

The Smithfield Town Council held its regular meeting on Tuesday, August 6th, 2019. The meeting was called to order at 6:30 p.m. Members present were Mr. T. Carter Williams, Mayor; Mr. Michael Smith, Vice Mayor; Mrs. Valerie Butler, Mr. Randy Pack, Mr. Wayne Hall, and Ms. Beth Haywood. Mrs. Denise Tynes was not in attendance. Staff members present were Mr. Brian S. Thrower, Town Manager; Mrs. Lesley King, Town Clerk; Ms. Ellen Minga, Town Treasurer; Mr. William H. Riddick, III, Town Attorney; Mrs. Ashley Rogers; Director of Human Resources, Mr. John Settle, Community Development & Planning Director; Ms. Judy Winslow, Director of Tourism; Mr. Charles Bryan, Planning Commission Vice Chairman; Mr. Alonzo Howell, Chief of Police; Mr. Matt Rogers, Deputy Chief of Police; and Mrs. Amy Novak, Director of Parks and Recreation. There were approximately forty-five (45) citizens present. The media was represented by Mr. Frederic Lee of the Smithfield Times.

Mayor Williams – Good evening ladies and gentlemen. Welcome to the Smithfield Town Council meeting of August 6th, 2019. It is now 6:30 p.m. Thank you all for coming out tonight. We will start our meeting with the Pledge. Please stand.

All present stood and recited the Pledge of Allegiance to the Flag.

Mayor Williams – The first order of business is our Informational Section with the Manager's Report with Mr. Brian Thrower.

Town Manager – Honorable Mayor and Council, the July Activity Report is in your packet. I will be happy to answer any questions if you have any. We were going to introduce two new employees but they are not here this evening. Hopefully, we can do it next month. Thank you.

Mayor Williams – We will now move to Public Comments. I want to read something. The Town Council voted several years ago to build our segment of the bike trail. The issue is not whether we will build it or not. We are going to build a bike trail. It is just a matter of where and how and when. If you want to speak about that it is fine but do not come up and say that you would really like to have a bike trail. We are going to have a bike trail. The biggest problem we are going to have, I don't care which route we are going to take, is a dangerous intersection somewhere. We have to work on that. Hopefully, we will get it taken care of tonight; but maybe not. Please be patient with that. Are there any signups, Mr. Thrower?

Town Manager – Yes; the first speaker is Mr. Greg Vassilakos.

Mr. Vassilakos – I will be short. It is wonderful news what the Mayor just said to everyone. It is exactly what I came here to talk about and the need to have a bike trail and this fake news article that appeared in the Smithfield Times saying that the vote was thirty-five for a sidewalk and thirty for a trail. It was sixty-five for a trail. The trail votes were split across four options. It is the thing I came here to talk about. If it is a bike trail then that is wonderful news and I will sit down.

Town Manager – The next speaker is Mr. Tom Howard.

Mr. Howard – Thank you for the opportunity to speak. I am with the Tidewater Trails Alliance. I have a prepared statement I would like to read for the record. I am here today to help Council members and the residents of the Town of Smithfield with the impending decision on how to implement Phase 3 of the Park to Park Trail. The mission of the Tidewater Trails Alliance is to ensure that the regional trail project known as the Birthplace of America Trail is built as outlined by the 2017 report to the Hampton Roads Transportation Planning organization. This regional trail system is a center piece of an active transportation initiative to connect the Virginia Capital Trail, the south Hampton Roads Trail, and Beaches to Bluegrass Trail thus creating a one hundred forty mile signature trail system. This signature trail will allow you to walk, run, roll, or ride from the oceanfront in Virginia Beach to the steps of the capitol in Richmond on a completely traffic-free facility via connected multi-use paths like the Smithfield Nike Park Trail. The alignment of the Birthplace of America Trail and the national trail system known as the East Coast Greenway runs through Smithfield, Virginia and along the same corridor that is being considered this evening. Each year over fifty thousand cycling tourists embark on trips along signature trails in the United States such as the Trans Am. It runs from Yorktown to Oregon. The East Coast Greenway runs from Maine to Key West. The Great Allegheny Passage goes from Pittsburg to Washington D. C. Locally; there is the Virginia Creeper Trail, New River Trail, and our very own Virginia Capital Trail. The number of local users of these same trail systems is much larger than touring cyclists. As a result, the economic impact of mature signature trail systems is staggering. Smithfield and Surry are positioned along the Birthplace of America Trail as anchor communities. Anchor communities see higher rates of restaurant and hotel usage as well as grocery resupply. If the correct decision is made on how to implement the next phase of the park to park trail, the extra \$800,000.00 invested for an asphalt multi-use

trail versus a sidewalk will be returned to the local community tenfold. Data suggests that for every one dollar invested in a multi-use trail four dollars is returned to the local community annually. Tidewater Trail Alliance applauds the approach that the Town Council has provided to the citizens of Smithfield for evaluating the five options to accomplish this connection to Windsor Castle Park. We would ask that the subject of economic impact be reviewed by Council as well as the citizens so that an informed decision can be made on this pivotal next phase. Our organization has provided three examples of economic impact to Council members. You should have received it electronically. There was also a letter of support from East Coast Greenway. The East Coast Greenway or the Birthplace of America Trail cannot designate a five foot sidewalk as part of our trail system. Alternate #1 is the preferred option for the ECG and the Birthplace of America Trail because this would provide the biggest return on investment for your community. We would also like to add that a five foot sidewalk will deter certain users from riding a sidewalk due to safety concerns. Road cyclists will alter his/her ride to the main roadway as they can legally do so by state law. This would increase road riders on S. Church Street and may create an undesirable side effect on tonight's decision should it go with a sidewalk option. We understand that the information presented to you this evening by the Tidewater Trails alliance may not have been considered by the citizens, but nonetheless, it is an important component for your decision process. At best, we would hope for a decision for Alternate #1. At minimum, we would suggest a vote of no confidence on the sidewalk option (Alternate #5) until further review of the economic impact of signature trails are evaluated by Town Council and the citizens of Smithfield. We thank you for the opportunity to present our input. The Tidewater Trails Alliance, the East Coast Greenway Alliance and our local VDOT/HRTPO resources are available to your town for assistance. We wish you the best in your decision process. You may have received something electronically from the East Coast Greenway. It would have been a letter of support for Alternate #1. I have brought a couple of extra copies in case somebody wants to see what the Birthplace of America Trail and the economic impact studies look like. I will pass those along. I appreciate the time you have extended to me tonight.

Mayor Williams – Thank you. I would just like to remind everyone that we have a five minute limit on public speaking to give everyone a chance to speak.

Town Manager – Our next speaker is Mr. Albert Burckard.

Mr. Burckard – Mr. Mayor and members of the Town Council, I never quite know how I am supposed to introduce myself. Sometimes, I tell you my voting district. Being a “non-townie” I feel real guilty because all of you pay double taxes for this wonderful air conditioning and lighting. I do appreciate it. Thank you very much. Mr. Mayor, I have four quick things. The first is the Wombwell house. I am speaking for the Isle of Wight County Historical Society tonight not for myself. We just wanted to thank Mr. Riddick’s efforts. We have the proposed lease agreement in hand. We are looking at it. We have a meeting with Mr. Crook who has volunteered his time. We will meet next week. We will get you all an answer as soon as we can. We wanted to emphasize that we are very happy with the way things are going and we are very much still interested in it. The reason we wanted to say that is because there has been a lot in the newspaper about the Historical Society possibly getting the use of the 1820 county Clerk’s office. That is ongoing too. We are very much interested in that. It does not diminish our interest in the Wombwell house. If we can get both of them, it would be great because we actually have plans for both. I just wanted to let you all know that we appreciate what you have done and we are moving forward with it. The third topic is Pierceville. There was a little note in the Smithfield Times back in April that Mrs. Crocker had actually offered to donate the house plus a half-acre. I am not sure where that stands know but if you are of a mind to go back to that; we would very much support any preservation movement to save the Pierceville house. I am speaking for the Isle of Wight County Historical Society. My last item is coming from me and not the Historical Society. I spoke to the committee about the bike trail a week or so ago. I just wanted to emphasize our request that instead of a park to park trail that it be a historic district trail. As you all know, we just got the Nike missile site designated as a state historic district. Soon, it will be a national historic district. The trail, of course, will connect the two historic districts of Smithfield and Nike Park. I noticed, Ms. Haywood, that you took note of that. We would request that you call it the Historic District Trail. Mr. Mayor, subject to any questions from anyone, that is all I have. Thank you.

Town Manager – Next up is Robert Boyer.

Mr. Boyer – Good evening everyone. My family and I just moved here in April to this lovely town. It is the first time I have ever done this so please bear with me. I will

keep it short. I have raised chickens residentially my whole life. I would like to see Smithfield mirror the laws of Isle of Wight and/or Newport News. Even in Philadelphia you are allowed to have up to six chickens with a lot of other stipulations. I could go on but I would rather not take everyone's time up. I hope it gets the fire started. If you have any questions, I am not sure how this works.

Mayor Williams – Please leave your name and number with Amy Novak. We will get back with you on this. This has been going on for about forty years now. We have had a lot of interest in it.

Mr. Boyer – I have a lot of other friends in our neighborhood that would love that as well. They could not make it out tonight.

Mayor Williams – Do you live in the Town of Smithfield?

Mr. Boyer – Yes, sir. Right across from Tractor Supply that sells chickens. Thank you for your time.

Town Manager – Our next speaker is Mr. Chris Torre.

