayor Smith reported that the Town would have nothing to do with changes to be made to the signaling at the intersection. He asked if there were any additional comments from the public. Seeing and hearing none, he closed the public hearing.

The Town Attorney gave the reminder that the applicant was given the opportunity to make their case to the Town Council.

Brian Mullins and Nathan Deihl were present to discuss the application. Mr. Mullins reported that they had made changes to their original plans over the previous few years, including decreasing the amount of units offered and decreasing the number of SUPs applied for from six down to two. He said that they felt that they had met all of the requests by the Town, and they welcomed any of the Council’s comments.

Councilwoman Butler referenced the statement made by Mr. Belote earlier, and asked if Mr. Mullins’ development team had ever met with the residents of The Villas to get their feedback on their project.

Mr. Deihl reported that the team had met with the residents of The Villas and had answered any correspondence that they had received.

Councilman Cutler asked if Town Staff could clarify the future timeline for the project as far as any future approvals that would be needed.

Mr. Clary explained that the current decisions were regarding the proffer amendment and two SUPs. She continued that the developer would need to return with a site plan for review to verify conformance. She added that the Council would be voting on three elements, consisting of the two SUPs and one proffer amendment.

Mr. Mullins reported that after their discussion on Monday at Committee Meetings, they made changes to the proffers to include all of the building materials to be maintained.

Councilwoman Bebermeyer asked Mr. Mullins if he could speak to the previously mentioned concerns with traffic in that area, adding that sometimes developers had better luck communicating with VDOT than the Council members did.

Mr. Deihl reviewed that the original approved application for 150 units had a traffic study completed. He continued that the development team then had an updated traffic study completed for their decreased amount of 130 units. He stated that the study concluded that what the developer was proposing showed as adequate and required no changes to the VDOT right-of-way. He noted that as they had further reduced the amount of units to 104, the traffic study still stood.

Mayor Smith stated that if there were no other comments then he would close the hearing and move on.

The Town Attorney reported that in addition to the public hearing, the matter was before the Council for their consideration and required a vote.

Councilman Bowman observed that the Council's bottom line was to reduce density, and the action the developer had taken was to reduce the density by 40%. He said that if the Council chose not to act then the developer, by-right, could choose to revert back to what had been initially offered which would increase the density to the original number.

The Town Attorney confirmed that the developer could build the project that had been approved, namely 15 ten-unit multi-story structures.

Councilman Bowman recognized that no one wanted more development in the Town; however, the developers were present to give the opportunity to reduce density and he felt that they should give the project consideration. He asked the Town Attorney if each item required separate voting.

The Town Attorney asked Mrs. Clary how the matter was advertised.

Mrs. Clary reported that the proffer amendment had been advertised separately with the two SUPs advertised together.

Councilman Bowman made a motion to approve the proffer amendment as presented.

Councilman Cutler asked what step in the process would nullify the original approval of 150 units.

The Town Attorney explained that if they approved the current proffered conditions then the previous proffered conditions for 150 units were no longer valid. He summarized that the point of having proffers was that the developer would have to build the project like they said they would. He added that was also the reason for including specific items, for example the inclusion of maintenance requirements for all the building exteriors and tonnage requirements for commercial vehicles.

Councilman Cutler asked to revisit his comments from last week that there were three developments in and around Smithfield in process at the moment: the Promontory, the Grange, and the Cottages.

Councilwoman Butler pointed out that the Promontory had not come before the Council.

Councilman Cutler stated that the Council knew about the Promontory as they had received 500 pages of material regarding it, including their proffers. He continued that he saw it as a three-way race with the winner paying or not paying. He stated hypothetically that if the Cottages was the winner then the public schools would be the loser because they did not include the schools in their proffers. He noted that in the proposed proffers for the Promontory there were provisions if they pushed the schools over their limit.

The Town Attorney stated that he understood the point that Councilman Cutler was making, but the problem with his comparison was that the Promontory was a potential project that was an application and they had no rights whatsoever at that time. He explained that the zoning follows the property and not the developer, so in the case of the Cottages it had already been approved without cash proffers due to the schools reporting that the development would cause no impact. He observed that common sense provided that with their number of units decreased even further, the Cottages would have even a lesser impact on the schools. The Town Attorney stated that the Town relied on Isle of Wight County Schools to give them feedback on these matters, and the schools had not provided any information to Mrs. Clary in response to her request that would indicate that the Cottages causes desperate impact on the school system. He added that the County's Capital Improvement Plan (CIP) did not identify capital projects for the schools. He said that having not prompted intervention by those mechanisms, the developer was under no obligation nor was the County in any position to accept the proffers. The Town Attorney related that two weeks the County Attorney had stated in front of the Planning Commission that without the analysis by the County and without the appropriate documentation in the CIP, if they were offered the money it could not be accepted. He noted that as the County Attorney worked with both the administration and the schools, he could not contradict what was said.

Councilman Cutler thanked the Town Attorney for his statement, and reviewed that in his opening statement he had said that something needed to be done about the situation. He recognized they might not be able to do something about it immediately, but they may be able to make updates to the Comprehensive Plan to address the issue. He added that they needed to work with the County to ensure that they were maximizing the revenue generated to the school system. He said that what he had seen projected for the school system did not look good.

