

The Smithfield Town Council held its regular meeting on Tuesday, June 1st, 2021. The meeting was called to order at 6:30 p.m.

Members present:

T. Carter Williams – Mayor
Michael Smith – Vice Mayor
Randy Pack
Beth Haywood
Valerie Butler
Wayne Hall

Members absent:

Renee Rountree

Staff present:

Michael Stallings - Town Manager
Lesley King – Town Clerk
Ellen Minga – Town Treasurer
William H. Riddick, III – Town Attorney
Ashley Rogers – Human Resource Director
Amy Novak – Director of Parks and Recreation
Judy Winslow – Director of Tourism
Tammie Clary – Interim Community Development & Planning Director
Chris Meier – Deputy Chief Smithfield Police Department
Jack Reed – Director of Public Works & Utilities

Press: Stephen Faleski of The Smithfield Times

Citizens: 18

Mayor Williams welcomed everyone to the meeting, and all stood to recite the Pledge of Allegiance.

Manager's Report:

Michael Stallings reported that the May Activity Report was included in the packets. He was available for any questions.

Upcoming Meetings and Activities:

June 1st - 6:30 p.m. – Town Council Meeting
June 8th - 6:30 p.m. – Planning Commission
June 15th - 6:30 p.m. – Board of Historic and Architectural Review
June 28th - 3:00 p.m. - Town Council Committee Meetings (Consecutive)
Public Safety Committee
Water and Sewer Committee
Finance Committee
June 28th - Continued Town Council Meeting (Budget Adoption)
June 29th - 3:00 p.m. – Town Council Committee Meetings (Consecutive)
Parks and Recreation Committee
Public Works Committee
Public Buildings and Welfare Committee

Public Comments:

Mayor Williams explained that the public was invited to speak to Council on any matter, except scheduled public hearings. There will be a separate sign-up sheet for public hearings. For public comments, please use the appropriate sign-up sheet and include your preferred method of contact. Comments are limited to five (5) minutes per person. Any required response from the Town will be provided in writing following the meeting.

Ronald Levi explained that he was the citizen that asked for consideration about backyard chickens within Town limits. He and his family recently moved to Smithfield from South Carolina. He is retiring from twenty years of active-duty service. He stated that having chickens would be a great learning experience for his two children. Fresh eggs are an added benefit. He stated that he and his wife spent a lot of time putting the package together. Many positive points for having chicken were focused on. Negative things such as manure in the yard can be combatted with good hygiene and cleaning. Most people will not let their chickens just run around the yard. They would be confined to their coops and runs. Dogs and children encountering the chickens would not be a big issue. Chickens can be noisy but so can dogs. In South Carolina, the chickens would make noises when they were being attacked. However, when kept safely in their runs and coops, attacks are not an issue. Hens like to make a song after they lay their egg. They cluck because they are proud of their work. The sounds that chickens make are no louder than a dog barking or howling. Motorcycles and car exhausts are louder than chickens. Happy hens are not noisy when they are cared for. The application did not include roosters. Roosters crow but the hens do not. He stated that the packet explains that only serious and responsible citizens should keep chickens. The packet also included the surrounding areas' chicken laws. Virginia Beach and Suffolk do not allow chickens; however, Newport News, Hampton, and Williamsburg all allow chickens. If the application is approved, not everyone will buy and keep chickens. He highlighted the request for backyard chickens; not farm chickens. The request is for six backyard hens which will lay about one egg each day. He stated that approximately 170 citizens signed a petition in favor of allowing backyard chickens. He asked the Town Council to consider his request to allow the Smithfield citizens to have the option for a basic form of sustenance in their backyards.