Mr. Torre – Good evening ladies and gentlemen. I live at 32 Main Street. Until recently, I was the Vice Chairman of the Board of Historic and Architectural Review. I understand that you folks are going to consider a re-vote on the disapproval of demolition of the Pierceville house. I would like to speak about that for a few seconds if I might. When I was part of the BHAR, I was dead set against that demolition for a couple of reasons. I found that the application itself was fundamentally flawed and should never have been considered in the first place. The flaws have to do with the town's ordinance which specifically sets forth the procedure that an applicant has to go through in order to get permission to knock down a historic dwelling. One of those things if they find they do not want to do the restoration there is a way out for them. It involves listing the property for sale for a period of a year for fair market value. In my opinion that was never done. Fair market value for that kind of property is around \$4,000.00 per acre in this neighborhood and \$4,500.00 is really high even when the proximity is close to a developed area. Of course, the Pierceville guys wanted a bloody fortune for the place; ten times fair market value. I pointed out to the BHAR folks, when this came before us a couple of years ago, that not only was the asking price ridiculous but inflated with pure blue sky speculation and it had absolutely nothing to do with reality. The fair market value was also encumbered by the fact that there is totally unfavorable zoning that the

purchaser is going to have to overcome. It will be a hideous fight and everybody knows it. It is encumbered also by the dwelling which is the old Pierceville house that everyone is trying so hard to knock down. It diminishes the fair market value considerably just by itself. Then there was the speculative part about a possible graveyard. Those things, in combination in my opinion, render the application unfit. As if that was not enough, the owner had two bonafide offers. One was from Lee Duncan for fair market value and another from a prominent female business person here in town. I have seen both of those offers and they were both flatly rejected. The language in the ordinance has never been rescinded. It is not null and not void. It is still with us. It says: "the owner has for a period of time set forth in the schedule hereinafter contained and at a price reasonably related to fair market value; made a bonafide offer to sell such site, object, building, or structure and the land pertaining thereto; to whomever gives reasonable assurance that it is willing to preserve and restore the landmark building or structure and the land pertaining thereto." The owner had two of those. Thank you.

Town Manager – Next, we have Mr. Dennis Arinello.

Mr. Arinello – Good evening. I live at 113 Goose Hill Way. I want to talk about Pierceville this evening but that requires a brief journey. As I look around the audience tonight, I observe that I am one of very few residents of the town who has been here since the first meeting of the Planning Commission back in February of 2015 that addressed the rezoning of the property. Subsequently, there have been nearly fifty meetings with the Planning Commission, BHAR, and committee meetings at which more than five hundred residents have participated to urge that the right thing be done with this very historic property. Our arguments have been ones of consistency with a consistent theme to follow and enforce the ordinances that are supporting the articles of preservation. In those earlier days, it was just simply not that simple for us at the time. We had not yet discovered for ourselves the governing laws and procedures that should have been followed until it became evident and clear that the advice and guidance the Town Council was provided was, frankly, inaccurate. So, here we are; wrestling now for the better part of five years about the Pierce home. It has continued to deteriorate which has led us on one adventure after another. To avoid making the ordered repairs that would have mothballed the property, we have sought funds to purchase and restore the property despite several back door efforts to rezone the property as a property for

residential use which brings me to your agenda item tonight. It is the reconsideration and the restoration that pertains to Pierceville directly. We appreciate that Mr. Jones is finally able to join us. We would also like to note that this is not a public hearing tonight so Mr. Jones enjoys no separate standing from the Council as any other town resident. He is, indeed, entitled to his five minutes of public opinion. Fact one, there has been no recent judge's ruling that our ordinance and preservation articles are no longer enforceable. It is just one man's opinion. This is simply not a true statement according to our independent lawyers; more on that to follow later. Our ordinances and preservation articles are some of the best in the state. They are certainly enforceable and need to be enforced. Let's be honest, there was no hearing. There was no case litigated in front of a judge. The judge had simply signed off on what was a mutual agreement that had already been co-written and signed by both the town attorney and Mr. Jones. It had nothing to do but benefit Mrs. Crocker. The judge probably spent no more than five minutes weighing the merits of the argument; but none were put in front of her. Bottom line, as counsel, you and we as your constituents need you to stand by your August and September 2016 unanimous vote to uphold BHAR's order for Mrs. Crocker to make the estimated \$72,000.00 in mothball repairs to the home. The judge was not ordering the counsel to rescind that vote only reconsider it. We urge you to not reconsider but to uphold the vote. You have before you detailed reasoning from not one but two well respected law firms. They have provided extensive rationale which contradicts the advice and guidance that you received that a 2007 advisory opinion then from Attorney General McDonald supersedes our commonwealth laws and supports ordinances that make them unenforceable and that our town ordinance violates the Dillion Rule. Again, it is not true. You should know that the town attorney spent the better part of yesterday trying to convince our lawyers, Mr. Allen Diamonstein and Ms. Lindsay Carney, that his legal opinion and position on Pierceville and our preservation ordinances are correct. Simply stated, they disagreed. In fact, Ms. Carney made a point that she had read every word of Mr. David Dildy's separate legal analysis and quote "I could not have written it better myself." She further asked that if the town attorney was so inclined that a twelve year old legal advisory enjoyed legal precedents over commonwealth law then why didn't he seek a confirmation advisory from the current state Attorney General. Where is the due diligence? There is none; none. The bottom

line, in conclusion, it is very tempting to get into the who's, the what's, and the why's; but the simple fact of the matter is that we just cannot let....if you rescind this vote.....I do not know what the common agreement is amongst the Council but if Mrs. Crocker has failed to meet the standards of Article 3 of the Zoning Ordinance she must be held accountable.

Town Manager – Next up is Ms. Betty Clark.

Ms. Clark – I live at 120 N. Church Street. It is my understanding that the Town Council members have been provided a letter from Mark Wagner who is a Senior Architectural Historian with the Eastern Region Preservation office. I am not going to read all of it; just a few passages that have particular significance. Please be aware that these are Mark Wagner's words and not Mr. Riddick's interpretation of Mark Wagner's beliefs. It states: "Pierceville, or the Thomas Pierce house, is a wonderful example of an evolved eighteenth century dwelling. It is rare because of the gambrel, or "Dutch style" roof. Also, a rarity here are the outbuildings that appear to date well before 1860 and the rural landscape that is likely to have archaeology sites (some of the town's earliest sites). Just based on what we know from our own records, Thomas Pierce (the first one) most likely had a complex of farm buildings; he had a wharf, and most likely warehouses that served the wharf. Smithfield developed partly from Pierce's holdings; Smithfield's origins are from the Pierce legacy. You have a rare surviving house from the earliest years of the town. While the discussion of Pierceville has centered on the house and architecture, one should not lose sight of the impressive legacy of Thomas Pierce (the second). This Pierce may have actually built the house that is there today. He accumulated a lot of land and owned everything on the north side of Main Street in Smithfield by 1783. He also had a private wharf and warehouse, operated a ferry across the Pagan Creek, was County Justice, 1766-83, Captain of the Militia, 1777-83, Vestryman to Old Brick Church, 1776, and member of the Virginia Convention of 1788. The Convention voted to support the United States Constitution and also laid the groundwork for the Bill of Rights. The legacy of this Virginia and United States patriot is directly associated with the Pierceville house. In 1740, when Thomas Pierce, Sr. died, he owned eight slaves. By 1782, there were twenty-two slaves on the property. Pierceville was a large farm and busy wharf in the eighteenth century. The house, the warehouses, the wharf were likely built by the enslaved African Americans. The legacy

of this property is also tied to the history of these unnamed workers. If Pierceville were retained, there would be an opportunity to add value to the town's story; the story of its founding; the work of a patriot; and the work of enslaved Americans. I urge the Town of Smithfield to explore all options to retain the building. The Pierceville house presents a great opportunity for the town to set a solid example for community historic preservation. We would expect one of our leading Certified Local Governments to show this type of stewardship. The first step would be to "mothball," or stabilize the house so it does not deteriorate further. The Virginia Department of Historic Resources strongly endorses the preservation of Pierceville. If you have any questions or would like to discuss this matter further, please contact me at 804-482-6099." This is the basic part of Mark Wagner's letter. I do have a copy for the record. Mr. Riddick has repeatedly said that the town does not own the Pierceville house which is true; but Preserve Smithfield has shown the town ways to salvage the property either by placing a lien on the property or by working with Trust for Public Land to purchase the property at an extremely low interest rate. It is time you do something positive towards this special piece of our town history.

Town Manager – Our next speaker is Mr. Mark Gay.

Mr. Gay – Good evening. I live at 110 Goose Hill Way. I want to thank the people of this town for coming out tonight and for speaking their convictions on the important topic of Pierceville. While you probably heard some emotion playing out in their comments, I think you also heard a great deal of very factual statements. It is my hope that those facts are what guide your thoughts and more importantly your votes this evening. I urge you not to fall for the trap of thinking you can vote not to take down the Pierce home and outbuildings but still cast a vote that rescinds Council's decision of August 2016. Let's be clear; rescinding BHAR and Town Council's decision of "demolition by neglect" essentially renders our excellent preservation ordinances worthless and wholly unenforceable. There is nothing in place beneath them folks. As Colonel Arinello stated, the judge did not order rescission. He directed reconsideration based on a mutually agreed document put in front of him for a quick signoff. It is not very often that an individual, whether a man or a woman, gets such an opportunity to be on the right side of history. Each of you has such a moment tonight. Please make that moment count. Thank you.

Town Manager – The next speaker in Ginny Soule.

Ms. Soule – Thank you. I just want to bring to your attention that there is an error in the committee meeting minutes. I have been reading about Church Square being 95% complete for Phase 1. Minutes over the past many months have shown this number. I do not know where that ever came from. As it turns out, we are only at 60%. The way the builder is building, it will be six years at least before we will be at 95% for Phase 1. Only thirty-two out of fifty-four have been built. He is only building, if we are lucky, four per year. I would like to see that corrected please.

Mayor Williams – There are no more signups but you still have an opportunity to come up and speak. If you have not signed up, please just come to the podium. You are welcome to speak.

Mr. Bob Hines – I live at 216 Washington Street. About the bike trail, I was out of town for the meeting last week. Let me throw something at you that might be a little bit nutty. Some of these trails, that the other man talked about like the Great Alleghany and the Creeper; I have done those. The Creeper Trail has thirty or forty some trestles on it. Some are lengthy and some are short. It is the same with the other trails. A trestle or a bridge crossing is nice to have. As far as a bike trail, this five foot deal coming into town will be a fiasco. I have done some of the Capital Trail too. Some of these people on road bikes, they get out there and they go. You have to get out of their way. They are not supposed to be going that fast but what are you going to do about it. Mayor Williams talked about a bad intersection no matter what you do. It is true; unfortunately. I have a crazy suggestion. If you go straight across from Royal Farms back there and get a right-of-way across somehow and put a bridge back there over to the park. Maybe you could come in where Cedar and Jericho meet; possibly, or somewhere else. To have a nice trestle crossing would be nice and you would be going through the woods. There would be no concrete. It would be a trail kind of like Windsor Castle Park. A lot of the other trails are like that. You come into the park and you would have a park to park trail for sure. Coming down by Church Street is nothing but trouble as far as traffic. When there is a bicyclist on Church Street when it is busy it is just clogging things up. I like to bike. I bike around town. I do not go out on Church Street when it is busy; I do something different. It is just a suggestion. There would be no concrete, no real tearing up or changing things, and you would not have to be on the bridge. People would come into

town that way and it would be more scenic and they have a choice as to where they want to go in town and no traffic problems.