The Town Attorney pointed out that the previous Town Council had made a commitment, which the current Council was not bound by, to accept school proffers of whatever nature that were legal that could be passed on to the County wherever it was appropriate. He continued that in order to follow through with that, the County had to give the Town the tools for implementation. The Town Attorney stated that at the current point, it did not look like the County had done that. He said that Councilman Cutler's concerns were valid, but the County had to help themselves before the Town could step in.

Councilman Cutler stated that he did not think that it was entirely dependent on the County to figure out a solution, but the Town should ask to help.



Mayor Smith pointed out that a motion had been made by Councilman Bowman.

Vice Mayor Harris seconded the motion to approve the proffer amendment.

Mayor Smith called for the vote. Seven members were on call for the vote. Vice Mayor Harris voted aye, Councilman Brooks voted aye, Councilwoman Bebermeyer voted aye, Councilman Bowman voted aye, Councilwoman Butler voted aye, Councilman Cutler voted nay, and Mayor Smith voted aye. The motion passed by majority of 6/1.

Councilman Bowman stated that in conjunction with his previous motion to approve the proffer amendment, he made the motion to approve the two published SUPs. Councilman Brooks seconded the motion.

Mayor Smith called for the vote. Seven members were on call for the vote. Vice Mayor Harris voted aye, Councilman Brooks voted aye, Councilwoman Bebermeyer voted aye, Councilman Bowman voted aye, Councilwoman Butler voted aye, Councilman Cutler voted aye, and Mayor Smith voted aye. The motion passed unanimously.

Councilman Bowman asked to address the point made regarding the stoplight at the intersection of South Church Street and Battery Park Road. He reported that the intersection was very dangerous when the large majority of traffic was desiring to make a left turn onto Church Street from Battery Park and there were also drivers trying to make a left turn from the opposite side of the intersection from Ringo's at the same time. He requested that Town Staff look into what could be done there and possibly contact VDOT.

The Town Manager added that as part of the Mallory Pointe Development project there would be improvements made to that intersection.

Councilman Bowman addressed Mr. Mullins and Mr. Deihl, letting them know that the Council had shown great faith in them and encouraged them to work with their neighbors at The Villas.

### **PUBLIC HEARING: 219 Battery Park Road - Special Use Permit**

Mrs. Clary reported that the applicant was seeking approval for a SUP under Article 3.K.C.16 to allow outdoor storage. She stated that the applicant planned to store not more than 6 vehicles at a time, for no longer than 2 weeks, with all stored cars concealed behind the fence. She summarized that the application was favorably recommended by the Planning Commission to the Town Council with the condition that cars could be stored up to 30 days. She said that approval of the SUP would bring the parcel into compliance as outdoor storage had been occurring at the site for numerous years.

Mayor Smith opened the public hearing and reported that there were no members of the public signed up to speak. He asked if there was anyone present who would like to speak on the matter.

Trevor Darling, the applicant, reported that he would answer any questions the Council had. He related that they would ensure that all of the guidelines would be adhered to, and they would keep the property organized.

Mayor Smith confirmed that there was no one else present to speak on the matter and closed the public hearing.



Councilman Cutler made a motion to approve the SUP as presented. Councilwoman Bebermeyer seconded the motion.

Mayor Smith called for the vote. Seven members were on call for the vote. Councilman Brooks voted aye, Councilwoman Bebermeyer voted aye, Councilman Bowman voted aye, Vice Mayor Harris voted aye, Councilman Cutler voted aye, Councilwoman Butler voted aye, and Mayor Smith voted aye. The motion passed unanimously.

#### **PUBLIC HEARING: 208 Middle Street - Special Use Permit**

Mrs. Clary stated that the applicant was seeking a SUP in accordance with Article 3.D.C.28 to utilize the property located at 208 Middle Street as a child day care home occupation for not more than 8 children, ages 2 months to 5 years, Monday – Friday 7am – 5pm. She reported that the application was favorably recommended by the Planning Commission to Town Council with a grace period until 6pm, provided the applicant maintains state licensing and provides semiannual inspection reports within 30 days, and staff's recommendation of IOW County building code compliance. Mrs. Clary gave the update that the applicant was considering adding a fence to the site, but had said that she was not required to under State regulations as the site was defined as a family day home, not a childcare facility.

Mayor Smith opened the public hearing and asked if there were any members of the public who wished to speak on the matter. Seeing and hearing none, he closed the public hearing. He additionally confirmed that the applicant was present.

Vice Mayor Harris addressed the applicant and said that he would have a difficult time voting yes if there was not commitment given to install a fence at the property. He related that he had visited the property, walked through it, and concluded that it was not a safe property to have children be outside. He acknowledged that the business did not fall under the requirements of the State for a childcare facility, but it was a point of significant concern to him.

Councilman Cutler asked if the property would be occupied outside of business hours.

Dymon Humphrey of 208 Middle Street in Smithfield confirmed that the property would as the definition of a family day home offered childcare in a primary residence.

Councilman Cutler observed that letters of concern from neighbors were included in the application. He asked if Ms. Humphrey had been able to discuss those concerns with them.

Ms. Humphrey stated that she had the pleasure of speaking with her neighbors, introducing herself, and addressing their concerns.

Councilman Cutler asked how many staff would be present.

Ms. Humphrey reported that she would be present as well as two rotating part-time employees.

Councilman Cutler confirmed that there would be eight children enrolled. He stated that he shared the concern expressed by Vice Mayor Harris as the property was very narrow.

Councilwoman Butler made a motion to approve the SUP to allow a daycare at 208 Middle Street.

