

The Smithfield Town Council held its regular meeting on Tuesday, August 7<sup>th</sup>, 2018. The meeting was called to order at 7:30 p.m. Members present were Mr. T. Carter Williams, Mayor; Mr. Michael Smith, Mrs. Denise Tynes, Mr. Randy Pack, Ms. Valerie Butler, Mr. Wayne Hall, and Ms. Beth Haywood. Staff members present were Mr. Brian S. Thrower, Town Manager; Mrs. Lesley King, Town Clerk; Ms. Ellen Minga, Town Treasurer; Mr. Alonzo Howell, Smithfield Police Chief, Mr. William H. Riddick, III, Town Attorney; Ms. Judy Winslow, Director of Tourism; Mrs. Ashley Rogers, Human Resource Director; Mr. Matt Rogers, Deputy Chief of Police; and Mr. Chris Meier, Patrol Lieutenant, Smithfield Police Department. There were approximately eleven (11) citizens present. The media was represented by Mr. Dale Wolf of The Smithfield Times.

Mayor Williams – Good evening ladies and gentlemen. Welcome to the Smithfield Town Council meeting of August 7<sup>th</sup>, 2018. It is now 7:30 p.m. We have with us tonight Mr. Elliott Walker with Boy Scout Troop 36. Would you come up and lead us in the Pledge please?

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

Mayor Williams – We will start off tonight with the Informational Section with our July Activity Report by our Town Manager, Mr. Brian Thrower.

Town Manager – Honorable Mayor and Council, you have the Manager's Report attached to your agenda. I will be happy to answer any questions if you have any. We have several Upcoming Meetings and Activities. On August 14<sup>th</sup> at 6:30 p.m., we will have our Planning Commission meeting. The Board of Historic and Architectural Review will meet on August 21<sup>st</sup> at 6:30 p.m. The Board of Zoning Appeals will not have a meeting this month. On August 27<sup>th</sup> and 28<sup>th</sup>, we will have Town Council Committee meetings at 3:00 p.m. at the Smithfield Center. Thank you.

Councilman Pack – I would like to add that after the 6:30 p.m. Planning Commission meeting this month, the Planning Commission is going to stay for a work session for a couple of different items.

Mayor Williams – Thank you. We will now move to Public Comments. The public is invited to speak to Council on any matter except for scheduled public hearings. Comments are limited to five minutes. Any required response from the town will be provided in writing if you so desire. Please state your name and address when you come to the podium. We have one person signed up this evening, Mr. O.A. Spady.

Mr. Spady – Thank you Mr. Mayor and Council. It is my understanding that, at the last meeting, the Council voted to allow the brewery to put a restaurant dumpster at the bottom of Wharf Hill on property that the town owns which is used for parking. To bring you up to date of why I am here, I happen to be the owner of Parcel C. I did not buy it. A friend of mine had a little problem and I loaned him some money and now I own it. I hope to sell it at some time in the future. I may have paid a little more for it than it was worth; but I do not want to depreciate the property any if I can help it. I think if you put a restaurant dumpster at the bottom of the hill you will attract rats and cats and also raccoons. I have been told that raccoons are worse since they go in and bring out what they want. I think it will devalue the value of my property. I will talk to an appraiser to see; but that is the reason I am here. I do not think it is the right place for a dumpster. I have nothing against Mr. Duncan. I think he has done a wonderful job. He is braver than I am with some of the projects that he has done. He has been in business for four years and is doing very well so I am asking why now? It would probably be more convenient for him but not for me. I dare say that none of you here would want to have a restaurant dumpster 200 feet from your front door. Thank you.

Mayor Williams – Thank you Mr. Spady. Would anyone else like to come forward for public comments?

Mr. Gerald McCullen – I am a nearby property owner and would agree with everything that Mr. Spady just said.

Mayor Williams – Thank you. Is there anyone else who would like to speak? Seeing none, we will move to a Briefing by Mr. Dick Grice, Isle of Wight County Board of Supervisors, Smithfield District.

Supervisor Grice – Good evening Town Council, town staff, and attending Smithfield residents. On July 19<sup>th</sup>, the Board met at their regular monthly meeting. Issues addressed that evening included a Port of Virginia update on ongoing expansion of facilities and capacity by the Port. The planning we have heard about for years is now underway. Container volume has increased approximately 39% since 2016. The Town Council may wish to invite the Port Authority to one of its Town Council meetings to present the same report to you all. It is really very, very interesting. The Port intends to increase the barge traffic between the Port and Richmond; but, when asked, they assured the county that the barges will not impact the James River Bridge lifts. Barges