Michael Mitzel explained that the current Town ordinance restricts residents from keeping chickens. There are two major consequences that he addressed. The first is that the ordinance assumes that residents lack responsibilities that those in neighboring cities and Isle of Wight County have. It also limits Town residents with children to fully participate in 4-H and, by extension, the Isle of Wight County Fair. Most neighboring cities in the region have regulations allowing chickens to be kept in residential zones. The current statute assumes that Smithfield homeowners will not be responsible enough to adequately care or maintain chickens in their backyards. He believes the opposite is true. An ordinance preventing chickens only prevents responsible resident from having an animal that they conscientiously care for. In his experience as an educator, there are three conditions that need to be met for children to learn. The first is that quality instruction needs to be presented. Second is that the learner must be engaged. Lastly, the learner must have some prerequisite background knowledge. We all know that having children involved in structured youth development programs and clubs provide rich, authentic experiences that foster and develop background knowledge. 4-H is one such youth development program.

Children are not banned from membership in 4-H, but they are not able to fully participate. There are some that would enjoy having a full part in the care for and competitive showing of chickens at the IOW County Fair. There are benefits to participating in a tradition in the county's vibrant, agricultural background. He asked the Town Council for consideration for the motion to amend the ordinance regarding chickens for the experience and lessons learned by all.

Brittany Taylor resides at 310 Buckingham Way in Smithfield. She loves Smithfield. She explained that her father lives near downtown Portsmouth and is allowed six hens in his backyard which is very small. She explained that Smithfield is a rural area. There is plenty of space and owning chickens is a good experience for children. She stated that Isle of Wight County says that she is zoned for chickens, but she found out that Smithfield does not allow them. She would like a better understanding of why that is. She pays taxes to both Isle of Wight and Smithfield. She asked why Smithfield does not allow chickens.

Mayor Williams explained that the Town Council would address comments during the action section if the meeting.

Miss Andrea Jorgensen resides on Lane Crescent in Smithfield. She stated that she thinks the Town should allow chickens. She moved here with her parents from a city in Utah. She was against the idea of moving. The only reason she wanted to come was because she thought she would be able to have chickens. She has always loved chickens. Residents should be allowed to have chickens because it is a small town with responsible residents.

There were no other public comments.

Briefing by Dick Grice, Isle of Wight County Board of Supervisors, Smithfield District:

Supervisor Grice explained that the Board of Supervisors had an update from the Broadband Task Force on the progress and opportunities that may be available to expand service throughout the county. They will continue to pursue all avenues available. There has to be a cooperative internet partner and money. He further explained that Isle of Wight County had a zoning ordinance amendment to comply with recent legislative changes. A final discussion of issues related to the FY 2021-2022 operating and capital budgets were also discussed. The budget increased expenditures in the operating budget by 4.7 million dollars or 5.9% based on a year-to-year comparison. Over the past six fiscal years, the county's average expenditure growth rate is 2.9% compared to the national average increase of over 9% for all United States counties. It has been accomplished with no increases to property or real estate taxes. FY 2021-2021 will not have increases to property taxes, real estate taxes, or cigarette taxes. The total budget for the county is 20.3 million dollars; of which, 18.3 is funded by the bond taken last Fall. The Board of Supervisors approved \$425,000 for four permanent structures for the county fairgrounds. They will be used instead of renting tents each year. The county had two public hearings. One was a request for tax exemption by Smithfield Recreation Association and the other was the VDOT FY 2022-2027 secondary road six-year improvement plan and both were approved. Additionally, the Board approved the Cavalier Solar conditional use permit. The project promises to bring hardline, broadband service since it is needed for the site located in the northwest part of the county. It could potentially provide 200 homes in the area with upgraded service opportunities. The county advanced the purchase cost for a replacement ambulance. He explained that salary increases for employees would include a 1% cost of living increase along with a \$1,000.00 salary adjustment.

It will keep the county competitive while narrowing gaps between executives and lower-level waged staff. In order to keep talented staff members, the county has initiated a longevity bonus program that pays employees for years of service. He was available for questions from Town Council.

Councilman Hall asked about the cost for the new ambulance.

Supervisor Grice stated that the ambulance cost \$223,000.00.

Council Comments:

There were no comments from Town Council.