The Town Attorney gave the reminder that the recommendation from the Planning Commission had included a grace period until 6pm, provided the applicant maintains state

licensing and provides semiannual inspection reports within 30 days, and staff's recommendation of IOW County building code compliance.

Councilwoman Butler moved to approve with the conditions as recommended.

Councilman Bowman seconded the motion.

Councilman Cutler asked the Town Attorney if this could include a clause that could be sunsetted, meaning that they approve the application for one year and then require a review.

The Town Attorney reported that it could, and they could require a review in the same way that they did for short-term rentals. He related that with rentals, such as Airbnb, they required a review in the first year and then every two years following.

Councilman Cutler asked the Town Manager if there were any additional home daycare providers in the Town under SUP.

The Town Manager reported that the Town did, they were not under a required annual review.

Councilwoman Butler asked Councilman Cutler why he would want to require an annual review in this case, especially if the daycare was in compliance with State requirements.

Councilman Cutler said that his concern was with the letters that the neighbors had written expressing their concerns. He acknowledged that the applicant reported that she had spoken with the neighbors, however they had not requested to withdraw their letters. He added that it was a use that did not currently exist in the neighborhood, and they wanted to see if it worked out. He expressed concern with enacting matters that would exist in perpetuity for the Town that could never be withdrawn.

The Town Attorney noted that there was a difference between rezoning a parcel and a SUP. He gave the reminder that an SUP could be revoked where rezoning followed the property.

Mayor Smith asked if the Town received a report from the State annually on the matter.

The Town Attorney reported that the State did not, however, it had been included as one of the conditions of the SUP.

Councilwoman Bebermeyer stated that she was generally in support of such projects, as these types of childcare options were needed. She said that she was also in favor of installing a fence at the property due to its proximity to the road.

Vice Mayor Harris agreed with Councilwoman Bebermeyer's statement and reported that he was also in favor of the project but just had concern regarding safety. He said that he would love to hear an answer from the applicant if they would be willing to install a fence.

Ms. Humphrey said that she would absolutely consider adding a fence, however, she knew that it was not a State requirement. She agreed 100% with safety being primary.

The Town Attorney recommended that the Town Council give the applicant feedback on what type of fencing they were expecting.

Councilman Cutler said that it should at least be a 4 foot privacy fence, adding that if it were him starting a daycare that he would make it 6 feet.

Vice Mayor Harris reported that if it were a State licensed facility then it would be required to be a minimum of 60 square feet at 4 feet high.

The Town Attorney stated that it could be made an additional condition as part of the approval.

Councilman Cutler said that whatever standard building fence sold would be fine for 2 to 5 year olds.

Mayor Smith stated that she would have to get approval from the Town in that case.

The Town Attorney reported that the applicant would need to get a zoning permit, but not a building permit. He stated that a substitute motion could be made to include the installation of a 4 foot fence in the rear of the home.

Councilman Bowman suggested that Councilwoman Butler could accept a friendly amendment to her original motion.

The Town Attorney stated that was also an option.

Councilwoman Butler stated that she felt more comfortable if Councilman Cutler or Vice Mayor Harris make a substitute motion to include the condition of a fence.

Councilman Cutler asked what the appropriate height of the fence should be.

The Town Attorney recalled that Vice Mayor Harris had reported the State requirement of 4 feet for facilities.

Councilman Cutler made a substitute motion to approve the SUP to include the conditions outlined by the Planning Commission with the inclusion of the condition to install an approximately 4 foot tall privacy fence in the back yard. Councilman Bowman seconded the motion.

Councilwoman Butler asked Vice Mayor Harris if the State requirements included that the fence must be a privacy fence.

Vice Mayor Harris stated that it did not.

Councilwoman Bebermeyer added that the fence just must be able to keep a child from fitting through.

Councilwoman Butler pointed out that Councilman Cutler's motion had included that it must be a privacy fence, and questioned what would be the most cost effective fencing.

Councilman Butler clarified that he meant a 4 foot fence.

The Town Attorney reviewed that motion was to approve the SUP with the conditions as recommended by the Planning Commission and with the additional condition that the applicant install a 4 foot fence in the rear of the home.

Ms. Humphrey gave the reminder that she was not required in the State to have a fence at the site.

The Town Attorney stated her point was correct, but the condition of a fence installation was an additional condition imposed by the Town Council.

Mayor Smith confirmed the motion and second, then called for the vote. Seven members were on call for the vote. Councilman Bowman voted aye, Councilwoman Butler voted aye, Councilman Brooks voted aye, Councilman Cutler voted aye, Councilwoman Bebermeyer voted aye, Vice Mayor Harris voted aye, and Mayor Smith voted aye. The motion passed unanimously.

#### **PUBLIC HEARING: 105 Locherbie - Special Use Permit**

Mrs. Clary reported that the applicant was seeking approval for an accessory apartment in accordance with Smithfield Zoning Ordinance Article 2.Q. She detailed that the apartment resident was related to the owners of the primary structure by blood, adoption, or marriage and the primary

structure would continue to be occupied. She said that the applicant was proposing a 655 square foot accessory apartment located over a free-standing 816 square foot garage in compliance with Article 2.Q.8.a., with the structure being approximately eighteen (18') feet in height. She reported that the application was favorably recommended to Town Council at the April Planning Commission meeting, and would allow the applicant to have an accessory apartment in conformance with the SZO.