go under the bridge without a lift. We also held two public hearings both of which addressed updates to current county code with respect to recent state legislative actions and updating of terms and definition language. Since there were no public comments, the Board had a brief discussion of each and both of the updates were passed. The turn lane improvements for Turner Drive/Route 258 to Route 10 scheduled for this summer were delayed due to engineering issues. This \$600,000.00 project is fully funded by grant funds. After review and agreement with the schools and VDOT, the project will be rescheduled for September and November rather than delaying it until next summer. We were sure to meet with the schools to make sure this met with their approval. To minimize the impact on school traffic, it has been agreed that all lane closures throughout the project will be closely coordinated. They will be scheduled from 9:00 a.m. until 2:00 p.m. daily rather than the typical 8:00 a.m. until 4:00 p.m. During the heaviest traffic times, there will be no lane closures other than the one under construction which is the turn lane. We continue to conduct some old business with the Blackwater property. The Board has elected to table the offer from the Department of Game and Inland Fisheries until March of 2019. Between now and then, the Director of Parks and Recreation has been directed to establish a task force to develop recommendations for the Board's consideration on how the 2,500 acre property is to be managed and operated. Their mission is to provide a program that best serves the residents of Isle of Wight in a manner that does not cost our residents additional expenses which is an interesting challenge. If you are interested in serving on this task force, please contact the Director of Parks and Recreation. I assure you that it promises to be an interesting and challenging undertaking. The 800MH 911 radio system project is now in the live testing phase. All of the radios will be delivered to the county by the end of September. The system should be fully operational by year end if not before. The county is pleased to have partnered with the town by assisting with the financing of their radios so the town does not need to take a separate loan and incur that loan's associated interest charges. Additionally, both the county and Windsor have approved the MOU for ongoing maintenance of the system. I believe this issue is on your agenda for this evening. Based on traffic studies and population, the county's portion of the maintenance expense will be increasing from 63% to 72%. Both towns' contribution percentages were reduced. On August 2<sup>nd</sup>, the Board held a work session focused

solely on the county's Fire and EMS on how the eight independent organizations operate, service standards, baseline equipment and training, and how best to manage this function that provides the citizens one of the best volunteer, full time services in the Commonwealth. In the 2014/2015 time frame, the historic cooperation between the independent companies and volunteer association was challenged. Facilities and operating budget issues were in dispute. Since then, all organizations have worked to resolve differences, re-establish trust, and all the while contributing to providing for the safety and wellbeing of our residents. The entire meeting is available on the county website. I encourage all citizens to watch it. You ought to know what you are paying for and what you are getting. It is an outstanding program. It provides both history and pride/dedication of our volunteer full time organizations and the desire of all to continue these services into the future. It takes an understanding of the historical and current ongoing operations in order to develop the means of assuring a successful future. This meeting was not an end all; but just the first step in developing the tools needed to carry us forward. The county truly needs to recognize the contribution of our volunteers and must ensure they are included in our management strategy process going forward. They have to be part of it. Does anyone have any questions or comments?

Councilwoman Tynes – Are they going to be establishing new turn lanes on Turner Drive/Route 258 or are they extending the turn lanes that are there now?

Supervisor Grice – It is a 200 foot new turn lane coming from the schools going out to the right on Route 258. There is another one that will be extended. I am sorry. I do not know the details for that one. I would have to have the map in front of me to explain it further.

Councilman Hall – Mr. Grice, about the barges, you said that the barges can go under the draw without the bridge being lifted. Does that include the vessel that is moving the barges? I have seen a lot of barges that could go under that would pass but the vessel on it will not.

Supervisor Grice – We questioned that. The frequency of this would allow for the movement of those barges without increasing the lifts on the bridge. They know how much that would seriously impact our community.

Councilman Hall – I know it may be a tricky question.

Supervisor Grice – I did not think to ask that question; but I guarantee you I will tomorrow.

Councilman Hall – I think it is a valid question; quite frankly.

Supervisor Grice – It is; not only the numbers of containers going up to Richmond but the frequency. I think they only go up three days a week now. They accumulate and then go up. They will be able to stack lower by increasing the frequency.

Councilman Hall – Thank you.

Supervisor Grice – Since there are no other questions, I would like to extend an invitation to the Town Council. I try to present a presentation of the ongoing information of the county's business each month. I would ask that the Council reciprocate by updating the Board of Supervisors in a similar presentation. It could start with a quarterly presentation addressing town programs, issues, and concerns. The more open communications we have; the better we serve our mutual citizens. Thank you. Please give it your consideration.

Mayor Williams – We certainly will. Thank you. It is a good idea. We will now move to Council Comments. Are there any comments from the Council members?

