

The Smithfield Town Council held its regular meeting on Tuesday, December 3rd, 2019. The meeting was called to order at 6:30 p.m.

Members present:

T. Carter Williams – Mayor

Michael Smith – Vice Mayor

Denise Tynes

Valerie Butler

Randy Pack

Beth Haywood

Wayne Hall

Staff members present:

Sanford B. Wanner – Interim Town Manager

Lesley King – Town Clerk

Ellen Minga – Town Treasurer

William H. Riddick, III – Town Attorney

Alonzo Howell – Chief of Police

John Settle – Community Development & Planning Director

Ashley Rogers – Human Resource Director

Amy Novak – Director of Parks and Recreation

Judy Winslow – Director of Tourism

There were approximately nine (9) citizens present. The media was represented by Mr. Frederic Lee of the Smithfield Times.

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

Manager's Report:

The Interim Town Manager informed the Council that the Smithfield Police Department had a very successful Citizen Police Academy graduation. He commended the Police Department for the excellent response to the unfortunate shooting at the 7-Eleven. He reported that the Windsor Castle Manor house renovation has been completed. Tourism has had an exceptional month getting ready for the holiday season. There have been 33 applications for the permanent Town Manager position. Packets are being prepared for the interview process. He

commended the Town Treasurer for always being diligent and trying to effectively and efficiently get out the necessary tax bills that sustain local government. He reminded everyone to review the busy December calendar.

Public Comments:

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

Mr. Herb DeGroft reported to the Council that he had asked about a program for Isle of Wight County called Threat and Terrorism Awareness. It will be scheduled for Monday, February 3rd, 2020. He was asking the Town of Smithfield to co-sponsor the event. It will be at the Smithfield Center from 7:00 p.m. until 8:30 p.m. He also discussed the 2nd Amendment Sanctuary movement. He distributed a copy of the proposal by the VCDL to the Town Council members.

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

Supervisor Grice updated the Council on items of interest from Isle of Wight County. There was a Comprehensive Plan and rezoning request for a senior development behind Bojangles off Route 17. Currently, it is permitted for 450 houses. The current request is for 350 units. It consists of age restricted homes for the growing senior community. This item was tabled until the January meeting. The Jones Creek Refuse and Recycling Center's remodeling project is almost complete. The Wrenn's Mill renovation will begin in 2020. The recycling collection costs are escalating. The Board is considering the 2nd Amendment Sanctuary county issue with legal consultation and review. The Board reached a consensus on its legislative priority list for the upcoming session. The three at the top were legislation addressing the issue of orphan outfalls on residential community easements, opposition to the state government being benevolent by giving away the county's authority for machine and tool tax and requesting help for broadband assistance for rural counties.

Councilman Pack asked Supervisor Grice if the county was considering doing away with recycling. Supervisor Grice said that at some point in time the county would have to address the rising costs associated with recycling.

Vice Mayor Smith asked Supervisor Grice about the Contractor's Forum and how he sees the issues being resolved. Supervisor Grice stated that a consulting group will be looking at the county's entire process. They will make recommendations for best practices within the first quarter of 2020.

Councilwoman Tynes asked if the Board has been discussing the transportation issue on Route 17. Supervisor Grice stated that 60% of the traffic on Route 17 is coming from non-county residents. It has nothing to do with growth within the county.

Council Comments

Councilman Pack reported to Council that the Smithfield Planning Commission had a very busy month. There was a rezoning request for the property behind Royal Farms. The

developer is requesting 15 buildings with 10 condominiums in each mostly owner-occupied. He explained that there would be a smaller commercial parcel along South Church Street. There will likely be a recommendation to Council at the January meeting. The Planning Commission has mixed feelings on the project. Also, Farmers Service has installed a well for their concrete plant. They have two meters and are using 201,000 gallons per month on average for just the concrete plant. The well is not currently in use since it is against our ordinance for a business within Town limits to have a well. They are asking for a special use exception for concrete plants. They are a very large water customer for the Town. The Town Treasurer is looking at the numbers. Councilman Pack wanted to bring both items to Council's attention.