Consent Agenda:

C1. Invoices Over \$10,000 Requiring Council Authorization:

- a. Suburban Contractors, LLC (S. Church Water Storage Tank Rehab) \$281,537.50
- b. Lewis Construction of Virginia, Inc. (Grace Street Utility Project) \$ 73,580.00
- c. Blair Brothers, Inc (Waterworks Road - misc. dam repairs) \$ 10,000.00
- d. Blair Brothers, Inc. (misc. street/drainage repairs throughout Town) \$ 32,291.81

Councilman Pack explained that the Suburban Contractors invoice is a final billing for the water storage tank rehabilitation. The Lewis Construction invoice is a progress payment. The Blair Brothers, Inc. invoices are for miscellaneous street repairs and dam repairs. He recommended all invoices for approval.

C2. Motion to Move Forward with Segment 3 of the Multi-Use Path Along the East Side of South Church Street:

Councilwoman Haywood explained the motion to move forward with the multi-use path on the east side of South Church Street. It is the side with the most businesses. This item was discussed in depth at committee.

C3. Motion to Approve Lease Renewal of 315 Main Street for 3 Years with a 2% Increase Each Year:

Councilwoman Butler recommended the lease renewal for approval. The Town Manager spoke with the tenant and she was agreeable to a 3-year lease instead of an annual lease.

C4. Motion to Accept Notice of Termination of the Lease between Historic Windsor Castle Restoration, LLC and the Town of Smithfield:

Councilwoman Butler explained that Historic Windsor Castle Restoration, LLC was formed during the restoration project. The project is completed, and the LLC is no longer needed.

Councilman Pack made a motion to approve the consent agenda items as presented.

Councilman Hall seconded the motion. Mayor Williams called for the vote.

On call for the vote, six members were present. Councilman Hall voted aye, Councilman Pack voted aye, Councilwoman Butler voted aye, Councilwoman Haywood voted aye, Vice Mayor Smith voted aye, and Mayor Williams voted aye. There were no votes against the motion. The motion passed.

Public Hearing: FY 2021/2022 Proposed Budget Presentation:

The Town Manager explained that Councilwoman Rountree had asked staff to establish a budget proposal that gets reserves down to or near a zero balance. Staff is continuing to work on "Option B." He anticipates Option B to be available by the June Committee meetings prior to

Council voting on the budget at the continued meeting. He stated that Option B will not change the bottom line in the budget. It will only change how revenues are structured.

The Town Treasurer, Ellen Minga, gave a presentation to Town Council outlining the proposed budget. *Please see the presentation which is attached to the minutes.* Ms. Minga reported that the proposed budget does not reflect any tax increases for FY 2021-2022.

Councilwoman Haywood asked why the water fund went down so much.

The Town Treasurer explained that it is due to the removal of the \$600,000.00 for water tank maintenance. She explained that it will come around again during the five-year plan. There will be other water tanks that will be addressed. Maintenance on water tanks is usually every two years.

Mayor Williams opened the public hearing. He asked if anyone would like to speak for or against the proposed budget. Hearing none, he closed the public hearing. Mayor Williams explained that action on the budget would be deferred until June 28th.

Town Code Amendment to Allow Backyard Chickens within the Residential Zones of Smithfield:

Councilwoman Butler explained that a request was made by citizens to amend the current ordinance to allow chickens in residential zones in Smithfield. A discussion was held during the May Committee meeting. She asked if the Town Council members would like to continue the discussion since the public speakers were present.

Mayor Williams thanked the applicant for putting the packet together. It was well thought out and thoroughly researched. He explained that in the early 1990s there were chickens all over the Town of Smithfield. People started complaining about the roosters crowing and waking them up. The issue went back and forth and eventually an ordinance was passed to not allow chickens in the Town. This is the third time the chicken ordinance has come before Town Council. He commended the applicant for doing their due diligence in their request. He asked about the proposed ordinance revision and the setback requirements.