Councilwoman Tynes – I would just like to thank all of you that came out to the National Night Out tonight. It was the 35<sup>th</sup> National Night Out. Our first responder staff members did an excellent job. We had the community come out. It is always the second Tuesday of August. For some reason, it is always the hottest day during the season. I would like to thank everyone that came out tonight and all of you that participated in bringing this event to our community. I also wanted to say that I met a gentleman tonight. I asked him if he lived in Smithfield. He was from Virginia Beach. I thanked him for coming out and joining us. I understand why he did because we have a very safe community. I told him to go out to Windsor Castle Park to see the sunflowers. He had seen the pictures on social media and promised to do that. Sometimes, we think it is just locals that come out to our events; but they come from all over. Thank you.

Mayor Williams – I would like to make sure that everybody understands that our Committee meetings will be on August 27<sup>th</sup> and 28<sup>th</sup> at 3:00 p.m. instead of 4:00 p.m. Please make a note of that. Speaking of the sunflowers, it is the hottest topic in the Town of Smithfield right now. You cannot go there anytime during the day without seeing five or six cars on the road. People are walking around and taking pictures. I

want to publicly thank Mr. Dean Stallings for donating the sunflower seeds and the Roundup to kill the grass that was there. He planted those and did not charge the town a single thing to do that. I have already talked to him and he is looking forward to doing it again next year. He has a game plan that he wants to bring to Council and mix it up with a little cotton and a few other things to make it a little bit different. Again, I want to thank Mr. Dean Stallings. It is a hot place to visit. I had no idea it would bring that many people out there. The Smithfield Police Department has not joined in on the lip sync challenge. I want you to see if you can get them going on that please. Talk to the Chief please. We have an outstanding Police Department.

Councilwoman Tynes – I know that but you have to be invited by another department. The Chief and I have been going back and forth. The challenge has to come from another department and no one has challenged us yet. We have been working on it.

Chief Howell – Mr. Mayor and members of Council, the challenge has not come from another police department; but the challenge has come from the citizenry. I am happy to stand before you all tonight as the Chief of Police and announce that this Thursday we will be shooting our Lip Sync Challenge along with members of the police department. We will be shooting so standby. We wanted to put a professional package together so that it would represent the town in a professional manner. I look forward to this event. I am going to try to stay in the background if I can. I am excited about it because I feel it is about team building and building a stronger partnership with the community. Mayor Williams, I thank you for your comments. It gives me an opportunity to stand before you tonight and let you know what we have planned.

Councilwoman Tynes – Everyone is invited to come out. We would love to see your faces. This includes our Town Attorney, Mr. Bill Riddick.

Chief Howell – We are going to start around 8:00 a.m. and be at the Smithfield Times building around 10:30 a.m.

Mayor Williams – Everybody needs to show up. Thank you Chief Howell. I look forward to seeing you all on television. We will now move to our Summary of the Consent Agenda. We have thirteen items tonight. Would any Council member like to pull any item for further discussion?

Councilman Pack – Yes, Mr. Mayor. If we could, I need to pull Item C8 please.

Mayor Williams – Are there any others? Hearing none, we will move to our Police Committee Chair, Mrs. Denise Tynes.

Councilwoman Tynes – Police Committee Summary. The first item is a resolution to appoint the following individuals to the Crime Prevention Team: Councilman Wayne Hall, Officer Seamster, Joseph Reish, Marian Aiden, Joyce Bowser, Jody Meier, Francis Jewell, and Kimberly Hasty. I would like to thank all of these individuals for volunteering and participating on this prevention team. Item C2 is a motion to authorize the Town Manager to order two budgeted police vehicles for FY 2018/2019. These, as I said, are budgeted vehicles. We are not going out of the budget to buy these things. Every so often, we have to replace these cars because they are getting older. We do not want them to break down on the officers. We have to keep them up. The next item is a motion to approve the request to donate a retired 2011 Dodge Charger to the Isle of Wight Volunteer Rescue Squad. This is one of the retired police vehicles that we would like to donate to them. We have done this in previous years. We also donate to the fire department. The rescue squad has requested one this year. We also have a resolution to approve the street closure request for the Ruritan Car Show on Saturday, September 22<sup>nd</sup>, 2018. This is an annual event. A lot of people turn out.

Mayor Williams – We will now move to item C5 with our Finance Committee Chairman, Mr. Randy Pack.