Ms. Terry Mulherin – I live at 206 Washington Street. I am not up here to admonish anybody. I know we have been through Pierceville many times. I am delighted that you listed history as part of the town's vision. I am confident that you will do the right thing in the end. They still own the property so let's talk vision for Pierceville. We have a bike trail coming and additional foot traffic through the city. The Little's Supermarket property is still up for sale. It could be a farm to table restaurant and a respite spot for bikes. You could build a weather shelter there like they have at Chincoteague. I will get you photos of that because it is a great idea. The farm itself really should switch to hydroponics because that is where it's at and they would be rich by the way. Mr. Duncan does know that about the property which is why he is interested in it. We definitely need some additional parking for the town so there is a lot we could do with that property if we could get it in our hands. There is a lot that it could do to help the town and of course, events at Pierce Manor since Windsor Castle is sometimes booked. I know we funneled a lot of money to Windsor Castle. Please consider funneling some money to help support and restore Pierceville. Let's see what we can do to move a vision forward that is positive for the future of Smithfield. Thank you for your consideration.

Mr. Arthur Urbanyi – I live in Church Square at 110 St. Paul's Avenue. I had heard a gentleman earlier today from some national park organization talking about what he would like to see with regards to the Town of Smithfield and the bike path and what he did not want to see. He says he does not want to see a concrete sidewalk on S. Church Street. I would like to draw your attention back to the Town Council report from September 22nd, 2019 which was for bike trail public input. The public response to the questionnaire that the Town Council put out showed that over 66% of the responders wanted options #1 and #5 which were both S. Church Street. Of those two options, the majority of the responses which is about 36% of the 66% people wanted a pedestrian sidewalk from the Cypress Creek Bridge up to Battery Park Road. I just wanted to remind you of that. In fact, the people of the town have spoken and have told you that they feel a pedestrian right-of-way is more important to them for that section of roadway than a bike path. The mayor said that the town will build a bike path. I ask you all to

remember one thing. Your first consideration should be your responsibility to the people of Smithfield not outside interest. That is how I feel about it and I think there are a lot of people here that feel the same way as me. I would like to draw your attention to that; every one of you. Thank you very much.

Mr. Vassilakos - I have one final comment on that. Options #1 – 4 involved bike trails. Those collectively garnered sixty-five votes. There were only thirty-five votes for the sidewalk.

Mr. Urbanyi - Thirty-five votes were still the majority of the percentage of all the votes.

Mayor Williams – Would anyone else like to come to the podium?

Mr. Steve Anderson – I live in Church Square. I have taken the last week to ten days reviewing the analysis of all alternatives presented at the last meeting in some depth. I have some concerns. I found there were a number of problems, bad assumptions, or omissions that lead to some erroneous conclusions; specifically, that Alternate #4 is the “safest and most cost effective solution for pedestrian/bicycle connectivity between Battery Park Road and the South Church Street Bridge.” The first of these is found right in the executive summary on page 1 where it is described as a “swath of land on the Church Street subdivision.” It does not even mention Church Square. If you do not read the rest of the report, you could interpret that as not effecting Church Square at all. There are a couple of other references on page 37 where it refers to an “undeveloped corridor” through the development. There is also a description of running “adjacent to the Church Square subdivision.” Adjacent has specific meanings in the wonderful world of real estate. We are not talking adjacent; we are talking through. We are not talking through some undeveloped corridor; we are talking through a couple of people’s back yards. One of the other concerns that I have is that there are some other issues that are not addressed. When they looked at safety, they looked at safety in terms of intersections crossed. One of the other concerns that we have is that we have an engineered detention pond in the development. They talk about running this thing right along the southern edge of the detention pond. Unfortunately, given the size of the path they are looking at and some of the assumptions they have described in their report, there is not room. There is not five feet of level ground between the Church Square property line and the edge of the detention pond. Once you go down that hedge,

you are at a three to one slope. For every three feet you go out, you are down a foot.

That thing falls about fifteen feet to the bottom of the pond. Those are just a couple of things that I found on the study. If I can basically give you a couple of my conclusions, building the multi-use trail on the edge of an existing detention pond increases the risk to public safety by eliminating the two main detention ponds safety measures which is physical separation and screening from the public. Alternative #4 would require additional engineering of the existing detention pond and associated drainage ditches. In addition, in accordance with detention pond best management practices, construction on or near detention pond slopes or modifying the existing slope are not recommended. The proposed multi-use trail would not be adjacent to Church Square; it would go through and not through the undeveloped corridor that it mentions but through the back yards of some. Specifically, it would go through the back yard of 108 and 110 Oxford Avenue and also through the detention pond that is directly owned by the Homeowners Association. Church Square was designed and developed as a private gated community. Smithfield has recognized that because they have helped some of us out with some of the trespass issues we have had in the past. We really appreciate that; but building a multi-use path through that community would fundamentally change its nature; effectively, making it public. By making it a public neighborhood, you are now opening yourselves up to incurring additional costs currently borne by the Homeowners Association. These would be maintenance and operating costs of streets, sidewalks, detention ponds, and things like that. I would like to turn in my notes if I may. Thank you.

Mayor Williams – Is there anyone else who would like to come forward? Seeing none, public comments are now closed. Next, I will read a Proclamation Diaper Need Awareness Week – September 23rd – 29th, 2019. It states: WHEREAS, Diaper Need, the condition of not having a sufficient supply of clean diapers to ensure that infants and toddlers are clean, healthy and dry, can adversely affect the health and welfare of infants, toddlers and their families; and WHEREAS, national surveys report that one-in-three mothers experiences Diaper Need at some time, and that forty-eight percent of families delay changing a diaper to extend their supply; and WHEREAS, there are no government assistance programs for the purchase or provision of diapers, and a monthly supply of diapers can cost as much as six percent of a full-time minimum wage

worker's salary, therefore obtaining a sufficient supply of diapers can cause economic hardship to families; and WHEREAS, a supply of diapers is generally an eligibility requirement for infant and toddlers to participate in childcare programs and quality early education programs; and WHEREAS, the people of Smithfield recognize that addressing Diaper Need can lead to economic opportunity for the state's low-income families and can lead to improved health for families and the community; and WHEREAS, Smithfield is proud to be home to numerous community organizations that recognize the importance of diapers in helping provide economic stability for families and work to distribute diapers to poor families; NOW, THEREFORE, I, T. Carter Williams, Mayor of the Town of Smithfield, do hereby proclaim the week of September 23rd through September 29th, 2019, as DIAPER NEED AWARENESS WEEK in the Town of Smithfield, and I encourage the citizens of Smithfield to donate generously to diaper banks, diaper drives, and those organizations that distribute diapers to families in need to help alleviate diaper need, adopted this 6th day of August 2019. We will now move to a Briefing by Dick Grice, Isle of Wight County Board of Supervisors, Smithfield District.

Supervisor Grice – Good evening. I am sorry that I missed the last Town Council meeting. I understand that our county administrator substituted for me at my request. I believe you received an informative county update. The reason for my absence is that there is a lady who has been married to me for forty-two years and since she is married to me, she deserved a respite on a nice trip. She was kind enough to invite me along. On July 18th, the Board of Supervisors held both a work session and its regular monthly meeting. During that work session, we covered multiple action issues and directed further action on each. The first was a request for sewer service in the Carisbrooke area. This decision established a need for the county to develop a methodology for determining the need for and prioritization of expansion of sewer and water services as they relate to future growth, development, and customer demand all within the context of the Comprehensive Plan. Second, we had the opportunity to partner with the Isle of Wight Historical Society in remodeling the old Clerk's office to be jointly shared by the Historical Society and the county staff. This process is moving forward. Third, in an effort to enhance consolidated services and potentially reduce service costs through a mutual cooperation of the county and the towns governing bodies, the Board approved

moving forward on the development of policy and procedures to provide a single IT Service Department for all of the government agencies. This is a very big step in consolidation of services that, hopefully, will not only serve the community better but also save money. During the regular Board meeting that followed, we had one public hearing addressing updates on the county's zoning ordinances. While there was not a single citizen that participated in the discussion or asked to be heard, the revision of the beekeeping provisions did receive additional Board discussion and is now a talking point in the county. I am not sure what it is all about but beekeeping is now similar to the chicken issue. The revision was passed unanimously. We received an update on the Turner Drive turn lane project which is happening as we speak. It looks like it is coming in on budget. This turn lane improvement remains on schedule. It is being coordinated with a sixteen inch sewer line. HRSD's sewer work will be extended under the roadway during the project. This prevents tearing up the road again when the extensions are put in later. This is another example of intergovernmental agency cooperation and I applaud it. The Board received a report that our county Parks and Recreation Director put together on our Blackwater Use Agreement. It was recently presented to us by the task force. It seems that the work needed to roll out this program has become much more complicated and burdensome than originally anticipated. The Board has postponed awarding hunting privilege's until our next meeting when we expect a comprehensive report answering all safety and management aspects of this project. There are state regulatory issues that have to be addressed. We want it safe and well managed before we open it up to the community. The IT Department was given formal approval at the regular meeting to work with the two towns on a cooperative IT Service Agreement. Finally, the Board members received a request for lighting of the Luter field that is being used by the Pop Warner Football Association. Unfortunately, the county is not in a position to assist with money for lighting for a number of reasons. One of which is that it is not our park. However, the town may wish to entertain that request. On August 1st, there was a joint work session with county and the School Board. The subject was the school's plan for the expenditures of some \$70,000,000.00 for new and remodeling facilities over the next seven to ten years. The focus of this decision was centered on a second engineering report on Hardy Elementary. The School Board had commissioned this through a third and independent engineering company for all of the associated

costs. The consensus of both Boards was that a new building be built on the current site and that the old facility be demolished. County staff has been directed to assess the cost of extending sewer to the school, undertaking a water study and stormwater, and the availability of incorporating some adjacent land into the school's footprint. The School Board and staff will undertake a review of recently built facilities throughout the state that came in under \$20,000,000.00 that could be used as prototype facilities in replacing Hardy Elementary. Hardy, as it exists today, will stay in place until the new school is built adjacent to it. Both Boards agree that a similar independent engineering study be performed on the Westside Elementary School and be undertaken immediately. The County Administrator has been tasked to have this engineering study implemented as quickly as possible. Hopefully, it will be before the school year starts. Finally, this Monday, the county held its first Capital Improvement Plan Advisory Committee meeting. The county has operated, until now, without a formal advisory group tasked with undertaking a formal evaluation of items planned on the Capital Improvements Plan beyond the next year budget. This committee will develop the methodology to evaluate projects in the context of their critical need, cost benefit analysis, consideration of financial means of accomplishing the project, and help with the development of the county's long range capital financial strategy. Necessity for this committee became apparent when the schools asked for \$70,000,000.00 in addition to the \$70,000,000.00 that we had already planned for over the next decade before the school asked for their \$70,000,000.00. With \$146,000,000.00 in outstanding debt, these additional money requests deserve much careful consideration. Are there any questions or concerns that I can possibly answer for Council?