The Town Attorney explained that the draft ordinance has been proposed by the applicants. Staff and the Planning Commission have not had a chance to look at it.

Mayor Williams asked if the amendment should be sent to the Planning Commission and the Planning Department for review.

The Town Attorney explained that Town Council can refer the item to the Planning Commission where they could review it and make a recommendation. The Town Council can also choose not to send it to the Planning Commission and that would be the end of it.

Mayor Williams asked Councilwoman Butler how far the coop could be from the property line and what size it could be. He explained that when he was growing up people made chicken coops from anything they could find to keep the chickens in. They could be rather ugly. He stated that the type of materials used for the coops should be addressed. He also asked for a setback from a property line instead of the dwelling. Citizens have told him that they are against their neighbors having chickens. However, 170 people have expressed an interest in having chickens.

Councilwoman Butler asked what action the Town Council would like to take. Based on Mr. Riddick's comments, staff and the Planning Commission would have to look into the specifics of the application and make a recommendation.

Councilman Pack explained that he is the Town Council representative on the Planning Commission. The Planning Commission could look into the application and discuss it and make a recommendation to the Town Council. However, if the Town Council does not have a willingness to have chickens in the Town of Smithfield at all then it would not be necessary to send the application to the Planning Commission.

Councilwoman Haywood stated that a couple of people have spoken to her and were not in favor of chickens in residential neighborhoods. She appreciated the comments from the public speakers. One speaker asked why some are against it. It is her understanding that citizen concerns were about noises and diseases.

Councilman Pack stated that he had received similar opinions. He explained that the applicant had put together a nice proposal and proposed ordinance; however, he had not heard from anyone who was in favor of allowing chickens in the Town. He would not be in favor of passing a chicken ordinance tonight; however, the Planning Commission could review it and make a recommendation.

Councilman Hall stated that he had received comments from citizens in total opposition to allowing chickens. Since the 1990s, the Town has not allowed chickens. He did not feel it was necessary to task the Planning Commission with making a recommendation to the Town Council. He believes there is a general consensus to leave the ordinance as it is currently.

Vice Mayor Smith stated that he had also received some feedback in opposition to chickens in Town. He explained that he understands the learning experience for children since his grandson owns thirty chickens; but he lives out in the country. He understands why the applicant wants to make an ordinance change but no one has contacted him that is in favor of allowing chickens.

Councilwoman Butler explained that she had received several text messages to not allow chickens. The consensus of the majority seems to be that citizens are not in favor of allowing chickens within the Town of Smithfield limits. Councilwoman Butler made a motion to deny the request for amending the ordinance to allow for chickens in the Town of Smithfield.

The Town Attorney stated that the appropriate action would be to choose to not refer the application to the Planning Commission for a text amendment. The application requests a text amendment. The only way to do that is to refer it to staff to take a proposed ordinance to the Planning Commission. If Town Council does not think that is necessary or the right thing to do, Town Council makes a motion to not send the application to staff and Planning Commission for further action and that puts an end to it.

Councilwoman Butler made a motion to not refer the text amendment to staff or the Planning Commission. Councilman Pack seconded the motion.

Mayor Williams stated that he feels there is not enough information in the application in regard to where coops can be placed and what they would look like. He does not object to chickens but he is only one vote. He would like to see a study done on it to determine more details. There are a lot of unanswered questions. With no further discussion, Mayor Williams called for the vote.

On call for the vote, six members were present. Councilman Hall voted aye, Councilman Pack voted aye, Vice Mayor Smith voted nay, Councilwoman Butler voted aye, Councilwoman Haywood voted aye, and Mayor Williams voted nay. There were two votes against the motion. The motion passed 4-2.

Mayor Williams stated that the motion passed to deny the application going to the Planning Commission.

Motion to Approve the Town Council Special Meeting Summary Minutes of April 20th, 2021 and Town Council Summary Minutes of May 4th, 2021:

The Town Attorney stated that he had reviewed the minutes and recommended that both sets be approved as presented.