Consent Agenda:

C1. Adopt Ordinance to Give the Town the Right to Regulate the Use of E-Scooters in the Future:

Councilwoman Tynes explained that at the VML Conference there was a lot of discussion about scooters. The Council needs to adopt this ordinance to give Council the right to amend this ordinance at a later date. If it is not done by January 1st then they could not regulate someone coming in and dropping scooters in the Town. If it is put in place now, the Council can go back and amend it as needed.

The Town Attorney further explained that Town code already prohibits the riding of bicycles and skate boards on sidewalks. This amends that provision to encompass the new electric type vehicles such as scooters. It gives the Town Manager authority to designate areas that are permissible and areas that are not permissible. They are called Shared Mobility Devices commonly referred to as scooters. The Town is defining them and requiring licenses with this ordinance.

C2. Invoices Over \$10,000.00 Requiring Council Authorization:

Councilman Pack explained that the Xylem invoice is for a budgeted bypass pump at the RO Plant. Lewis Construction of Virginia submitted an invoice for a budgeted flush valve at the RO Plant. The last invoice is to SHI International Corp. which is an IT purchase of Office365.

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| a. Xylem | \$ 65,570.80 |
| b. Lewis Construction of Virginia | \$ 18,160.00 |
| c. SHI International Corp. | \$ 17,280.55 |

C3. Motion to Approve the Proposal from Blair Brothers for Installation of Drainage Pipe Located at 384 Pagan Road in an Amount not to Exceed \$51,458.67:

Councilwoman Haywood explained that this is a repair that is needed at this location. Mayor Williams explained that this has been an ongoing project for a few years. During heavy rain, the whole section of that block floods badly.

C4. Motion to Accept Deeds for 7 & 10 Pinewood Drive as Part of the Pinewood Heights Relocation Project – Phase IV:

Councilwoman Butler explained that this is the last phase of the Pinewood Heights Relocation Project.

C5. Motion to Approve the 2020 Meeting Schedule:

Mayor Williams stated that the schedule was included in the packets for Council.

Councilman Pack made a motion to approve the consent agenda items as presented. Councilman Hall seconded the motion. Mayor Williams called for the vote.

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

Public Hearing: Special Use Permit (after-the-fact) – Brown’s African Methodist Episcopal (AME) Church – Gravel Parking Lot:

The Community Development & Planning Director stated that this application is at 655 W. Main Street/Brown’s AME Church. In June 2019, staff became aware that the church had expanded their asphalt parking area by approximately 2,600 square feet. It is in excess of the state mandated threshold of 2,500 square feet for stormwater management permits and land disturbing permits. The applicants were sent a formal Notice of Violation asking them to remove all the unpermitted impervious cover and place it onto areas of the property that were already covered by impervious cover or to remove just enough to get them below the 2,500 square foot state mandated threshold. The applicants selected the second option and had to apply for an after-the-fact Special Use Permit. The permit is triggered because in the Town of Smithfield the use of gravel in institutional, commercial, and industrial settings requires a parking waiver or waiver of parking and loading requirements pursuant to Articles 3I & 8 of the Zoning Ordinance. If this were asphalt or concrete, this would be a ‘by right’ permitting avenue. The applicants are now proposing to expand their existing parking area by approximately 2,250 square feet. The new impervious cover is located within the front yard of the church and entails enough area to included 8 new parking spaces. The applicants have been exceptionally cooperative and easy to work with. The parking area was installed to accommodate elderly and disabled members of their congregation. There is not a back door to the church so it is easier to accommodate parking in the front. At the November meeting, the Planning Commission recommended a favorable report to the Council. Town staff also recommends approval as submitted.

The applicant explained that the church needed the parking area for the elderly. There is an aging population within the church. They did not realize about the permitting process for stormwater management.

Mayor Williams declared the public hearing open and asked if anyone would like to speak for or against the application.

No one else came forward to speak and Mayor Williams closed the public hearing.

Motion to Approve the Special Use Permit for the Gravel Parking Lot at Brown’s AME Church:

Based on the recommendations from Town staff and the comments from the applicant, Councilwoman Butler made a motion to approve the Special Use Permit for the gravel parking lot at Brown’s AME Church. The motion was seconded by Councilwoman Tynes. Mayor Williams called for the vote.