Councilwoman Butler – Mr. Grice, on your report and based on the investigation that they did on the new Hardy Elementary School, are you saying that consideration for the new school is going to be on the same plat of property where the old school is located?

Supervisor Grice – Yes. The footprint will remain the school. There is a way of doing it and keeping the other school open which is our intent. We want it to stay a Hardy district school.

Mayor Williams – Thank you, Mr. Grice. We appreciate you coming. We will now move to Council Comments. I have something I need to read. As you know, for the last

few months, Annika Eng has been coming to us and speaking about the high school. She is not here tonight but says: Good evening, Mr. Mayor and members of Town Council. I regret that I am not able to be here tonight to talk to you all as I am visiting some family in New Mexico. I am so grateful to serve as the Smithfield High School liaison for the Town Council. A few months ago, I applied to Senator Warner's Page Program. I found out this week that I was selected for the job. On September 2nd I will be moving to Washington D.C. to serve as a page for all of the U.S. Senators. I will work there until January 24th. I am very excited for this unique opportunity; however, I will miss this town and everyone dearly. Thank you all so much for the opportunities you have provided me. I cannot wait to see you all at the February 2020 Town Council meeting.

Councilman Pack – Very cool.

Mayor Williams – I would like to thank Chief Howell and Matt Rogers for National Night Out which was earlier tonight. The fire department and the rescue squad were all here. The children came and got up close and personal. They had a really good time. The drawing was an ice cream party and a pizza party. I am sure whoever won that was excited. Thank you all for a successful evening. Most of us Council members were there. Thank you. Are there any other Council comments?

Councilwoman Haywood – Yes, sir, Mayor. I would like to read a letter from Councilwoman Tynes. You all have a copy of it but she asked me to read it in her absence. It states: Fellow Members of Smithfield Town Council: I regret very much that I cannot be with you this evening to consider the agenda item about "Request-to-Raze at 502 Grace Street" - which each of us recognizes immediately as the Pierceville Property and physical structures. Obviously, this is not a new topic for several of us...but one in which we have invested more than four years of our time, consideration, and deliberation. Please accept my written thoughts this evening as constructive inputs to a Council decision that needs to be as fair as it is common-sense. There is a wealth of legal advisory work that has been made available to Council by our Town Attorney, the Division of Historical Resources, and two separate law firms in Newport News and Hampton. Not surprisingly, those legal opinions differ, although the analysis offered by Mr. David Dildy, Esquire in April 2017 is supported strongly by supporting and factual legal documentation...that maps provisions of the State Code with our local

Ordinances and supporting articles of preservation—and that would be considered compelling evidence in any public hearing or court of law. So it remains for each Council Member to render his/her good judgment to the evidence presented. I, for one, am troubled by the instruction we have received recently that advises our Town ordinances and articles of preservation are no longer enforceable—because they have supposedly “evolved.” This clearly is not true based upon the evidence before us. Moreover, I personally reject the instruction that we have been ordered by a Judge to rescind our unanimous decision in August 2016 to reject the application to raze the Thomas Pierce Home and outlying buildings. My own read of the Judge’s ruling—which appears to have been more of an administrative acknowledgment-of-mutual agreement than a legal judgment—tells me that Council should “Reconsider or rescind” that 2016 ruling. My belief is that it is Council’s obligation to “reconsider”—and uphold—both Council and BHAR’s unanimous decisions to deny razing of the Pierceville home and outbuildings. That decision was well-grounded then, and remains well-grounded today, in the current laws of the Commonwealth, and is reinforced by the very strong ordinances of our Town...which should not be tampered with unless we as Council vote to do so. Thank you for allowing my comments to be presented this evening, Very Respectfully, Denise N. Tynes, Councilmember, Town of Smithfield.

Mayor Williams – Are there any other Council comments? Hearing none, we will now move to our Summary of the Consent Agenda Items. We have five items before us tonight. Would any Council member like to pull any item for further discussion?

Councilwoman Haywood – Yes, sir. I would like to pull item C4 for further discussion.

Councilman Pack – Mr. Mayor, normally we do these in order. I would like to pull C5 tonight for Council priorities because I would like to make just a very small change to them which would hopefully not overshadow the Nike Park Trail. I would like to do C5 first please; I would appreciate it.

Councilwoman Haywood – That is fine.

Mayor Williams – We will begin with our Public Safety Committee member, Ms. Beth Haywood.

Councilwoman Haywood – Public Safety Committee Summary. Tonight, we have a resolution to appoint the Smithfield Certified Crime Prevention Team. WHEREAS, the

Town Council created the Smithfield Community Crime Prevention Team (SCCP) in order to participate in the Virginia Department of Criminal Justice Services Certified Crime Prevention Community program; and, WHEREAS, the Town Council of the Town of Smithfield is of the opinion that the SCCP team has had a positive impact on the community and should be continued. NOW, THEREFORE BE IT RESOLVED that the Town Council hereby appoints the following persons to serve on the SCCP team for a one year term ending August 31, 2020: Wayne Hall, Matthew Rogers, Joseph Reish, Christopher McGough, Marian Aiden, Joyce Bowser, Jody Meier, Beth Jewell, and Kim Hasty. Thank you.

Mayor Williams – We will now move to the Finance Committee Chair, Mr. Randy Pack.

Councilman Pack – Finance Committee Summary. Thank you, Mr. Mayor. This evening we have several invoices in excess of \$10,000.00 requiring Council authorization. The first is to Superior which is our OSSI annual software maintenance for the police department for \$24,473.77. The next one is the Isle of Wight County for our portion of the radio system for \$51,453.46. We have two notes that come up for payments bi-annually. The first is to PNC Bank for the Reverse Osmosis water treatment facility for \$224,704.36. You guys all see this one on your water bill. The next one is also to PNC Bank for the old sewer treatment plant for the re-financing for \$126,277.27. We are recommending approval of all four invoices this evening. We also have requests to approve purchase orders. These are all budgeted expenses that came into this year's budget that we recently approved. The first is to Mannington Commercial for vinyl tile replacement here in the Smithfield Center for \$10,944.15. The second is to Haley Ford South for \$71,160.70. This is for two new police vehicles. We also have a purchase order for Farmers Service Company for \$15,678.00 for two new mowers. We recommend approval of these purchase orders this evening.

Mayor Williams – I have one question on the police vehicles. Are we looking at those to see if public works or any staff needs any of the ones we are trading out?

Town Manager – We will check on that.

Councilman Pack – Mr. Mayor, I recommend that we approve consent agenda items of C1 – C3 as presented.

C1. Smithfield Certified Crime Prevention Team – Request to Appoint/Re-Appoint Team.

C2. Invoices Over \$10,000.00 – Request to Approve

a. Superior (OSSSI – PD)	\$ 24,473.77
b. IOW County – Radios	\$ 51,453.46
c. PNC Bank – RO Plant	\$224,704.36
d. PNC Bank – Old Sewer Plant	\$126,277.27

C3. Purchase Orders – Request to Approve

a. Mannington Commercial	\$ 10,944.15
b. Haley Ford – South	\$ 71,160.70
c. Farmers Services Co.	\$ 15,678.00

Councilman Hall – Second.

Mayor Williams – A motion has been made and properly seconded. Is there any further discussion? Hearing none, roll call 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.

Mayor Williams – We will now move to item C5 which is Town Council Priorities – Request to Endorse Implementation Plan.

Councilman Pack – We have been presented with thirty-one Town Council priorities that we established at our retreat recently. The Town Manager has asked to endorse the plan tonight. I do not have any problem with the plan. I think it is a good plan. However, Priority #8 is managed growth and beauty. As I drove here tonight, I started seeing election signs. One of them was an adjoining neighbor to my business and he was probably in the right-of-way; but how else would we know who to vote for? Elections signs are a pretty big part of small town America. I just do not want to see us pulling stuff. What I would like to do is direct staff to have a policy for election signs where we do not go pulling everybody's signs out. We have Board of Supervisors elections coming up, School Board coming up, and next May we have Town Council elections. I think the elections signs are a big part of that. I would like to direct our staff

in this priority plan to have special consideration for election signs as we implement our new policies.

Town Manager – If that is something that Town Council wants to do, can I ask for a motion and approval of that so that it is in the minutes?

Councilwoman Butler – I have a question for Councilman Pack. Are you asking for a special concession that the signs may be placed in right-of-ways to give consideration to candidates running for office? Exactly what are you asking for?

Councilman Pack – We have gotten pretty strict on our temporary sign permits. It was done at our direction to staff. We accept that. I am not positive of exactly what I am looking for but I think it needs to be looked at. I think we need to be reasonable with election signs. Mr. Edwards is my next door neighbor. He has signs out. He probably wants to win his election and that is how people will know he is running. Is he in the right-of-way; maybe, I am not sure. He has one on his property and one that looked a little closer. It was not blocking anyone's view when they are pulling out. If it is in the right-of-way but not blocking anything and causing a traffic hazard then maybe we need to look at that a little bit differently than some of the others. I am asking for special consideration for election signs for all folks with elections.