Councilman Pack made a motion to approve both sets of minutes. Councilman Hall seconded the motion. Mayor Williams called for the vote.

On call for the vote, six members were present. Councilman Hall voted aye, Vice Mayor Smith voted aye, Councilwoman Haywood voted aye, Councilwoman Butler voted aye, Councilman Pack voted aye, and Mayor Williams voted aye. There were no votes against the motion. The motion passed.

Appoint Nominating Committee to Fill the Expiring Term of Catherine Bowden of the Board of Zoning Appeals:

Mayor Williams appointed Councilwoman Haywood and Vice Mayor Smith to the committee. He asked them to bring a recommendation back to Council at next month's meeting.

Appoint Nominating Committee to Fill the Unexpired Term of Ronny Prevatte on the Board of Historic and Architectural Review:

Mayor Williams appointed Councilman Hall and Councilman Pack to serve on the nominating committee.

New Business:

Councilman Pack stated that tonight's meeting will be the last meeting with Judy Winslow as the Town's Director of Tourism. Having worked with her for twenty years, the Town will lose quite an asset. He wished Mrs. Winslow the absolute best. She leaves huge shoes to fill and will be missed. He was glad she will stay on to assist with Smithfield VA Events for a bit longer. He thanked her for all that she has done for the Town of Smithfield.

Old Business:

There was no old business.

Closed Session:

The Town Attorney stated that the Council needed a motion to go into closed session for the purpose of discussing personnel matters and the disposition of publicly held real property pursuant to 2.2-3711.A-1 & A-3 of the Code of Virginia.

Councilman Hall made a motion to go into closed session and Councilman Pack seconded the motion. Mayor Williams called for the vote.

On call for the vote, six members were present. Councilman Hall voted aye, Vice Mayor Smith voted aye, Councilwoman Haywood voted aye, Councilwoman Butler voted aye, Councilman Pack voted aye, and Mayor Williams voted aye. There were no votes against the motion. The motion passed.

The Town Council went into closed session at 7:36 p.m.

The Town Council returned to open session at 7:59 p.m.

The Town Attorney stated that a motion was needed to go back into open session.

Vice Mayor Smith made the motion and Councilman Hall seconded. Mayor Williams called for the vote.

On call for the vote, six members were present. Councilman Hall voted aye, Councilwoman Haywood voted aye, Councilman Pack voted aye, Councilwoman Butler voted aye, Vice Mayor Smith voted aye, and Mayor Williams voted aye. There were no votes against the motion. The motion passed.

The Town Attorney stated that a motion was needed that during the closed session there was only a discussion of personnel matters and the disposition of publicly held real property pursuant to 2.2-3711.A-1 & A-3 of the Code of Virginia.

Councilman Pack made the motion and Councilwoman Butler seconded. Mayor Williams called for the vote.

On call for the vote, six members were present. Councilman Hall voted aye, Councilwoman Haywood voted aye, Councilman Pack voted aye, Councilwoman Butler voted aye, Vice Mayor Smith voted aye, and Mayor Williams voted aye. There were no votes against the motion. The motion passed.

The Town Manager stated that, as discussed, he offered the position of Community Development & Planning Director to Tammie Clary and she accepted. He asked for a confirmation from Town Council.

Councilman Pack made a motion to confirm Tammie Clary as the Community Development & Planning Director. Councilwoman Butler seconded the motion. With no further discussion, Mayor Williams called for the vote.

On call for the vote, six members were present. Councilman Pack voted aye, Vice Mayor Smith voted aye, Councilman Hall voted aye, Councilwoman Butler voted aye, Councilwoman Haywood voted aye, and Mayor Williams voted aye. There were no votes against the motion. The motion passed.

With no further business, the meeting ended at 8:00 p.m. and will be continued until June 28th, 2021, at 6:00 p.m.

T. Carter Williams - Mayor

Lesley King – Town Clerk