Mayor Smith opened the public hearing and asked if there were any members of the public who wished to speak on the matter. Seeing and hearing none, he closed the public hearing. He confirmed that the applicant was present.

William Campbell of 213 Keswick Place in Smithfield reported that he was the contractor who would be building garage at 105 Locherbie. He explained that his company had started building the garage about a month ago, meaning that the structure was already completed. He said that the homeowners had decided that they would like to finish the attic space in the garage to make an apartment for a family member. Mr. Campbell stated that they had reviewed the possible impacts to the community, and noted that there would not be negative impact as there would not be additional car traffic. He added that the infrastructure for the building was also already in place and there would be no additional exterior changes to the building that had already been approved and was in place. He noted that the building permit had been granted by Isle of Wight County and approved through the Homeowner's Association in Cypress Creek.

Vice Mayor Harris made the motion to approve the SUP as presented. Councilman Cutler seconded the motion.

Mayor Smith called for the vote. Seven members were on call for the vote. Vice Mayor Harris voted aye, Councilwoman Bebermeyer voted aye, Councilman Cutler voted aye, Councilman Bowman voted aye, Councilman Brooks voted aye, Councilwoman Butler voted aye, and Mayor Smith voted aye. The motion passed unanimously.

#### **PUBLIC HEARING: 328 Main Street - Special Use Permit**

Mrs. Clary stated that the applicant was seeking approval to rent 328 Main Street, which is an existing single-family residential dwelling, as a short-term and long-term rental property. She explained that according to the Smithfield Zoning Ordinance (SZO) Article 2.Z.1, short-term rentals as principal uses were permissible by Special Use Permit (SUP) only. She said that no changes to the property were proposed in order to accommodate the short-term rental and the application was favorably recommended to Town Council at the April Planning Commission meeting. Mrs. Clary noted that the application would provide additional accommodations in the Heart of the Historic District but it was not a by-right use and required a SUP. She related that a recommendation should be conditioned on the applicant following the conditions outlined in Article 2.Z.1.a through Article 2.Z.1.i., except for Article 2.Z.1.b., adding that the conditions would require a signed and notarized short-term rental affidavit ensuring compliance. She recapped the discussion held at Committees, relaying the additional condition of approval that the application would be reviewed by the Planning Commission the first year and then every two years thereafter.

Mayor Smith opened the public hearing and asked if there were any members of the public who wished to speak on the matter.

Jim Collins, the applicant, of 1109 Cypress Creek Parkway in Smithfield reported that short-term renting would not be the primary function of the property. He stated that the primary function was as a mid-term rental; however, there were gaps in the rental periods where they had received questions from parties interested in more short-term stays. He said that he had spoken with the property's neighbor prior to the Planning Commission meeting. He noted that the neighbor's concerns had been with security, but after ensuring the neighbor that they would contact them when the home was rented out for short-term stays and they could let him know if there were any issues.

Vice Mayor Harris recapped that there had been discussion at Committee Meetings about the driveway of the property being shared. He asked for confirmation that the neighbor was fine with renter usage of that driveway.

Mr. Collins said that the neighbor was, and related that they had fit three cars in the back with room for about two more. He emphasized that the rental unit would not be used in such a way that there would be many cars coming and going from the property.

Councilman Cutler asked if they were planning to rent the property more than 104 nights per year.

Mr. Collins stated that they were not. He said that there was currently a renter in the home that they were hoping turned into a long-term renter.

Councilman Cutler asked for confirmation whether an SUP was required for renting out less than 104 nights.

Mr. Collins clarified that they had completed the application because they wanted the option in case they needed to use the property in that way.

Councilwoman Bebermeyer stated that her concern had been that there would be different people in the house every weekend.

Mr. Collins confirmed that they would have very stringent guidelines.

Councilman Brooks recalled that one of his first votes on Council had been against an application like the one before them that would be used in an Airbnb style. He reported that the reason that he had voted against the application at that time was because the property was in the Historic District and he felt that the district should be protected. He noted that the application was passed despite his objection, and he was also having a hard time with the current application that they were discussing. He acknowledged that he liked the idea, location, and that it would provide lodging in the Town. He added that the location on Main Street was very different then the all-residential streets of Grace and Institute and if it were proposed for a mainly residential street he would vote against it. Councilman Brooks reiterated that he had a hard time with the application because Main Street was largely commercial and the neighbor had given their blessing.

Councilman Cutler agreed, adding that if there were going to be short-term rentals in Town then Main Street was the location for them. He expressed concern with parking and asked if there was gravel parking in the back of the property.

Mr. Collins reported that it was grass, but that there was gravel under the grass.

Councilman Cutler reviewed that there had been an application for a short-term rental near Red Point Taphouse that did not pass.

Councilwoman Bebermeyer observed that all of the short-term rentals that were approved where in the Historic District, and she did not want to see the district filled with short-term rentals. She related that she was also torn by the decision.

Councilman Cutler said that he thought it was a subject that they should discuss further in the future.

Councilwoman Butler agreed with Councilman Cutler's suggestion. She pointed out that in the case of the current application, the short-term or Airbnb-style renting was secondary.

Councilman Bowman said that he felt that Mr. Collins had proactively come before the Council to ensure that he did not break the law. He related his personal experience with renting in that area, adding that it was not a novel occurrence in that location.