Mayor Williams – I think there needs to be a time limit on them. Those signs have been up for three weeks or so. We are three and a half months away from that election. It is a long time for a sign to be up.

Councilman Butler – I agree with a time limit.

Mayor Williams – You can do the same thing in a couple of weeks.

Town Manager – I understand where Councilman Pack is coming on the election signs. I would suggest that if you stop taking up signs in the right-of-ways they need to be all signs in the right-of-ways so you are not picking political signs, civic groups, or businesses. If you do want to do that to a revised ordinance then I would ask that it be in a motion for approval to not take any signs out of the right-of-way unless they....

Mayor Williams – They are working on a revised ordinance right now with that.

Councilman Pack – I believe Brian's timeline for that is September of 2019.

Councilwoman Butler – But Councilman Pack is also asking for a separate category for election signs. It would be different than a non-profit sign.

Councilman Pack – I started about election signs but the Town Manager makes a good point about not discriminating between organizations. We need a real ordinance to give staff some guidance to do that. I do not know how to phrase it. What I am trying to say is to use a common sense approach. Unfortunately, you cannot put a common sense approach into an ordinance.

Town Attorney – It seems to me that this is something the Planning Commission could explore and report to Council in connection with revision of the sign ordinance. There is a distinction between political signs and civic/advertising signs. Perhaps we should look at that and report to you with some options. If you say that you are not going to pick up signs in the right-of-way then you will have medians that will be full of signs. If you are concerned about the way your town looks, you are perhaps going to be unhappy with the way that looks. Maybe we need to look at it carefully and give you some options about what we can do and what other localities do and how that can be handled.

Councilman Pack – I think that is kind of what I am looking for. I still think small town elections are still part of the charm of a small town.

Town Attorney – It does not preclude anybody from putting signs in their yard.

Mayor Williams – With a permit.

Town Attorney – No. We do not require permits for elections. We never have to my knowledge.

Councilwoman Butler - Maybe there could be a special category for elections.

Councilman Pack – I just hate to see however many candidates we have running this year get upset because all there signs are getting pulled up.

Town Attorney – I do not know that any resident has ever gotten a permit to put up an election sign.

Town Manager – I am not an expert on this but most localities probably exempt political signs altogether. Some put time stipulations on them but no locality that I know of allows any type of sign in the right-of-way.

Town Attorney – Right.

Councilman Hall – Last year, I was running for Town Council. I had a question concerning the signs and getting permits. I spoke to someone in town and was told that election signs should get a permit; but they are kind of forgiven at bit as long as they are

not in the right-of-way. I think common sense goes a long way. If you are running for an office, I think thirty to forty-five days is enough time for a sign to be out. It should be kept out of the right-of-way. I think any sign in the right-of-way is subject to town code.

Councilman Pack – Okay, so, we have managed growth and beauty on here. I think that perhaps the way to not have to solve this tonight but is to include in this priority that we have a special consideration for election signs instead of trying to solve it tonight.

Town Attorney – I do not know why that has to be in your goals and objectives because it is really an issue to be dealt with by your zoning ordinance.

Councilman Pack – I am happy to address however we need too, Bill. If you have a better way to we can address it then that is fantastic.

Mayor Williams – The goals and objectives were to get the town cleaned up from the signs.

Town Attorney – I understand but that is a broad statement. You have raised the issue and it is up to town staff to look at it and come back with some suggestions in connection with revision of the sign ordinance. If you want to put it in your goals and objectives, I do not see where the two are mutually exclusive. I mean if you are saying that you do not want to have a lot of temporary signs then that is fine; but, parenthetically, we need to make sure that we are not being heavy handed with respect to people's ability to run for office and advertise the fact that they are doing that.

Councilman Pack – That is what I am getting at.

Town Attorney – I am just suggesting that the goal of beautifying your town by doing something about temporary signs is not necessarily excluding the fact that you need to allow for political signs. It is really up to staff to come up with some recommendations to you through the Planning Commission and Town Council as to how to deal with that. You identified the issue.

Councilman Pack – I think my issue is more that the plan is set for September 2019 and in November of 2019 we have an election. By September, we should have all this resolved. I just do not want to see all of these election signs being taken up.

Town Manager – If you look at steps 3 and 4, we have planned on starting to review the ordinances in September and bringing those back to the Planning Commission in November and Council in December.

Councilwoman Butler – Couldn't it fall under #2 – review temporary signage? It states: review temporary sign ordinance to ensure compliance with applicable state and federal laws. If you specifically want something for election signs, couldn't that be a bullet point there for election signs with a time frame.

Councilman Pack – Yes, it would be very appropriate.

Town Manager – I will add special consideration of political signs with a time frame.

Councilwoman Butler – Item C5 is a Request to Endorse the Implementation Plan for our Town Council Priorities. As the community is aware, at our retreat in March, the Town Council came up with seven core categories that we felt would move the town in a positive direction. It was Town Council that actually came up with the thirty-one priorities. Staff was tasked to come up with activities and tasks to fit into these categories with a timeframe to meet those tasks. I think Mr. Thrower and staff have done a very good job with it. I would like to make a motion that we endorse the implementation plan that our Town Manager has presented to us.

Councilman Pack – Second.

Mayor Williams – A motion has been made and properly seconded. Is there any further discussion? Hearing none, roll call vote.

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

Mayor Williams – Our next item is Smithfield Nike Park Trail – Segment 3 Alternatives Project – Request to Select Alternative/Route and Authorize Proceeding to Preliminary Design Phase with our Public Works Committee Chair, Ms. Beth Haywood.

Councilwoman Haywood – I would like to make a suggestion that we look at an alternate route that was not given to us. I have given all of you a map this evening. I highlighted, in orange, another possible route. I would like to see us adopt the trail and go down John Rolfe but on the other side of the street. There are actually less driveways on that side. When you get down to Magnolia Manor, it would be a great place for them to use also for rehabilitation or walking. If we went straight on down, we would also add Beale Park which would be another park in our park trails. There is also

the Smithfield Swim Club and it would connect to that. If we go across Lumar, we would continue by the Smithfield Baptist Church. It would connect that area and that side of the street has more space. It also has fewer houses on that side. We could come all the way down to Red Point and come right down and be at the Cypress Creek Bridge. I would like to recommend this route because I have heard so much from the community about how they want a trail and for it to be safe. Also, many of the places on Church Street that people would want to visit are very close to Ransdell Lane and would be an easy, quick connection to get to those couple of outlets right there on that street. I would like to make a motion to adopt the trail to go on the other side of John Rolfe down to Lumar and all the way down to Red Point and then to the Cypress Creek Bridge.

Councilwoman Butler – Second.

Mayor Williams – A motion has been made and properly seconded. Is there any further discussion?

Councilman Pack – I believe the plan that Councilwoman Haywood has presented is a good one; but I would like to make a minor revision to her plan. Her plan has the trail connecting at John Rolfe and Battery Park Road. In my opinion that is a very dangerous intersection for pedestrians to cross. There are no lights or anything else there. If you have ever tried to pull out there in a car on a busy afternoon, it is very difficult to get across much less on a bicycle or walking or whatever else. I would recommend that we go up to Royal Farms at the signaled light and cross there and go down to Ransdell Lane. It can then connect back to John Rolfe and follow the remainder of Councilwoman Haywood's trail suggestion as presented. I think you can get a little safer passageway. I would propose an eight foot wide asphalt path.

Councilwoman Haywood – This one had a ten foot wide path on it.

Councilman Pack – The county trail is eight foot which is why I suggested it.

Mayor Williams – It is six foot in front of Royal Farms on the sidewalk.

Councilman Pack – Correct. It is the only section that is not eight feet wide. All the paved stuff that is going on now, from the Villas to Nike Park, is at eight foot other than the bridges that have to be wider.

Town Manager – I am not sure but you may have to get a waiver from VDOT to change it to eight feet instead of ten feet. Some sections of the current trail are ten feet wide.

Councilman Pack – Eight to ten feet wide; but not a sidewalk. We want it to be a trail. Let the engineers decide what needs to happen.

Mayor Williams – We just need to direct staff to turn it over to Kimley Horn and let them design it and then come back to us. If this Council approves this route, they can do a study on that part. They have to get with VDOT and have a study done to see what is needed.

Councilman Pack – Yes, sir; but what we are trying to do tonight is come up with a route that we can agree on and then send it to the engineers to start working on.

Mayor Williams – Okay. Councilwoman Haywood's motion will stand and add that we direct staff to turn it over to Kimley Horn or review it themselves.

Councilman Pack – Mr. Mayor, she has a motion and second on the floor as she presented it. My comment was that I would like to see the motion changed to Royal Farms crossing Battery Park Road down to Ransdell then down to John Rolfe. We have to vote on her motion first.

Town Attorney – The whole purpose of this is to get the engineers to look at it. If you direct them to, they can look at both alternatives and see if there is a safe way to do what Councilwoman Haywood suggested or they may conclude that you are correct.

Councilman Pack – Her route is better. I think the one I proposed is safer. If we could have them look at both and figure out the best way to do it, I will be more than happy with that.

Town Manager – I do not want to put words in the engineer's mouth; but I think they will agree with you for safety reasons.

Mayor Williams – I would like for them to look at the intersection of John Rolfe and Battery Park Road just to see what they think, along with VDOT, about what can be done. Probably, nothing but we need to look at it. At this point, Councilwoman Haywood's motion will stand. Is there any further discussion? Does everyone understand the motion?

Councilman Pack – I do not understand the motion.

Councilwoman Haywood – I would like to make my motion to go straight down John Rolfe; but we know from prior history that it might not be the safest. If they come back and say that it is not the safest, we would go with whichever route Kimley Horn feels is safest.

Councilman Pack – That is fair; no problem.

Mayor Williams – We have a motion on the floor and a second. Roll call vote.

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

Mayor Williams – We will now move to the Action Section of the agenda with our Public Buildings and Welfare Committee Chair, Mrs. Valerie Butler.