On call for the vote, seven members were present. Councilwoman Haywood voted aye, Councilwoman Tynes voted aye, Councilman Pack voted aye, Councilwoman Butler voted aye,

Vice Mayor Smith voted aye, Councilman Hall voted aye, and Mayor Williams voted aye. There were no votes against the motion. The motion passed.

Public Hearing: Special Use Permit – Harvest Fellowship Church for Gravel Parking Area:

The Community Development & Planning Director explained that this application is ‘after-the-fact’ for 19290 Battery Park Road/Harvest Fellowship Baptist Mission. In 2011, the Planning Commission approved a major site plan application for the church. The application entailed the construction of a new church building toward the rear of the property as well as a relatively large parking area surrounding the church. It included an area immediately east of the church auditorium comprised of about 52 parking spaces. The area was improved, ultimately, with a gravel sub-grade as well as concrete curb and gutter. Due to financial constraints, the church did not get around to installing the asphalt on top of the sub-grade. Shortly thereafter, the church began to utilize the sub-grade as a de facto gravel parking area. The applicants inquired about the permitting process to repair the gravel parking area. Since it was constructed of gravel and no special use permit was on file, the applicants were required to apply for the ‘after-the-fact’ special use permit for a waiver of parking and loading requirements for the use of gravel at the church. At the November meeting, the Planning Commission reached a favorable consensus on this application and favorably recommends it to the Town Council under 3 conditions:

1.) The SUP is only applicable to the portion of the parking lot located immediately east of the church auditorium,

2.) The SUP is null and void after a period of 5 years or until the applicants have improved the 52-space parking area east of the auditorium with asphalt as was approved in their site plan from 2011 whichever occurs first.

3.) This condition is recommended by Engineering and Public Works for the applicants to install an 8-inch Neptune Ultra-Sonic Mach 10 water meter within 2 years of the issuance of the special use permit.

Town staff recommends approval of this application under the 3 conditions noted.

Mr. Charles Drake spoke to Council on behalf of Harvest Fellowship Baptist Church. They are asking the Council to take a second look at what was approved last month at the Planning Commission meeting. It is a 300-foot parking area on the east area of the building which was a part of their original site plan. It is still approved by both the Town and Isle of Wight County. The only thing the church has not completed yet is the far east end curb and gutter and bringing it up to the proper level so they can asphalt it. They had an estimate, 4 months ago, for \$11,000.00 just for the curb and gutter which did not include putting in any rock. They asked the contractor for his best guess as to the cost. The contractor stated that it would be approximately \$110,000.00 to asphalt the parking lot. Now, the Planning Commission has recommended a water meter on the fire main system. The applicant explained that they already have an approved fire main system with the Town and Isle of Wight County without a meter installed on it. The Town wants the applicant to now include this with the application. The meter is not even available yet until at least January of 2020. Early estimates from the manufacturer and the consultant in Richmond is a cost of \$40,000.00 to \$50,000.00. The church would have to dig up the parking lot and install the meter. This is a big expense for the church. The applicant is

asking the Town Council to reinstate the original Town staff recommendation of 10 years to finish the parking lot with asphalt. They also request to not have to install the water meter on the fire main system that was previously approved without one. He was available for questions from the Council.

Mayor Williams declared the public hearing open and asked if anyone would like to speak for or against the application. Hearing none, he moved for consideration from Council.

Councilwoman Haywood asked what the need was for the meter. The Community Development & Planning Director explained, in 2011 or 2012, the previous Director had a discussion with the church about whether that meter would need to be installed. It is evident now that the requirement was waived. At that time, however, it was not part of the Town's technical design standards. It is currently now part of our technical design standards to have a meter on a fire suppression system. The applicants have come back now for a contingent approved site plan amendment and a special use permit. Anytime the Town receives a development application, the goal is to bring properties into as much compliance as possible. Since the technical design standards now require this, it is why the Town is asking for it. Public Works reports that there is a fire hydrant on the property that is basically out in the open and not metered.

Mayor Williams asked about the time constraints. The Community Development & Planning Director explained that the first constraint is 2 years to install the meter for the fire suppression system. The other one is 5 years, as recommended by the Planning Commission, to install the asphalt on the parking lot.