Councilman Pack – Finance Committee Summary. Any invoice over \$10,000.00 requires Council authorization. Our first invoice is to Windsor Castle Restoration, LLC for \$200,000.00. It is a draw to move forward at Windsor Castle. If you have been following the discussion on this, this is twice the normal draw; however, there is a large invoice looming that they are preparing for with this draw. It will be for cedar shakes on the roof of the Manor house. The next invoice is for Tidewater Stalls for \$12,859.33. This is for the restrooms here at the Smithfield Center. Bryant's Excavation has an invoice for \$10,000.00. This was a not to exceed amount for the tree removal and underbrush removal at Windsor Castle Park. Finally, we have two payments on bonds to PNC Bank. The first is for the obsolete sewer treatment plant. We have still been paying the loan down from many years ago. The amount is for \$127,199.78. The other PNC Bank invoice is for the RO Water Treatment Plant in the amount of \$220,403.85. These are the payments we make twice a year. Item C6 is a motion to renew a vehicle

maintenance contract with Smithfield Truck and Auto for one additional year. After working with staff and the police department, we are happy with what is going on there. There is a small \$5.00 increase on oil changes; but other than that, the contract remains the same. Item C7 is a resolution to renew the line of credit with TowneBank for the Pinewood Heights Relocation Project. This is a \$500,000.00 line of credit. We have never had to use it and we hope we never have to use it; but we like to keep it in place for the future. With Item C8, I have asked to pull that for further discussion. I am a member on the Community Board with Farmers Bank and I cannot vote on that item.

Mayor Williams – We will now move to our Parks and Recreation Committee Chairman, Mr. Wayne Hall.

Councilman Hall – Parks and Recreation Committee Summary. Item C9 is a motion to authorize the amendment for additional services with Kimley Horn Associates for the Clontz Park Boat Ramp project. Item C10 is a motion to authorize material testing and inspection services from GET Solutions, Inc. for the Clontz Park Boat Ramp project.

Mayor Williams – We will now move to our Public Works Committee Member, Mr. Michael Smith.

Vice Mayor Smith – Public Works Committee Summary. I am standing in for Beth Haywood tonight as a member since she had surgery today. We are glad she is here tonight and doing well. We have a motion to renew our debris removal contract with Goodrich and Sons and Smithfield Services for one additional year. They have been happily married with each other and the town so we want to approve that tonight. Also, we have a motion to approve a proposal to pave the 100 and 200 blocks of Main Street with Blair Brothers, Inc. I am so happy to see this getting ready to take place. I think they are scheduled for around mid-September. I think the residents and businesses on Main Street know. They have been informed. We are really looking forward to this. I ride down that street a lot. Thank you.

Mayor Williams – Our next item is a motion to appoint the Town Manager to serve as the town's representative on the Hampton Roads Planning District Commission. We have to appoint him. Peter Stephenson was a member. We approved him many years ago. I am also a member that was approved to serve on that committee. They meet about every two months or so.

Councilman Pack – Mr. Mayor, I would like to make a motion that we approve the consent agenda with the exception of C8.

C1. Resolution to Appoint the Following Individuals to the Smithfield Certified Crime Prevention Team: Councilman Wayne Hall, Officer Seamster, Joseph Reish, Marian Aiden, Joyce Bowser, Jody Meier, Francis Jewell, Kimberly Hasty.

C2. Motion to Authorize the Town Manager to Order Two (2) Budgeted Police Vehicles for FY 2018/2019.

C3. Motion to Approve a Request to Donate a Retired 2011 Dodge Charger to the Isle of Wight Volunteer Rescue Squad.

C4. Resolution to Approve the Street Closure Request for the Ruritan Car Show on Saturday, September 22<sup>nd</sup>. 2018.

C5. Invoices Over \$10,000.00 Requiring Council Authorization:

a. WC Restoration, LLC	\$200,000.00
b. Tidewater Stalls	\$ 12,859.33
c. Bryant's Excavation	\$ 10,000.00
d. PNC Bank	\$127,199.78
e. PNC Bank	\$220,403.85

C6. Motion to Renew the Vehicle Maintenance Contract with Smithfield Truck and Auto, LLC for One Additional Year.

C7. Motion to Renew Line of Credit with TowneBank for the Pinewood Heights Relocation Project.

C8. Pulled from Consent Agenda.

C9. Motion to Authorize the Amendment for Additional Services with Kimley Horn Associates for the Clontz Park Boat Ramp Project.

C10. Motion to Authorize Materials Testing and Inspection Services from GET Solutions, Inc. for the Clontz Park Boat Ramp Project.

C11. Motion to Renew Debris Removal Contract with Goodrich and Sons and Smithfield Services for One Additional Year.

C12. Motion to Approve the Proposal to Pave the 100 and 200 Blocks of Main Street from Blair Brothers, Inc.

C13. Motion to Appoint the Town Manager, Brian S. Thrower, to Serve as the Town of Smithfield's Representative on the Hampton Roads Planning District Commission.

Councilwoman Tynes – 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, seven members were present. Vice Mayor Smith voted aye, Councilman Hall voted aye, Councilman Pack voted aye, Councilwoman Butler voted aye, Councilwoman Haywood voted aye, Councilwoman Tynes voted aye, and Mayor Williams voted aye. There were no votes against the motion. The motion passed.

Mayor Williams – Our next item is Item C8 that was pulled by Councilman Pack.