Vice Mayor Harris reported that he was a neighbor to the property in question. He stated that there had often been three, four, or five cars in the back of the property, and as neighbors they had been unaware of that. He shared the concerns expressed by some other Council members that they did not want to populate the heart of the Historic District with short-term rentals. He concluded that as a neighbor, he did not have a problem with this particular application.

Mayor Smith asked if there were any additional comments. Seeing and hearing none, he closed the public hearing.

Councilman Bowman made the motion to approve the SUP to include the conditions recommended by the Planning Commission. Councilwoman Bebermeyer seconded the motion.

Mayor Smith called for the vote. Seven members were on call for the vote. Councilwoman Bebermeyer voted aye, Councilwoman Butler voted aye, Councilman Bowman voted aye, Councilman Brooks voted aye, Councilman Cutler voted aye, Vice Mayor Harris voted aye, and Mayor Smith voted aye. The motion passed unanimously.

### **PUBLIC HEARING: 110 Thomas Street - BHAR Appeal**

Mrs. Clary stated that the applicants were appealing the Board of Historic & Architectural Review's (BHAR) March 19th, 2025 decision, which resulted in a conditional approval for the proposed exterior changes to the single-family dwelling at 110 Thomas Street, a contributing property. She recapped that the BHAR approved all requested exterior changes as presented except for two requests:

- The applicants wanted to wrap the existing wooden rakes, fascia, and trim with white Mastic PVC-coated aluminum; however, the BHAR approved the replacement with solid PVC material.
- The applicants wanted to cover the existing wooden soffits with new white Mastic Beaded vinyl soffits; however, the BHAR approved the use of Hardie-branded or an equivalent composite material for the soffits.

Mrs. Clary explained that the use of vinyl products had generally been discouraged in the Historic District. She stated that in accordance with the appeals process, the application had been forwarded to Town Council for their review and decision.



Mayor Smith opened the public hearing and asked if there were any members of the public who wished to speak on the matter. He asked if the applicant was present.

Joe Barnes of 110 Thomas Street was present to discuss the application and reported that also present were Mr. Robert Jones and Miss Jennifer Barry of the general contractor, RA Jones, Inc. He stated that he and his wife appreciated the roles that BHAR and the Town Council served as stewards of the history of the Town. He said that as they were 30 year residents of the Town, they were sensitive and deliberate in their approach to the rejuvenation of the property. Mr. Barnes stated that their goals were preserve the Dutch Colonial style of the home while introducing enhancements that were designed to protect its longevity and to provide lower maintenance needs on their part. He noted that they believed that the project would deliver a more attractive appearance at into the Grace Street corridor through Thomas Street. He reported that following the BHAR meeting, they had reviewed the terms related to the wrap trims and vinyl soffits. He continued that from their perspective the conditions presented use of materials that did not preserve the desired architectural of the existing features and foretold higher costs for future maintenance. Mr. Barnes asked the Council to consider the issue and use their discretion to relieve the conditional approval items applied at the BHAR meeting, and permit them to proceed with their original plan. He said that they believed that the materials chosen by them to use in the construction were reasonable and not inconsistent with the BHAR guidelines.

Mr. Barnes proceeded with a presentation regarding the property and the planned renovations. He reported that they were not altering the architectural style of the house, but were giving it essentially a “face left” by beautifying aspects of the home.

Robert Jones, president of RA Jones, Inc gave the Council information about himself and his contracting company, including his work on historic homes that dated as far back as 1600. He reported that numerous manufacturers had been making materials to be architecturally correct but still using new products. He showed examples of work he had completed that related to products and processes they would use at 110 Thomas Street, and then gave additional information about the project they would be completing for the Barnes, including moving all overhead utility lines underground. Mr. Jones related that there were some products that he could not find made from the recommended materials, for example the oversized brick mold could not be found made with PVC. He explained that by using metal for the trim they could bend the end of the metal to cause a compression seal against the existing window frames. He offered to answer any additional questions.

Mr. Barnes speculated that he could not saying anything that would change a purist’s mind, but he hoped that Mr. Jone’s explanations helped the pragmatist’s to understand why they had chosen the materials they had. He questioned if the proposed changes were so egregious that they would significantly detract from the historic character of the district.

Mayor Smith asked if there were any other members of the public who wished to speak.

The Town Attorney observed that the related statute stated that the Town Council shall consult with the Review Board in relation to any appeal. He pointed out that Mr. Russell Hill was present at the meeting and was the Contractor Representative on the BHAR.

Mayor Smith stated he would like to hear from Mr. Hill.



Russell Hill of 10269 Rainbow Road in Carrollton stated that the BHAR had discussed the matter with the Barnes' and noted that he had been the contractor for work done on the house beside theirs in addition to 13 houses on Church Street. He continued that those houses had all used composite material and there were multiple avenues to pursue in its use. He acknowledged that he was personally not a fan of using vinyl and he was aware that there were many variations of that product. He said that it did not matter what type of tool was used in its application, but vinyl would blow off in winds of 40 mph. Mr. Hill also recognized that use of other materials was more expensive, but he felt it was a better product that would last longer.

The Town Attorney reported to the Council that the BHAR members had not been given the same presentation that had just been shown, and it had not gone into as great of detail.

Mr. Hill reported that he was not a fan of the use of vinyl wrap, and reiterated that the BHAR rarely approved the use of vinyl. He pointed out that the applicant's neighbor to the left was a home that had vinyl and used metal wrap. He explained that the reason that house had been given approval prior was because it was replacement of a like-for-like product. Mr. Hill stated that it did not matter to him how far a house was set from the road, the BHAR had their requirements for a reason, and everyone should have to follow those rules.