Councilwoman Butler – We have Reconsideration and Rescission of the Approval of the Motion of the Town Council that the Board of Historic and Architectural Review was Correct in its Ruling Regarding 502 Grace Street, Pierceville Manor House, Maintenance Violation Adopted by the Town Council on September 6th, 2016 and to Reverse the Notice of Violation by the Board of Historic and Architectural Review.

There is a second item which is Consideration of the Application of Mary Crocker for Demolition by Right of the Pierceville Manor House. Due to the complexity of these and the information that Mr. Riddick has given to us, he will review the two actionable items.

Town Attorney – Mr. Mayor and members of Council, both of these items are interconnected. I need to explain how they have evolved so that you can make an informed decision about this. The first item comes on the heels of the lawsuit that was brought by Mrs. Crocker with respect to the requirement by the BHAR and the Town Council that she maintain her property. It is under the maintenance provisions of the Town Code not the demolition. There are two items here tonight. The first has to do with the maintenance issue and the second has to do with demolition. Town Code is prepared in accordance with the enabling legislation that is adopted by the General Assembly. Section 15.2-2306 of the Code of Virginia is the section that deals with the preservation of historical sites and architectural areas. Our Zoning Ordinance is taken from this section. Unfortunately, part of our Zoning Ordinance is not, which is the section that has to do with maintenance. It is Article G which is the part that is questionable. It is also the part that Mrs. Crocker sued us over. If you recall, the BHAR took action to require that she maintain her property. It was in disrepair. It is still in disrepair. The property owner, Mrs. Crocker, appealed that decision to the Town Council. In September of 2016, you affirmed the decision of the BHAR. You agreed that

she needed to maintain her property. Mrs. Crocker filed an appeal with the Circuit Court and that matter was brought before the court on her petition. We are represented in that matter by attorney John Conrad. He is a very experienced municipal lawyer and has represented multiple localities pursuant to an agreement with the Virginia Municipal League. Mr. Conrad is the one who has given us guidance with respect to this. He is the one that advised me that he believes because the maintenance provisions are not part of the state enabling legislation then they are not enforceable by the town. The proponents that have spoken so many times before have provided us with a letter from Attorney Diamonstein back in July. I have never seen the letter from Attorney Dildy until this month. I was given a copy of that and both have been sent to Mr. Conrad for his review. All lawyers have opinions. Those two lawyers were retained by the parties who believe that the code provision is enforceable. They have given an opinion to that effect. Over the years, I have been told that there are so many lawyers who have concluded that I am wrong and I have asked that they contact me. To this day, no lawyer has contacted me. I actually contacted Mr. Diamonstein on July 8th, 2019. He referred me to Ms. Carney and I left a message for her to call me. She did not. I reached out to them as a courtesy last Thursday explaining that I had not heard back from them and if they would like to discuss the matter then I was available to do that. She told me that she was not available until yesterday. I offered to go to her office. She and Mr. Diamonstein had a conference call with me yesterday afternoon. They do not agree with my interpretation. My interpretation is based on the legal advice that I got from our attorney; Mr. Conrad. I believe we are bound to follow the law and the law does not provide for maintenance provisions under this provision that deals with historic preservation. Mr. Thrower, Mr. Settle, and I have already met to formulate a plan to somehow adopt the Virginia Uniform Building Code Maintenance provisions. It is going to require some cooperation with the county of Isle of Wight. The town does not have a building official on staff. We are hoping we can have one of our employees designated as an agent to enforce the building code which would give us the opportunity to do what we all want to do which is to require people to maintain their homes. Not only would it apply in the historic district but it would apply throughout the town. We are actively working on that. In the meantime, I am still of the opinion, Mr. Conrad has reviewed the legal analysis by the two other attorneys and he does not concur with them. He does not believe it is

sound legal reasoning. He believes that we are required to rescind the action by this Town Council in September of 2016 whereby you affirmed the BHAR's decision to require maintenance. It has nothing to do with the razing of the property. I am sorry that Councilwoman Tynes is not here but her analysis here is incorrect. She talks about standing behind the decision to not permit them to raze the property. It is not what we are talking about. We are talking about the decision requiring them to do maintenance; that is all. We will stop right there and go back and explain that was the first thing that happened along the way with the Pierceville house. There was another application by Mrs. Crocker under another provision of our ordinance whereby she asked if she could tear the house down. It is a landmark structure. It was not a request 'by right' which is what you are considering tonight. There is another provision of our ordinance that says she can make application to the BHAR and then to you to raze the landmark structure. She did that and the BHAR denied it. It came here and you denied it. That decision has not been challenged and it has not been overturned. You made a decision based on her representation that she wanted to tear her house down. You did not agree because it is a landmark structure. That is not what you are overturning; but you are under a court order to reconsider and rescind your action in September of 2016 whereby you affirm the decision of the BHAR to require maintenance. That is all you are doing for action item #1. You are under a court order to do so. It is my advice to you that you have to do so. You can vote as you will; but I am not shaken in my belief that we are.....I have read all the authority that has been given to me and I have had a very lengthy discussion with our attorney and very lengthy discussions with their attorneys. They were engaged to give an opinion on behalf of the proponents of restoration and preservation and they gave one. There are a lot of reasons we believe it is incorrect. A lot of it is factually incorrect. I am really sorry that they did not pick up the phone and call me. I would have been happy to talk to them; but, in the last five years, no one has ever chosen to do that. Anyhow, that is the action that needs to be taken tonight. As I said, you are under a court order to do so and I think you are required to do so. For each of you, everyone has a copy. We will go through all this. The first item in the packets is the court order and it says to 'reconsider and rescind' not 'or rescind.'

Councilwoman Butler – I have a question, Mr. Riddick. When you say that it is based on interpretation, why would both sides of attorneys not see eye to eye when it is something of this magnitude?

Town Attorney – In every case you are ever in, Mrs. Butler, each side has a different opinion. It is the way it works.

Councilwoman Butler – I just want to say, for the record, that it makes it very difficult for me to come to a decision outside of what the town ordinance says. I guess I am looking for legal expertise hoping that there would be decisions that would be similar. In this particular case, they are at two ends of the spectrum. They are not even close.

Town Attorney – I read the opinion of Attorney Dildy and he said, in his opinion, he acknowledged that the language that is found in our ordinance is not found in the state code. He acknowledges that. He just says that, for other reasons, he thinks you can proceed to require maintenance. He cites the provisions in the state code that give you the authority to stabilize dangerous structures. Well, that is a different issue. You still have the authority to do that. Over the years, you have done that many times. In Jersey Park and Pinewood Heights, we have had structures that were deemed to be unsafe and dangerous structures. You have found that they were in fact dangerous structures and the town required the property owners to do something about it and that is still your authority. That is a health and safety issue; not preservation. There is a difference. His analysis was because you can do it under the health and safety provisions then you can do it under the historic preservation ordinance. I disagree with that and our attorney disagrees with that. They are trying to find a way to substantiate that you can require maintenance under the historic preservation ordinance and you can't.

Councilman Pack – Mr. Riddick, we have a copy of the court order here in front of us. It very clearly orders us to 'reconsider and rescind' approval. How did we come to this court order? We did not go to court; but how did we get this order from the court?

Town Attorney – I have kept you all apprised of this all along.

Councilman Pack – You did.

Town Attorney – We have had lengthy discussions between attorneys. We have exchanged authority and memorandums. Most cases are never tried. In today's court,

hardly any are ever tried but some are. It was our Council's opinion that we had less than a fifty percent chance that we would prevail because, clearly, our ordinance does not comport with state law. There is no question about that. The authority cited by the other attorneys acknowledges that it is not.

Councilman Pack – So, this was an order based upon dismissal of the lawsuit.

Town Attorney – It is called a consent order.

Councilman Pack – Both parties agree that the town and the appellant have agreed to reconsider and rescind the approval of the motion of Town Council in order to get the lawsuit dismissed.

Town Attorney – Correct. And remember, Mr. Pack, this is only as to required maintenance. It does not have anything to do with demolition or razing the structure. That is another issue that we will take up next. There is no question that the town still has, under its historic preservation ordinances, the authority and the ability to require homeowners to make application to the town for approval for modifications, additions, and all of the things covered by our guidelines. We still have the authority to do that. You still have the authority to approve the demolition of landmark structures or any structures within the historic preservation ordinance. The only thing you do not have is the authority to require maintenance because the General Assembly did not give it to you.

Councilman Pack – But we do believe we are working on an amendment to our code that will allow for that.

Town Attorney – Through a different mechanism not through the historic preservation ordinance. It would be through the adoption of the uniform building code maintenance provisions and, perhaps, some others. We may be getting to the point where the town needs its own building official. I think there are a whole lot of contractors out there that would be happy if we had one; but that is another issue. We are dealing with the issue at hand which is how do we continue to require people to maintain their homes.

Councilman Pack – In trying to sum this up a little bit in layman's terms, in order to have our lawsuit dismissed, on April 17th, 2019, we agreed by a joint motion of all parties to reconsider and rescind the approval of the maintenance portion on September 6th, 2016. This court then ordered that this action shall be removed from the docket of

this court and certified copies were issued. Basically, we said that we would do it in April and tonight's vote is to follow-up on what we said we would do to dismiss the lawsuit.

Town Attorney – Correct. You said you would do it. This should not come as a surprise because we have been talking about this for quite a while. It comes tonight in connection with the Pierceville matter but it was required. We have known about this for quite some time. The whole Pierceville maintenance issue has been pending since September of 2016. We are going on almost three years with respect to that issue.

Councilwoman Butler – And the lawsuit is what slowed that process down.

Town Attorney – If you remember, Mrs. Crocker did not pursue the lawsuit for quite some time. She filed it but did not pursue it. There was no reason for the town to pursue that until she did.

Councilwoman Butler – Is there any more discussion? If not, Item #1 in the Action Section says “reconsideration and rescission of the approval of the motion of the Town Council that the Board of Historic and Architectural Review was correct in its ruling regarding 502 Grace Street, Pierceville Manor House, maintenance violation adopted by the Town Council on September 6th, 2016 and to reverse the Notice of Violation by the Board of Historic and Architectural Review.”

Vice Mayor Smith – Is that a motion?

Councilwoman Butler – Yes.

Vice Mayor Smith – I second it.

Mayor Williams – A motion has been made and properly seconded. Does everyone understand the motion? Is there any further discussion? Hearing none, roll call vote.