Councilman Pack – We have a Resolution to Renew Line of Credit with Farmers Bank. This is a \$1,000,000.00 line of credit that we hold with the bank in case we are ever in need of it. We are currently not in need but it is a good idea to keep this line of credit open. At this time, I would like to make a motion that we approve the resolution to renew the line of credit with Farmers Bank.

Vice Mayor Smith – 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, seven members were present. Vice Mayor Smith voted aye, Councilwoman Butler voted aye, Councilman Pack abstained, Councilman Hall voted aye, Councilwoman Haywood voted aye, Councilwoman Tynes voted aye, and Mayor Williams voted aye. There was one abstention. The motion passed.

Mayor Williams – The motion carries. We will now move to the Action Section of the agenda. The first item is a Motion to Approve the Town Council Meeting Minutes of July 10<sup>th</sup>, 2018.

Town Attorney – Mr. Mayor, I made one or two minor corrections and would recommend the minutes be approved as corrected.

Councilwoman Tynes – So moved.

Vice Mayor Smith – 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, seven members were present. Councilwoman Haywood voted aye, Councilwoman Butler voted aye, Councilman Hall voted aye, Councilman Pack voted aye, Vice Mayor Smith voted aye, Councilwoman Tynes voted aye, and Mayor Williams voted aye. There were no votes against the motion. The motion passed.

Mayor Williams – Under New Business, we have a Motion to Accept Quitclaim Deed for the Construction of the Public Boat Ramp at Clontz Park. This is between the Town of Smithfield and Smithfield Foods on the Clontz Park land.

Town Attorney – Mr. Mayor and members of Council, to explain to the new members, Smithfield Foods generously agreed to donate the Clontz Park property to the town. For the longest time, we have had a license agreement with them to operate the park and the fishing pier. With the ability to build a boat ramp there, they agreed to donate it. They have done this twice before. They put some conditions on it such as a start date and a completion date. The initial bid came back so expensive that we had to bid it again. They extended those terms and it required that construction had to begin by April. We could not begin by then so they agreed to, once again, convey the property to the town with the condition that the construction be completed within twelve months from the time we record the deed. It should be possible. Our time frame is three hundred days. They are supposed to start tomorrow; I believe. The other condition is that it will revert to Smithfield Foods if we ever cease to use it for a boat ramp, park and fishing pier. In other words, we cannot put it to another use which is why they gave it to us. We have discussed this before and feel that those conditions are reasonable. Accordingly, I would recommend that you vote to accept this deed. He will authorize me to record this once he sees that construction starts. Hopefully, I will get that authorization tomorrow; but we still need Council's authorization to accept the deed.

Councilman Hall – I would like to make a motion to accept the quitclaim deed for the construction of the public boat ramp at Clontz Park.

Councilwoman Butler – Second.

Mayor Williams – Mr. Thrower, have you talked to anybody about the definite date that they will start.

Town Manager – We have a pre-construction meeting scheduled for next week; I believe. They will be starting in the next week or two by mid-August.

Mayor Williams – I think we really need to stay on top of them. We are almost in a predicament here with the timeline.

Town Manager – We have three hundred days to complete the project.

Town Attorney – The agreement says twelve months from the date of the deed. The deed is dated August 3<sup>rd</sup>, 2018. We have until August 3<sup>rd</sup>, 2019. We should be substantially completed by then; but you are right, Mr. Mayor, they need to get started.

Mayor Williams – I am asking the Town Manager to stay on top of it even if we have to call them every day. This thing has been going on for a long time. I do not think we will get another extension. Is there any further discussion? Hearing none, roll call vote.

On call for the vote, seven members were present. Councilwoman Tynes voted aye, Councilwoman Haywood voted aye, Vice Mayor Smith voted aye, Councilwoman Butler voted aye, Councilman Pack 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 the Emergency Communications Center Memorandum of Understanding (MOU) and Payment Agreement - Request to Approve.

Town Manager – Honorable Mayor and Council, this is the item that was referred to earlier tonight by Supervisor Grice. As you are aware, the Town of Smithfield, Town of Windsor, and Isle of Wight County established a centralized Emergency Communications Center to serve area law enforcement, Fire and Rescue, and emergency services under a consolidated Emergency Communications department back in 2002. You have a revised agreement that updates the terms of the previous agreement to include operations of the newly constructed radio system as well as the percentage of capital and operational costs for each locality over and above the revenues collected telephone charges and communication taxes. It also attaches a payment agreement between the Town of Smithfield and Isle of Wight County outlining the terms of repayment for the new radios purchased by the county on behalf of the town. The cost of the radios totals \$245,000.00. The town will repay this over five years. You have the attached amortization schedule with your packet. I do recommend that you approve both the revised Emergency Communication Center agreement as well the payment agreement so we can pay Isle of Wight County the amount that is currently due of \$50,000.00.