Mayor Smith stated that he lived in the Historic District, and many elements of the house were wrapped in vinyl as it was built in the early 80's. He asked if any repairs were needed to be made, would he have to change the materials.

Mr. Hill pointed out that even though he was a Historic District resident, his house was not historic in nature.

Mayor Smith asked for confirmation that Mr. Hill considered the house at the center of the appeal a historic home.

Mr. Hill stated that was correct.

The Town Attorney explained that the house was classified as Contributing, but was not considered a Landmark structure.

Vice Mayor Harris asked for clarification that according to the guidelines the use of the material was not prohibited, but it was not recommended.

Mr. Hill stated that the BHAR's decisions were made on a case-by-case basis dependent on the classification of the home. He noted that the applicant was not making a like-for-like replacement of materials but were proposing changing from pine wood to vinyl wrapped in aluminum metal. He reported that if they had chosen to use a composite material for the crown, fascia board, etc., it was made of solid PVC. He added that the boards were  $\frac{3}{4}$  an inch and could be milled. He reported that he had used it in multiple ways, including shutters and beadboard.

The Town Attorney said that there was no such thing as a prohibited material, and the guidelines gave examples of best practices. He stated that Mr. Hill was correct in saying that the BHAR considers every application on a case-by-case basis.

Councilwoman Bebermeyer asked the applicant if there was a reason that they were going outside the guidelines.

Mr. Barnes stated that cost was a consideration.

Councilwoman Bebermeyer asked if they could give an example of the cost difference.

Mr. Barnes said he would be happy to share cost information after the meeting, as he did not want to share cost publicly. He related that it was not an insignificant amount. He said that another aspect of their choice was based on preserving the structural integrity of the existing window frames and not wanting to break their seals or destroy the soffits. He summarized that they were trying to preserve the house and make it as low-maintenance as possible.

Mr. Jones related that the house he had shown as an example during the presentation that had utilized the requested processes and materials had withstood being 75 yards from a tornado with only one rake board coming off. He said that every house on the street that the Barnes's lived on that had aluminum did not have a crown mold, which was what they were proposing to do. He related that a person would have to be standing very close to it in order to see that it was not wood. He added that the material was guaranteed for life by the manufacturer.

Vice Mayor Harris reported that he and his wife had restored two homes on Grace Street and the expense involved with restoration was significant. He noted that it was important to those, including himself, who were determined to protect the Historic District to remain cognizant of the difficulties involved with the process. He reiterated the expense, adding that any preservationist or historic home lover knew that going into such an undertaking. He recognized that if there was a way to complete the job, maintain the architecture, protect the building, and help the homeowner in terms of costs, then he felt it was something that they needed to consider. Vice Mayor Harris stated that both of the homes he had restored had a combination of metal and vinyl wrapping, and he speculated that people walking down the street would have a hard time recognizing the difference. He related that the house was important as there was not another Dutch Colonial style house on the street and it added to the Historic District. He shared that the Council did not want to discourage people from buying and maintaining historic properties, but they wanted to ensure that their houses looked right.

Mayor Smith asked if there were any additional comments. Seeing and hearing none, he closed the public hearing.

Vice Mayor Harris made the motion to approve the application for the use of the materials as specified in the appeal. Councilman Cutler seconded the motion.

Councilman Bowman reported that it was important that the Council make clear that they appreciated that advisory boards decision and understood that there were different ways of looking at things. He noted that their decision either way was not a reflection on the wonderful job that they did and the hard work that they put in.

Councilwoman Bebermeyer agreed, adding that there were qualified and dedicated people on BHAR and she appreciated their effort. She said that she also appreciated the homeowners in the District that had to work to maintain their homes as well.

Mayor Smith called for the vote. Seven members were on call for the vote. Councilman Cutler voted aye, Councilman Brooks voted aye, Vice Mayor Harris voted aye, Councilman Bowman voted aye, Councilwoman Butler voted aye, Councilwoman Bebermeyer voted aye, and Mayor Smith voted aye. The motion passed unanimously.

**Motion to Accept the Nominating Committee's Recommendation to Fill the Expiring Term of Faye Seeley (June 30, 2025) and the Unexpired Term of Greg Brown (June 30, 2027) to the Board of Zoning Appeals**

Councilman Cutler thanked Councilwoman Bebermeyer for her collaboration in finding new appointees to the Board of Zoning Appeals (BZA) and reported he was nominating Mr. Eric Jaudzimas to the expired full term of Mrs. Seeley.

The Town Attorney gave the reminder that their decision was a recommendation to the Circuit Court.

Councilwoman Bebermeyer reported that she was nominating Mr. Kurt Bruggeman to the unexpired term of Mr. Brown.

Councilman Cutler made a motion to nominate Eric Jaudzimas to the Board of Zoning Appeals. Vice Mayor Harris seconded the motion.

Mayor Smith called for the vote. Seven members were on call for the vote. Councilman Cutler voted aye, Vice Mayor Harris voted aye, Councilwoman Butler voted aye, Councilman Bowman voted aye, Councilman Brooks voted aye, Councilwoman Bebermeyer voted aye, and Mayor Smith voted aye. The motion passed unanimously.

Councilwoman Bebermeyer made a motion to nominate Kurt Bruggeman to the Board of Zoning Appeals. Vice Mayor Harris seconded the motion.