Councilman Pack, as Chairman of the Planning Commission, explained that when this meter was explained to them the church was agreeable to installing the meter. The cost of the meter was never brought to the Planning Commission's attention. He stated that the applicant has stamped drawings that were approved by the Town and Isle of Wight County. The cost of the meter is a surprise to all involved.

The Town Attorney explained that the recommendation from the Town's Public Works Department is an attempt to get the applicant to comply with standards that exist now but did not exist when the building was constructed. He also stated that the applicant had originally agreed to pave the parking lot when the plans were approved. It was going to be phased in and it just has not happened yet. What the applicant is asking for is more time to do it. The Planning Commission felt that 10 years was too long time to extend them for paving the parking lot. The applicant has already had quite a few years to get it done. The Planning Commission felt that 5 years would be more appropriate.

The Community Development & Planning Director explained that the fire hydrant would only be used if the church had a fire. Without a meter, any water utilized by their system would not be billed to them. Vice Mayor Smith asked if there was any way for them to use the fire suppression system for free water. Mayor Williams explained that the fire suppression system is hooked to the building. It is only used if there is a fire which sets it off. He believes the Town wants to protect our churches, schools, and town buildings. He does not believe the Town should require them to put the meter in.

Councilman Pack pointed out that when the right-of-way was being purchased for the bike path that the church donated that. They did not receive any money for it. They have been a great community steward and donated the property for the bike path. Councilman Pack also stated that if the church expands in the future, there would likely be a requirement for a meter at that time due to the regulations now for technical design standards. The Community Development & Planning Director stated that was correct.

Councilwoman Butler made the motion to approve the application with 2 conditions: the SUP is only applicable to the portion of the parking lot located immediately to the east of the church auditorium and that the SUP is null and void after a period of 5 years or until the applicants have improved the 52 space parking area east of the auditorium with asphalt as was approved in their site plan from 2011 whichever occurs first. Councilman Pack seconded the motion. Councilwoman Tynes wanted to clarify that the meter is not included. The Town Attorney stated that the meter is not included. Mayor Williams called for the vote.

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

Motion to Approve the Town Council Summary Minutes of November 5th, 2019:

The Town Attorney recommended that the minutes be approved as presented. Councilman Hall made the motion to approve the minutes. Councilwoman Tynes seconded the motion. Mayor Williams called for the vote.

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

Appoint a Nominating Committee for the Expiring Term (1-31-2020) for Bill Davidson on the Planning Commission:

Mayor Williams appointed Councilwoman Butler and Councilwoman Haywood as the nominating committee.

New Business:

There was no new business presented to Council.

Old Business:

There was no old business.

Closed Session:

The Town Attorney stated that the Council needed a motion to go into closed session for the purpose of discussing the acquisition of real property for public purposes and consultation with legal counsel as to matters requiring legal advice pursuant to 2.2-3711.A-3 & A-8 of the Code of Virginia.

Councilman Hall made the motion to go into closed session. Councilwoman Tynes seconded the motion. Mayor Williams called for the vote.

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

The Town Council went into closed session at 7:45 p.m.

The Town Council returned to open session at 8:00 p.m.

The Town Attorney stated that a motion was needed to go back into open session. Vice Mayor Smith made the motion and Councilman Hall seconded. Mayor Williams called for the vote.

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

The Town Attorney stated that a motion was needed that during the closed session there was only a discussion of acquisition of real property for public purposes and a consultation with legal counsel as to matters requiring legal advice pursuant to 2.2-3711.A-3 & A-8 of the Code of Virginia.

Vice Mayor Smith made the motion and Councilwoman Tynes seconded the motion. Mayor Williams called for the vote.

On call for the vote, seven members were present. Councilwoman Haywood voted aye, Councilman Pack voted aye, Councilwoman Butler voted aye, Councilwoman Tynes 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.

Motion to Approve Additional Paid Holiday on December 23rd, 2019:

Councilwoman Tynes made the motion to allow Town staff to have off on December 23rd, 2019 with holiday pay. Councilman Hall seconded the motion. Mayor Williams called for the vote.

On call for the vote, seven members were present. Councilwoman Haywood voted aye, Councilman Pack voted aye, Councilwoman Butler voted aye, Councilwoman Tynes 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.

The meeting was adjourned at 8:05 p.m.



T. Carter Williams - Mayor



Lesley King – Town Clerk