Town Attorney – The payment agreement was sent to me by the county attorney this past week. Under his terms, as proposed, we would already be in default since the first payment was due on July 15<sup>th</sup>. We revised this to give us the thirty day grace period. The agreement now provides that thirty day grace period. I spoke to the Town Treasurer and she is happy about that. Supervisor Grice misspoke but he was sort of right. The county financed this through their bond issue. We still pay interest. He misspoke about that. We are still paying interest; but it saved the town a lot of money in that we did not have to go out and incur the cost of borrowing the money ourselves through some sort of bond issue. They have already done all that and we just kind of piggybacked on their financing. There is an amortization schedule that shows that we are paying approximately \$7,000.00 to \$8,000.00 in interest over the next five years; but it is the same thing that the county is paying. It is pretty low interest at 1.65% so that works in the towns favor. The payment agreement is very simple. It says that we will pay them every year for the next five years.

Councilman Pack – I have some concerns with this agreement. As the county has grown, they have reduced the town's portion based on population and that is fantastic. We certainly appreciate that; but, moving forward, is there a tool in here to continue to look at the balance of population so that each locality pays its fair share? If the towns were to grow or the county were to grow, the fair share would be allocated between the them. The way I read this document, I did not see that.

Town Attorney – No, I do not think so. The Town Treasurer and I did not see this either. This was something that the town worked out between the Town Manager and the County Administrator. It appears that what they did was take the old MOU and just adjusted it. They added references to the new radio system and then adjusted the percentages down based on the population. If that is something that you are concerned about then we need to go back to them with that caveat for a new mechanism because that is not in here.

Councilman Pack – This is a long term agreement so I think we need to consider that. As far as the fiscal administration section, one thing that we always run into, is that while these percentages stay the same we do not have a say so in what happens when we follow the county's lead. If the county were to give all their employees a 100% pay rate then we have effectively agreed to that pay rate and are willing to pay our 21.2% to

do so. It is the problem that we have had with MOU's in the past. Without having any say so or input on here, I would like to see the town have some input on the fiscal administrative agent for this. I do not think we need to go in there and tell them how to run it; but we need to have some say so if we are going to fund 21.2% of it. This is an additional cost for the town; but it will be offset with cost that we currently have by having our own system now. Maybe the Town Treasurer could answer this. What are we looking at as far as a delta between what we are paying now and what we will be paying once we get solely on this system? Do you have those numbers?

Town Treasurer – Are you talking about the change in their rate?

Councilman Pack – Yes.

Town Treasurer – I am not really sure until I go back and calculate that. It does vary depending on what their expenses are. It is a good point that you brought up. The Chief of Police is on the Board as well as the Town Manager so there is some say in what the budget is. I think the biggest issue that we ran into in prior years was if there was a major change after the fiscal year had begun. We did not really have any notification or say so in that type of budget adjustment that really impacted us. I think that is the biggest concern.

Mayor Williams – Yes; that has happened before.

Councilman Pack – To be clear, I am 100% on board with this project. I think it is fantastic. Truthfully, I think the Chief of Police would argue that we do not have a choice really. Our police officers need to be able to talk to fire and rescue and I get that. It is a great system. I just want to make sure that it is administered squarely and is a fair deal for the town as well so that we have a couple of options to protect our own interest in here.

Town Manager – Just to clarify, it is my understanding that the county and the Town of Windsor have both already approved this document. We are the last ones onboard to approve it. If I understand your comment, it does say in the agreement that “the Board of Directors shall review the allocation criteria on a fiscal year/annual basis.” It is in the second paragraph from the bottom under Allocation Costs. It says “the Board shall make recommendations to the county and the town for any changes to the initial allocation percentages.” There will be a way to deal with that on the fiscal administrative

side. I can communicate that to the County Administrator that it is something to possibly amend in the agreement or clarify.

Councilman Pack – Mr. Riddick, are you satisfied with the language that the Board of Directors shall review the allocation criteria on a fiscal year/annual basis? Does that cover our bases?

Town Attorney – I think it does; yes. I do not know where this agreement came from; truly.

Town Manager – This was laid in my lap when I first came here. I met with Randy Keaton and Michael Stallings a couple of weeks ago about it. I have not even attended a meeting yet.

Mayor Williams – Do you know how many people are on the Board of Directors, Mr. Thrower.

Town Manager – I am not sure offhand.

Mayor Williams – We have two members. If it is a thirty member Board then we do not count for much.

Chief Howell – The Board includes the towns Police Chiefs, the Sheriff, the County Administrator, the Town Managers, and representatives for fire and rescue.

Mayor Williams – So, we are well represented then.