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

Mayor Williams – We will now move to Item #2 with Councilwoman Butler.

Councilwoman Butler – The second action item on the agenda is Consideration of the Application of Mary Crocker for Demolition by Right of the Pierceville Manor House.

At this time, we will here from Mr. Jones.

Town Attorney – For the benefit of everyone present, Mr. Jones represents the applicant. Mr. Jones is entitled to present their application. There are questions that you are going to want to ask Mr. Jones. The question before you tonight is have they complied with the requirements of the ordinance? I have given you a copy of the ordinance. There are several things you have here. The first is Mr. Jones's application. Following that is the staff report. Following that is the town's code provisions which deal with this request to demolish the property 'by right.' Just for your information, they mirror the provisions under 15.2-2306. What I mean by that is that our language in our ordinance comes directly out of the state code. The issue that was faced by the town with respect to the maintenance is not a problem here because we have taken our ordinance directly from the state code language. Behind that is a copy of a contract. If you look at your ordinance, it says "Provisions for Demolition and Razing – in addition to the right of appeal here in set forth, the owner of a site, object building, or structure, the razing of which is subject to the provisions of this district; shall as a matter of right be entitled to raze and demolish such site, object building, or structure, provided that a.) the owner has applied to the Town Council for such right, the owner has, for the period of time set forth in the time schedule, hereinafter contained at a price reasonably related to its fair market value, made a bonafide offer to sell such site, object building or structure and the land pertaining thereto to whomever gives reasonable assurance that it is willing to preserve and restore the landmark building or structure and the land pertaining thereto." These are the first two requirements. Section C says that "no bonafide contract binding upon all parties thereto shall have been executed for the sale of any such landmark, building, or structure and the land pertaining thereto; prior to the expiration of the applicable time period set forth in the times schedule hereinafter contained." Section D says "any appeal which may be taken to court from the decision of the governing body whether instituted by the owner or by any other proper party; notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from shall not affect the right of owner to make a bonafide offer to sell the above." Here is the town's section. Section E states: "no offer to sell shall be made more than one year after a final decision by the governing body; but thereafter, the owner may renew his request to the governing body to approve the razing or demolition of a historic landmark, building, or structure. The time schedule for offering to sell shall

be as follows: (with the one that is applicable here) #6 – “twelve months when the offering price is \$90,000.00 or more.” So, the requirements are that they could not make application until more than one year after you denied their request to raze the property under the previous action. Then, they have to make application to you. They have to offer it for sale for twelve months at a fair market value and they have to have not entered into any bonafide contracts to sell it to a party who was willing to restore it or maintain it. These are the considerations. It is up to you tonight to hear from Mr. Jones and you can inquire of him about the offers and the value. I have a copy of his listing agreement. They listed it for \$1.5 million dollars. You can inquire about that as well. This is the opportunity to hear from Mr. Jones. He gets to make a presentation and you can inquire of him of anything you think is relevant in making your decision.

Mr. Al Jones – Mr. Mayor and Council members, I practice here in Smithfield. I represent Mrs. Mary Crocker. I have been doing so for many, many years now before this Council. I am here also with Marty and Nancy Lynn Delk who are Mrs. Crocker’s agents under a power of attorney. Mrs. Crocker is soon to be eighty-nine years old. She was born in the structure at 502 Grace Street in Smithfield. As everyone here has asked you to do and it is late; I understand that. This is important to all of us. This thing has been going on for ten years or more. I am not going to spend a lot of time talking to you about this because we are asking you to bring your common sense to this issue and your sense of what is real and what is reality. We are mindful of the people who are opposed to this action that we are requesting. They are sincere, honorable people of the town; but, Mrs. Crocker is a sincere, honorable person. What these people are asking you to do is to preserve something that they think is important. Mrs. Crocker is asking you to apply the law that you have created for your citizens and ask you to respond to that. She is a landowner. These people are landowners but she is talking about her property; where she lived until she was not able to live there anymore. Again, she is asking you to apply your laws, the laws you created, on this issue of demolition as a matter of right. There are three things that need to be proven. The first is that she has requested this of you. I have a letter that I mailed to Mr. Saunders dated January 23rd, 2019. It included the request for acknowledgement to demolish the structure as a matter of right. It was dated January 16th, 2018. It should have been January 16th, 2019. There may be a bit of confusion there. It was mailed to you under a letter dated January 23rd,

2019. It was a typographical mistake out of my office. I would like to ask you to receive this in your record to show that we are talking about an application that was filed in 2019 even though it made reference to 2018. Mr. Riddick has talked about your ordinance. The ordinance says that the owner or applicant has applied to the Town Council for such right. I think any reasonable observation of the facts of this application proves that it has been done. You next go to: "the owner has for a period of time set forth in the time schedule hereinafter contained and at a price reasonably related to its fair market value made a bonafide offer to sell such site, object building, or structure and the land pertaining thereto to whomever gives reasonable assurance that is willing to preserve and restore the landmark, building, or structure, and the land pertaining thereto." Mr. Riddick has made reference to the listing agreement. This agreement was signed by Mrs. Crocker and it listed the property at 502 Grace Street. It also made reference to tax map number 21A-04-000I. I will give a bit of background. Mrs. Crocker owns a large segment of land to the east of the bypass. She owns approximately fifty-eight acres. A little less than thirty-six acres is the parcel that was referenced in the listing agreement. It holds thirty six acres of ground or very nearly that and it contains all of the structures on the property. The Pierceville home and all of the outbuildings are on this nearly thirty-six acre piece of property. Obviously, you can see that from December 15th, 2017 until January 15th, 2019 is thirteen months if my arithmetic is correct and is somewhat more than the twelve months your ordinance requires. The purchase price in the listing agreement was \$1.5 million. They ask that you receive that. One issue that you could choose to raise is how the fair market value is determined. In fact, a gentleman here says that it was woefully out of touch. It was based upon the Isle of Wight County Commissioner's estimate for tax purposes. I will give you this. It is a bit confusing because when you look at the first page and you get a land use assessment. The second page reflects what the fair market value is. On July 1st, 2015, the almost thirty-six acres of ground had a value of \$1,438,400.00 based upon the Isle of Wight County assessment. It also had, at that time, \$9,200.00 worth of improvements on it. For what it is worth, on July 1st, 2019, it has the same value for the land and the improvement value is reduced to \$6,000.00. During the period of time that this listing was in place, the assessment for Isle of Wight County tax purposes for all of the land and all of the improvements was \$1,447,600.00. We ask you to receive that. We believe that is a

reasonable idea of what the fair market value is of that land in its current status. It is where the decision to list the property came from. Finally, we have to be able to convince you that “no bonafide contract binding upon all parties thereto shall have been executed for the sale of any such landmark, building, or structure and the land pertaining thereto prior to the expiration of the applicable time period set forth in the time schedule hereinafter contained.” We report to you that from December 15th, 2017 and January 15th, 2019, thirteen months later, no offers were received from anyone on the property; none. I think a fair reading of your ordinance that an offer has to be submitted within the time period that your ordinance requires to be listed for it to be a valid offer. What happened prior is irrelevant. Certain things did happen and people have talked about that and we will discuss it because they are factors; but I do not think it has impact on your ordinance itself. Your ordinance says that you have to do it within twelve months. We did it for thirteen months. We started on a day certain and we ended on a day certain and no offer was received within that period of time. The property has been offered for sale since 2014 almost continuously if not completely. You will recall that in 2014, Hearndon offered to pay \$2 million dollars for the property. There were some negotiations later when they brought in the commercial sites on Main Street and it went up to \$2.2 million. They went through rezoning as you recall which was ultimately denied as you will also recall. Sometime after that, in 2016, Shrine Holdings out of Virginia Beach entered into a written contract and gave earnest monies. That contract was also subject to rezoning. Before he ever initiated the rezoning process, he withdrew that. Ms. Ketchum offered about \$157,000.00 for about three and a half acres. Three and a half acres was never listed for sale. The property has always been at least the thirty-six acres and that was really only recently to comply with your ordinance. Before that, the entire fifty-eight acres was being offered. She only wanted land around the house. We negotiated and met with her. There was never, to my knowledge, a written contract with earnest money provided. There was communication but she did not present a contract with earnest money to my recollection. The last contract that we want to mention was provided by Mr. Lee Duncan. It is a fact so we are discussing it; but I do not believe it is relevant because it did not occur within that period of time that your ordinance requires you to look at. Mrs. Crocker did not draw that ordinance; you did. The ordinance says that you have to consider contracts within that twelve or thirteen

months. However, on April 7th and later April 12th, he offered to pay \$40,000.00 per acre and a \$1,000.00 earnest money deposit. He never, in this contract, offers or grants assurances that he will maintain the house or the other structures. What he says is: "purchase includes the area to be identified by buyer to acquire up to five acres with a cost to be \$40,000.00 per acre to include the house and outbuildings and driveway to house from Grace Street." It was hand written and that is what it says. He never identified where it would be and he only offered a portion of the thirty-six acres. This is outside the ordinance and it did not include all of the structures and the land pertaining to it. Let's talk about that just a minute. I will ask that this be received. The land pertaining to this property has been platted by Isle of Wight County Commissioner's office for many, many years since I do not know when. They were asking Mrs. Crocker to subdivide her property. It is our belief that it is not required by your ordinance. It says "the land pertaining thereto." The entire time we have had this discussion the land has been the entire thirty-six acres upon which the home and outbuildings sit. So, these people are sincere in asking you to apply the law in the way they think it should be. Mrs. Crocker is sincere in asking you, for about the third time, to apply your ordinance in an appropriate way. She is a citizen of the Town of Smithfield. She desires to have you impose the rule of law as your ordinance requires. What we have proven is that, without question, she has applied. Without question, she listed the property for thirteen months. An issue would be whether you think that was a fair market value. We think using the assessed value, under these circumstances, is entirely appropriate. Under your ordinance, there was absolutely no offer made during the period of time of your ordinance. I have said that two or three times and will move on. The only issue, it seems to me, that you could hang your hat on is whether it was reasonably related to the fair market value. I think we all believe that assessed value is reasonably related to fair market value. It is, obviously, a question that you have to answer. There is another practical observation that we need to explore, or identify, or talk about. This property has not had a paint brush on it for eighty years is my guess. It has been a very long time. There has been no maintenance, in my judgement, for at least forty or more years. The property has deteriorated significantly in the last twenty years and very much in the last ten years. I think we can all agree that it has deteriorated significantly in the last three years. These pictures were taken within the last week or so. There are about a

dozen of them. It will not take too long to show them to you. (*Pictures were shown to Council.*) In light of the action that you just took, which I believe was accurately taken in light of the law; no town in Virginia will be able to require people to maintain the historic setting. It is because of the enabling legislation. This enabling legislation did not mention maintenance. It just flat did not and now you cannot require maintenance. You see what has happened in the last three years. Let's recognize that this lady owns the property and has a desire to terminate its painful existence. We believe that she has complied with your ordinance. Just from common sense, it is time to let this property go and have this wonderful community assert itself in more rewarding efforts. Thank you.