Mayor Smith called for the vote. Seven members were on call for the vote. Councilman Bowman voted aye, Vice Mayor Harris voted aye, Councilwoman Butler voted aye, Councilman Brooks voted aye, Councilman Cutler voted aye, Councilwoman Bebermeyer voted aye, and Mayor Smith voted aye. The motion passed unanimously.

**Approval of Summary Minutes from the Joint Planning Commission and Town Council Meeting on February 25, 2025**

The Town Attorney said that he had reviewed the minutes recommended that they be approved as presented.

Councilman Cutler made the motion to approve the summary minutes as presented. Councilwoman Bebermeyer seconded the motion.

Mayor Smith called for the vote. Seven members were on call for the vote. Councilman Cutler voted aye, Vice Mayor Harris voted aye, Councilman Bowman abstained as he was not present, Councilwoman Butler voted aye, Councilman Brooks voted aye, Councilwoman Bebermeyer voted aye, and Mayor Smith voted aye. The motion passed, with one member abstaining.

**Approval of Town Council Summary Minutes from April 1, 2025**

The Town Attorney recommended that they be approved as presented.

Vice Mayor Harris made the motion to approve the summary minutes as presented. Councilwoman Bebermeyer seconded the motion.

Mayor Smith called for the vote. Seven members were on call for the vote. Councilman Bowman voted aye, Councilman Brooks voted aye, Councilman Cutler voted aye, Vice Mayor

Harris voted aye, Councilwoman Bebermeyer voted aye, Councilwoman Butler voted aye, and Mayor Smith voted aye. The motion passed unanimously.

**New Business:**

There was no New Business discussed.

**Old Business:**

**Blight Update - 1502 Magruder Road**

The Town Attorney reported that the attorney representing the Phillips was present.

Mr. Robert Smalls gave the update that the sworn statements with the insurance company had been rescheduled for May 16<sup>th</sup>, and had been moved by the insurance company's attorney. He said that in the meantime they had provided the insurance company with all of the updated information that they requested, and updated that the company had not requested any additional information in response. Mr. Smalls stated that he had been informed by the attorney for the insurance company that when he filed a Freedom of Information Act (FOIA) Request with the Virginia State Police to obtain a copy of their investigation, they had been informed that the investigation was still ongoing, and therefore the police did not have to comply with the request. He added to this that information was different than the information that he had been given before the last meeting of the Town Council that the investigation had concluded. Mr. Smalls said that his client had also been told that the investigation had concluded. He said that it was unclear to him why the investigation was ongoing, but the Town Attorney, Mr. Riddick, had forwarded an email that confirmed that the State Police's investigation was not concluded. He stated that the email also reported that the State Police did not have any further interest in the property itself being retained pending the conclusion of their investigation. Mr. Smalls observed that the situation did not protect the owners of the property because until the investigation was concluded there was no way to know whether some evidence at the site would either support or refute something the police may try to say had happened. He outlined that the predicament was that the insurance company had not yet approved the claim while the State Police investigation was officially still open. He recognized that the property was unsightly, and stated that his clients would like nothing more than the issue to not be before the Town Council. Mr. Smalls stated that it was their understanding that the information from the meetings held with Town Council the week prior was not correct, namely the suggestion that if the Council voted to blight the property then they would have 90 days to take action. He reported that was not correct as the 90-day period had begun when the letter came out. He stated that it was his understanding from the information given by the Town Attorney that if the Council voted to blight the property, then they could assert their lien at any time. He cautioned that if they asserted their lien and started to tear down or remove the rest of the property without the police investigation being officially concluded, then he would respectfully suggest that they would be putting his clients rights at risk. Mr. Smalls stated that his clients were taxpayers in the community and they were renovating the house to sell it. He continued that when the house burned down it was not his client's fault, and there was no evidence that he was aware of that it was their fault. He reported that he was previously a prosecutor, and he knew what it meant when the police

said that an investigation was still ongoing. He said that until the police came back and said that they were done and there would be no charges against his clients, then with all due respect he thought that the Town Council should not blight the property. Mr. Smalls reviewed that his clients had taken the requested steps to put up a fence, to mark the site with “no trespassing” signs, and would continue to cooperate with the insurance company. He reiterated that he did not know why the investigation was still open, and he would try to seek that answer during the time period before the next regular meeting in June. He repeated that if they voted to blight the property and then got rid of the remains of the house, then it would not be fair to his client. He acknowledged that there was frustration and anger surrounding the issue. He requested that the Town Council continue the matter until the June meeting to see if it could be resolved with the insurance company. He noted that once it was resolved with the insurance company then they would be able to approach the police and see if they were willing to close the investigation. He stated that if the investigation was still open, then the Harrises had a right to protect themselves, which included making sure that evidence that could be at the property did not disappear. Mr. Smalls thanked the Council, and said he spoke for the Harrises when he said that they would like for the process not to be an issue for the Town. He reported that his clients had applied for a demolition permit, which had been sent to them that day. He said that they had also contacted a contractor to confirm bids to complete the necessary work.

Councilman Bowman asked for clarification from the Town Attorney in reference to Mr. Small’s statement concerning the effect of the Council deeming the property blighted.

The Town Attorney reported that the Zoning Administrator sent a notice of preliminary finding that it was a blighted property, meaning that the owners had 30 days in which to respond with a plan. He continued that Mr. Small sent a letter that essentially stated that they would rely on the claim to be paid and at such a time that payment was made they would remove the structure.