Town Attorney – Prior to the paragraph that the Town Manager pointed out, there is a statement that says that portions of the cost are based on certain factors and they are set forth. I think the combination of those things gives you some comfort.

Councilman Pack – And with the fiscal administrative agent is that controlled by the Board? I see that the Board set the percentages. I just know we have been down this road before with other stuff. I know we are in a different spot with the county now. They will have elections before long and we might have a different Board. I just want to make sure that we do not have to go down that road again. It was not fun. I just want to make sure we have a say so in the fiscal administrative agent on it as well. I can agree with the percentage changes but with the fiscal administrative agent I am not so comfortable.

Town Attorney – This says that the county is the fiscal agent. It then goes on to say if they determine that you need outside counsel then you are going to pay for it with the same percentages.

Councilman Pack – It also says that they will be responsible for furnishing accounting, purchasing, personnel and payroll. If we are unhappy with that and the rates that they are paying and how they are handling it, we do not have a say so in that other than the 21.2% expenses being covered by the residents of the Town of Smithfield.

Town Manager – I believe what you are trying to say is that if they want to give their employees raises then do they have the ability to do so themselves or is that an act of the Board. Is that correct?

Councilman Pack – What happened in the past is that the county passed raises along; which is fine. It is within their right to do that but when they were paid more; we were expected to pick up a percentage of the increase. It happened mid-year.

Town Treasurer – It was mid-October so we were stuck. It was a significant amount. They have rectified this; but another issue that I think is important is for us to be able to see details of the budget. The money they were getting from the Comp Board for the E911 personnel was not being allocated to offset the expenses among the towns. It was just being absorbed by the county. We discovered that in the true-up one year and that is when we had the real issues with what we owed them. I think they finally did rectify that. I did confirm that last year that was definitely taken into consideration for the final expenses that were distributed among the towns and the county. We definitely do need to see details on the budget, once they determine it, to be sure that we are in agreement with how it is being allocated. It is not just what the percentages are; but how do you get to the bottom line of what is being distributed to make sure we are getting credit for everything we should get credit for. It does seem to have been rectified. I am comfortable with it right now.

Councilman Pack – Without having some sort of say so in the administrative fiscal agent, I know they want this passed but.....

Town Attorney – I do not think that is what that really says. I think the section on the fiscal administrative agent basically says they are the fiscal administrative agent. It then goes on to say that the county is responsible for furnishing those functions to support the Communications Center.

Vice Mayor Smith – What would bring outside counsel about, Mr. Riddick?

Town Attorney – Let's say they had some horrible tragedy and there are allegations of negligence and that sort of thing. They would need outside counsel to defend the Communication Center's actions. Something like that would normally be covered by insurance though. It is what you have liability insurance for. Sometimes, there are things that are not covered by liability insurance that would require outside counsel.

Councilman Pack – So, you are telling me that this does not read that the county shall be responsible for furnishing accounting, purchasing, personnel, and payroll functions for the Center as well as legal counsel and that we.....

Town Attorney – No. I am telling you that is what that does say.

Councilman Pack – But we are not responsible for paying a portion of those items.

Town Attorney – A portion of the cost is for the outside counsel expense; but I do not think this is saying that.

Councilman Pack – I can live with the outside counsel portion.

Town Attorney – I think what this is intended to say is that, as part of the county's responsibility, they have to provide these other services to the Center. It is how I read it. It says "the county shall be responsible for furnishing accounting, purchasing, personnel, and payroll functions for the Center as well as legal counsel." It then goes on to say "if, in the opinion of the county attorney, outside counsel is necessary for provisions of legal services at the Center; the cost will be apportioned between the county and the towns as follows." It then goes on to state the same percentages.

Town Manager – As far as who controls the wages for the employees and the manager it talks about "the Board of Directors shall select a Communications Manager who shall be responsible for overall management of the Emergency Communications and Radio Center." It then talks about "determination of employment of such employee shall be made the Communications Manager, wages for employees accepting employment shall be determined by the Board of Directors and the fringe benefits for such employees shall be the same as those enjoyed by new employees of the Communication Center." It then talks about "the Board establishes the wages for the Communications Manager and directs and controls that position." The Board of Directors does have control over that side of the cost.

Mayor Williams – It is on page 95, Mr. Pack.

Councilman Pack – I know we need to get this moving along and approved tonight.

Mayor Williams – There are about three gray areas in here that you are alluding to.

Councilman Pack – Yes, there are.

Mayor Williams – You can read them both ways. We just have to lean on our Town Attorney to make that assumption.

Town Attorney – Unfortunately, we did not get this in time for discussion at the Committee meeting.

Councilman Pack – I know what we want it to read. I know how we expect it to read.

Mayor Williams – We can approve it as amended by the Town Manager and the Town Attorney.

Town Attorney – We will have to meet with them.

Councilman Pack – And get some clarification.