Councilwoman Butler – Are there any questions for Mr. Jones? Hearing none, I would like to make a motion for consideration of the application of Mary Crocker for demolition by right for the Pierceville Manor house after hearing the presentation and the documentation that both Mr. Jones and Mr. Riddick have provided to us.

Councilman Pack – Is that a motion to demolish?

Councilwoman Butler – Yes; to demolish.

Vice Mayor Smith – Second.

Mayor Williams – A motion has been made and properly seconded. Is there any further discussion?

Vice Mayor Smith – Mr. Riddick, this offer that was made by Mr. Duncan for \$40,000.00 per acre for five acres totaling \$200,000.00 did not include the thirty-five acres. It was to be determined by him as to where the five acres would be. There was no discussion about doing anything to the buildings at all. Can we consider this a bonafide offer?

Town Attorney – Look over on page 5, Councilman Smith. There is handwritten language on page 5 of the contract. It says that “purchase includes area to be identified by buyer to acquire up to five acres and cost to be \$40,000.00 per acre to include house, outbuildings, and driveway leading to house from Grace Street.” It is the only identification.

Vice Mayor Smith – So, there was no thirty-five plus acres.

Town Attorney – No, sir. On the front page it says “1.38 acres on Main Street to include 3.62 acres. So, there was no specific identification. The other factor to consider,

Councilman Smith, is that it was dated April 12th, 2017 which is not within the twelve month period. It is prior to that.

Councilman Pack – Mr. Riddick, along those same lines with this offer, if you take \$1,500,000.00 and divide it by thirty-six you get \$41,666.00 per acre. You could make the case that the \$40,000.00 was a reasonable offer price based on the asking price. I think you could make that case; but Mr. Jones argues that there were never smaller parcels offered for sale. The entire property of thirty-six acres was for sale. It was outside of the listing time. Even if we decided to disregard this, would this offer still be a bonafide offer even though they only wanted a piece of it and to subdivide the property? I guess that is for us to make the determination.

Town Attorney – That is for you to determine. I think one consideration, Mr. Pack, is that part of his offer was for land that was not listed for sale. I believe at the time this was offered; nothing was for sale. It had not been listed. With the 1.3 acres fronting on Main Street, I do not think that is part of the thirty-five acres. You would have to see it on the map; but Mrs. Crocker owns a very large tract, a piece in front, and some smaller pieces that go behind the Christian Outreach property. There are also some pieces over on Grace Street. She owns several parcels there that comprise the fifty-eight acres. I do not think and I cannot say for sure but I think the reason he wrote it this way was because he was trying to include the property fronting on Main Street and the property where the house is. I do not know if that answers your question but that is what the contract says.

Mayor Williams – We have a motion and a second on the floor that would allow the applicant to tear the house down with demolition by right. Is there any further discussion? Hearing none, roll call vote.

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

Mayor Williams – The next item is a Motion to Approve the Town Council Meeting Minutes of July 2nd, 2019.

Town Attorney – Mr. Mayor and members of Council, I have reviewed the minutes and made minor revisions and corrections. I recommend they be approved as revised and corrected.

Councilman Hall – So moved.

Councilman Pack – Second.

Mayor Williams – A motion has been made and properly seconded. Roll call vote.

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

Mayor Williams – Our next item is to Appoint a Nominating Committee to Fill the Unexpired Term of Mr. Chris Torrey for the Board of Historic and Architectural Review. I have selected Councilman Hall and Councilman Pack. They have the next turn.

Mayor Williams – We will now move to New Business. Is there any new business?

Town Attorney – Yes, Mr. Mayor. I have a piece of new business that is good. You recently opened your boat ramp. If you recall, we had received a deed from Smithfield Foods but it had a timeline for construction in it and there was a delay in construction. They have since tendered another deed without the timeline for construction. In order to record that, I need a Motion to Accept the Deed from Smithfield Foods for Clontz Park.

Vice Mayor Smith – So moved.

Councilman Pack – Second.

Mayor Williams – A motion has been made and properly seconded. Is there any further discussion? Hearing none, roll call vote.

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

Mayor Williams – Is there any other new business?

Councilman Hall – With the boat ramp, during the dedication there was some talk about there being a no wake zone. How far does that no wake zone extend from the boat ramp?

Town Attorney – I am glad you asked that question.

Councilman Hall – The reason I am asking is because I spoke to the Game Commissioner this evening. In order for them to enforce it, there has to be signage out there and that area has not been designated a no wake area according to him.

Town Attorney – We have maps that are contrary to that. The Town Manager, the Community Development & Planning Director, and I met last week. It has been a long time since we had a no wake discussion but there are some maps that kind of conflict with each other. There is one map showing the location of the signs on the upstream side of the North Church Street Bridge by the ramp. There should be two signs at that location. The zone is supposed to run the entire length downstream until it gets to the current location downstream from the Smithfield Station where the current signs are. That entire area is supposed to be no wake. I was going to go look; but I do not think the signs are there behind Colonel Harris' old house.

Vice Mayor Smith – There is a pole but the sign is gone.

Town Attorney – Years ago when Mr. Batten was the head of Public Works, he would routinely go out and put the signs back up. He would borrow someone's barge and go and do it. I think a storm must have taken them down and that is why they are not there anymore.

Vice Mayor Smith – What is happening is that boats take off and go to the new ramp. They do not see the sign until they get to the new ramp.

Town Attorney – We were talking about this. We were going to contact the Game and Inland Fisheries but we do need their consent to mark that zone. There is no question that it is a zone. We just need to do a better job of putting signage up. Smithfield Foods sent a letter to the Town Manager addressing that. They are concerned about the wake beating the foundation underneath the pier and causing damage. I think that is a real concern.

Vice Mayor Smith – I spoke to Steve Bowman about this before the ramp was built. He said that it would be a good time to address it after the ramp was done and to put up new signs where needed and enforce that area from the townhomes by corporate and to the ramp.

Councilman Hall – In talking to Mr. Gilmore with Game and Inland Fisheries this evening, he said that he cannot enforce it until it is designated and marked.

Mayor Williams – It already is.

Councilman Hall – Well, somebody needs to tell him that.

Town Attorney – It is designated but it may not be marked as well as it should be. There is a long stretch from the Smithfield Station to the North Church Street Bridge where you do not see a sign.

Chief Howell – I spoke to Mr. Gilmore about the same thing. He indicated that the signage and the verbiage had to coincide in order for them to take enforcement action. Once that is done, their office will adopt whatever the town does and at that point they can enforce it without any issues.

Mayor Williams – One needs to be replaced and one needs to be added at the boat ramp.

Councilman Pack – It is not that easy. You cannot put a piling in the water without proper permitting.

Mayor Williams – I did not say that. I just said that is where we need them.

Councilman Pack – We can put them right on the boat ramp.

Mayor Williams – And replace the missing one.

Councilman Pack – If we need a boat to do that then I have one the town can use to put the signs up.

Town Attorney – The map I have shows the pole in the middle of the zone where the signs are missing. It is supposed to have signs on both sides. Maybe that is not necessary; maybe you could just put two signs up facing both ways. It might work just as well. We probably need to enter into some discussions with the Game and Inland Fisheries about the signage or VMRC.

Mayor Williams – I can contact Steve Bowman and ask him to handle it. I think he would be more than glad to.

Town Attorney – That would be great. I can meet with him. I have an ancient file that goes back to the 1960's.

Mayor Williams – Is there any other new business?

Councilwoman Haywood – Yes, Mayor. I have had a couple of people ask me if we are going to repaint the pedestrian crosswalks on Main Street. There used to be some white lines around it. It is hard to see now. It is just on Main Street where we put the bricks in.

Town Manager – We will look at it.

Vice Mayor Smith – I have one item for new business. There was talk some months back about changing the speed limits to 25 mph past Cypress Creek Bridge. VDOT did not recommend it. However, they did mention some verbiage about a crosswalk and lighting possibly at the Smithfield Station. The reason I am bringing this back up is because day before yesterday I was going to work early and there was an elderly woman walking her dogs. She was coming from the park and one of her dogs got lose and I almost hit all three of them including her. She ran after the dog and I think we really need to bring that section to light with some type of flashing lights. It was really bad and I thought I was going to take them all out.

Mayor Williams – Are you talking about illuminating lights?

Vice Mayor Smith – Or flashing lights.

Town Manager – Vice Mayor Smith is correct. It was part of their recommendations when they denied the speed decrease. We can look at that again. I think they had mentioned about asking the county for safety money they had.

Mayor Williams – I do not know that she would have stopped because the lights were flashing.

Vice Mayor Smith – It makes people aware that you need to slow down. If somebody is standing there to cross then you need to stop.

Mayor Williams – You do see that a lot right there. I agree.

Vice Mayor Smith – It can be dangerous.

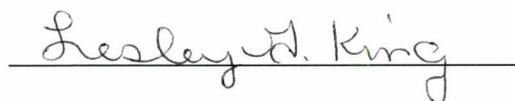
Councilman Hall – People park over there to access the bridge to the park. There are a lot of folks that will walk around the streets to go over there and then circle around. There is a lot of activity there especially that time of the morning.

Mayor Williams – Is there any other new business? Hearing none, we will move to Old Business. Is there any old business? Hearing none, we are adjourned.

The meeting was adjourned at 9:01 p.m.



Mr. T. Carter Williams
Mayor



Mrs. Lesley King
Town Clerk