Mr. Small said that information was a fair summary.

The Town Attorney stated that the matter had been going on for many months and Mr. Small had been candid regarding his client’s position. He related that under the code, the Council may find that if the owner failed to respond with an abatement plan within 30 days, responded with a plan that was not acceptable to the Town Council, or if they failed to complete the work approved in the plan within the 90 day period to cure the blight. He stated that they were at a point where the Council could make a finding that they had not accepted the owners proposed plan of abatement. He stated that if the Council chose to pursue that action then the code read “the council shall declare the property as blighted and develop an abatement plan,” at which time they would direct the Town Manager to come up with an abatement plan which would take about 30 days. He calculated that the timing would coincide with where Mr. Small would also want them to be. He added that if there was additional information given by that time, then it could become a moot point. The Town Attorney explained that there would be no lien until the Town incurred an expense. He related that the best thing that Mr. Small’s client could do was come up with an abatement plan that communicated who, when, how, and how much.

Mr. Small proposed that once his client was notified by the State Police that the investigation was concluded, either his client or the insurance company would clean the property up and abate the blight. He said that he did not think that anyone could ignore the fact that the

State Police state that the investigation was ongoing. He continued that just because the police did not have reason to go back into the property did not mean that his client would not have reason to get evidence on the property depending upon what they said. He related that he would contact the State Police to follow up on the information given to Councilman Bowman and see if they could get a timeline from them. He noted that people got homeowner's insurance for a reason. He respectfully suggested that the plan presented was not unreasonable. He stated that he was in agreement with Councilman Bowman that the process had taken longer than it needed to, but he disagreed that the timing was the fault of his clients. He repeated his request to continue the matter until the June Council meeting.

Councilman Bowman stated that the fact that the matter had gone on for so long and the issues with the insurance company begged the question what had Mr. Smalls or his client done to seek professional expertise to determine the cause of the fire. He related that when the term "open investigation" was used, that mean that they have to wait a potential 5 or 6 years for the specific case to close which would leave the damaged structure. He observed that the blight was not just a "blight" as far as his client was concerned and affected those surrounded by it. He questioned the Town did waiting for an action to occur, that the Town had no control over, to address the issue that affected all of the surrounding properties. Councilman Bowman also questioned the rationale of adding another month when there was no indication that another month would make any difference. He stated that there came a point where the time was up. He asked what the harm of the Town declaring the property as blighted if they had already had the demolition permit issued.

Councilman Bowman made a motion to find that the owners of the property at 1502 Magruder Road have failed to respond to the Town's notice that the property was in a blighted condition with a plan of abatements acceptable to the Town and to declare the property be a blighted property pursuant to section 22-2 of the Town Code and further that the Town Manager was directed to develop an abatement plan.

Councilman Brooks seconded the motion.

Mayor Smith confirmed that the State Police email had included the following: "Regarding the structure, we have no investigative interest in the structure itself at this time and have no objection to it being demolished." He said that passage told him that the State Police had completed their work with the building.

The Town Attorney confirmed that was the statement of the State Police. He repeated Mr. Small's statement that if in fact something came as a result of the investigation there may be evidence at the site that would be to the benefit of his client. He gave the reminder that if the property was deemed blighted, the Town Manager would bring a plan to the Council in 30 days, which meant that the client had an additional 30 days to access their property.

Mr. Small referenced the earlier comment that they could have had an expert come to the site, but the difficulty with that was that they did not know what exactly the expert would be looking at. He reasoned that they had not hired an investigator because they did not think that their client had done anything wrong, and they felt their client had the right to be protected in the event the State Police returned with findings. He emphasized that if there was any accusation of wrongdoing by his client, what was at the site was potential evidence that they could have an independent investigator examine.



Mayor Smith called for the vote.

Vice Mayor Harris asked for Councilman Bowman to restate his motion.

Councilman Bowman repeated his motion to find that the owners of the property at 1502 Magruder Road have failed to respond to the Town's notice.

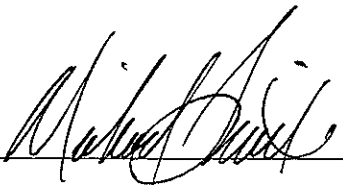
Vice Mayor Harris voted aye, Councilman Brooks voted aye, Councilman Bowman voted aye, Councilwoman Butler voted nay, Councilwoman Bebermeyer voted aye, Councilman Cutler voted nay, and Mayor Smith voted aye. The motion passed by a vote of 5/2.

**Continued Budget Discussion for FY 2025/2026**

The Town Manager gave the opportunity for the Council members to ask any additional questions that they may have regarding the proposed draft budget. He reported that there would be a public hearing on the matter scheduled for May 19<sup>th</sup> at 6:30 pm. He reviewed that there had been questions regarding the debt service plan, and updated that he had reached out to their consultants who had completed the rate study. He said that upon their review they had stated that the rate would need to be \$10.50 to be able to do away with the debt service fee. He summarized that the rate was currently \$7.00 and the recommendation was to increase to \$8.50

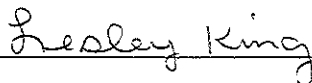
Mayor Smith asked if the Council members understood that the rate would need to be raised in order to get rid of the debt. He expressed appreciation that the Town Manager had reached out to get additional information.

The meeting adjourned at 9:05 pm.



---

Michael Smith - Mayor



---

Lesley King – Town Clerk