Vice Mayor Smith – Can you do that before the grace period is over?

Town Attorney – Well, we can fix that too. If you have reservations about it, now is the time to deal with them because we have been down this road before. Your concern is well founded.

Councilman Pack – I said earlier, to some other Council members, that I feel like I personally push things too hard to get them done. Is it reasonable to push this back a month?

Town Manager – There is no rush on the actual agreement. The rush is on the payment.

Town Attorney – I think you need to pay anyway. We have an obligation to pay. They have borrowed the money and we will benefit from that. The overall terms for your long term relationship with the county with respect to this new Communications Center and the ongoing agreement needs to be satisfactory to all concerned. We have had issues in the past.

Councilwoman Tynes – Why don't we just agree to pay them tonight with the contract language pending.

Councilman Pack – I am fine with that. I understand the need to go ahead and make the \$50,000.00 payment to the county. I would like to table this for a month and get the gray areas worked out so that we are comfortable when we sign a long term MOU with the county.

Town Attorney – I had a conversation with the Town Treasurer earlier. The money is in the budget. It just kind of snuck up on us.

Councilman Pack – At this time, I would like to make a two part motion. We will go ahead and pay the \$50,000.00 towards the communications equipment that we agreed to. The second part of the motion would be that we ask the Town Manager and the Town Attorney to clarify the gray areas that we discussed this evening to ensure that we have a system in place to note the population change percentages as the population changes. Also, clarify the fiscal administrative side. The way that it reads is that they cover it and we only have to cover a portion if they seek outside counsel.

Councilwoman Tynes – Second.

Town Attorney – Mr. Pack, would you agree to amend your motion to authorize the execution of the payment agreement instead of just paying \$50,000.00.

Councilman Pack – Yes, sir. Absolutely.

Town Attorney – The whole agreement.....

Councilman Pack – Yes.

Councilwoman Tynes – Second.

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, seven members were present. Councilman Hall voted aye, Councilman Pack voted aye, Councilwoman Butler voted aye, Vice Mayor Smith voted aye, Councilwoman Haywood voted aye, Councilwoman Tynes voted aye, and Mayor Williams voted aye. There were no votes against the motion. The motion passed.

Mayor Williams – Is there any further new business? Hearing none, we will move to Old Business. We have Further Discussion on the Approved Dumpster by Vice Mayor Smith.

Councilman Smith – Thank you, Mr. Mayor. First of all, I would like to disclose that I live on Commerce Street. I belong to the Homeowner's Association down there. It is

the Pagan River Condominium Association. I want you to know that I am a part of that community down there. I enjoy living there; but I also have to listen to some of the people I live around. I also have to pay attention to people that are adjacent property owners that are concerned about this situation of the dumpster that we decided we were going to move forward on. At this time, with the controversy we have had with letters written and also by the Treasurer of the Homeowner's Association, I would like to make a motion to move this back to our Committee meeting for further discussion.

Councilman Hall – Second.

Mayor Williams – A motion has been made and properly seconded to move the discussion on the approved dumpster back to our Committee meeting on August 27<sup>th</sup>, 2018. Is there any further discussion? Hearing none, roll call vote.

On call for the vote, seven members were present. Vice Mayor Smith voted nay, Councilwoman Tynes voted aye, Councilman Pack voted aye, Councilman Hall voted aye, Councilwoman Haywood voted nay, Councilwoman Butler voted aye, and Mayor Williams voted aye. There was one vote against the motion. The motion passed.

Mayor Williams – The motion carries 6 – 1. Is there any old business? We have a Closed Session this evening.

Town Attorney – We need to go into closed session for the purpose of a briefing by your legal counsel as to actual litigation.

Councilman Pack – So moved.

Councilman Hall – Second.

Mayor Williams – A motion has been made and properly seconded. All those in favor say aye, opposed say nay.

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

*Town Council went into closed session at 8:26 p.m.*

*Town Council went back into open session at 8:55 p.m.*

Councilman Hall – I would like to make a motion to go back into open session.

Councilwoman Tynes – So moved.

Councilman Hall – Second.

Mayor Williams – A motion has been made and properly seconded. All those in favor say aye, opposed say nay.

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

Town Attorney – Mr. Mayor, we need a motion that during the closed session there was a briefing by legal counsel as to actual litigation pursuant to 2.2-3711A-7 of the Code of Virginia.

Councilwoman Pack – So moved.

Councilwoman Tynes – Second.

Mayor Williams – A motion has been made and properly seconded. All those in favor say aye, opposed say nay.

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

Mayor Williams – Is there anything else to come before Council tonight? Hearing none, we are adjourned.

The meeting was adjourned at 8:56 p.m.



Mr. T. Carter Williams  
Mayor



Mrs. Lesley King  
Town Clerk