

The Smithfield Town Council met in regular session on Tuesday, January 3, 2006 at 7:30 p.m. in the Council Chambers of the Smithfield Town Hall. Mayor Norman Johnson presided.

Councilmen Present:

Charles Williams
Vic Ogburn
Daniel Evans
Clayton Narron
Andy Moore
Tom Bell

Councilmen Absent:

Staff Present:

Pete Connet, City Manager
Debra Holmes, Town Clerk/Personnel
Steve Gillikin, Police Chief
Bobby Tripp, Public Utilities Director
Tim Johnson, Parks/Recreation Director
Patrick Harris, Fire/EMS Director
Marty Anderson, Public Works Director
Paul Embler, Planning Director

Also Present:

Bob Spence, Jr, Town Attorney
Councilman Elect Sidney Broadwell

Staff Absent:

The invocation was given by Councilman Ogburn, followed by the Pledge of Allegiance.

APPROVAL OF AGENDA

Councilman Bell noted that the "Request from Johnston County School System to divide the cost of putting a monthly newsletter in the Utility Bill mailings" which was tabled at the December meeting was not included in this agenda and requested that it be added under "Old Business" as # 8A.

City Manager Pete Connet requested that "Authorization to enter into a joint-use agreement with the Johnston County School System concerning the Smithfield Community Center" be tabled until the February 2006 Council agenda.

Councilman Moore made a motion, seconded by Mayor Pro-Tem Evans, to approve the agenda as amended. Unanimous.

SWEARING IN CEREMONY

- **Administering the Oath of Office Sidney Broadwell (Filling the unexpired Councilman At-Large term of new Mayor Johnson)**

Retired District Court Judge Yates Dobson administered the Oath of Office to Sidney W. Broadwell. He took his seat at the Council table.

Councilman Broadwell's daughter, Susan, thanked the Council for giving her father the opportunity to serve the two year unexpired council seat of Norman Johnson.

Town Clerk Debbie Holmes swore in persons wishing to speak during the public hearings.

PUBLIC HEARINGS

1. Final Approval of a One-Year Hotdog Pushcart Vendor's Permit - corner of Market Street and Second Street - B&G Hotdogs

Mayor Johnson opened the public hearing.

Planning Director Paul Ember addressed the Council on a request by B&G Hotdogs for a one-year permit to operate a pushcart vending business at the corner of Market Street and Second Street.

Mayor Johnson asked for comments from the Council.

Councilman Broadwell questioned the location of the pushcart. Mr. Embler stated it was located on the Second Street side. Town Clerk Debbie Holmes noted that Mr. Black had asked if he could move his pushcart from the corner due to safety reasons for himself and pedestrians and she had given him permission to do that in order to alleviate any accidents.

Councilman Broadwell asked how far back from the sidewalk on Second Street and from the driveway must Mr. Black remain. Mr. Embler stated at least 48" for wheelchairs and approximately 100 feet from the driveway.

Mayor Johnson stated that it was his understanding that the pushcart had been approved to remain in the general vicinity of the corner of Market and Second Street and not one particular space. Other councilmen agreed.

Mayor Johnson asked for comments from the audience. There were none.

There being no further comments, Councilman Ogburn made a motion, seconded by Councilman Williams, to approve a one year pushcart vendor's permit . Unanimous.

2. Zoning Ordinance Amendment #424 - Section 307.1, "Table of Permitted Uses" and 601.1 "Existing Manufactured Homes" to prohibit Manufactured Homes on individual lots within the R-6 zoning - Town of Smithfield - ZA-05-04

Mayor Johnson opened the public hearing.

Planning Director Paul Embler addressed the Council on a Zoning Ordinance amendment that will remove Class A manufactured homes from being permitted within the R-6 zoning district. The ordinance amendment will also limit the replacement of Class A manufactured homes with only conforming uses within the R-6 zoning district. Manufactured homes will still be permitted on individual lots and public streets within the R-20A and R-MH zoning districts until the manufactured home park standards found in Section 2002 are modified to reflect modern manufactured home park development standards. The Planning Board unanimously voted to recommend approval.

Mayor Johnson asked for comments from the Council.

Councilman Broadwell asked if there was a time limit to replace the home if the mobile home is destroyed. Mr. Embler stated that the current ordinance specifies that a permit must be secured within 90 days but staff will work the homeowner to complete the project in a timely manner.

Mr. Embler stated that if a single wide mobile home is on the lot and is destroyed, it can be replaced. All existing single- and double-wide mobile homes will continue to be able to be replaced in case of casualty. If the mobile home is in disrepair and removed from the property, it cannot be replaced with a mobile home but must be replaced with a stick-built or other permitted use.

Mayor Johnson asked for comments from the audience.

Ralph Watson, 836 Ward Street, stated that he was opposed to the ordinance amendment to prohibit Class A mobile homes in the R-6 Zoning District. He stated that the amendment does not benefit the citizens in the R-6 zoning district. He asked that the Council exempt the current Class A mobile homes (approximately 29 in number) from the ordinance as it is presently written.

Following discussion, Councilman Bell stated that no one would be homeless and the town would not be taking anyone's property. He reiterated that if a mobile home was destroyed by casualty, it can be replaced as it is within the time limit allowed by ordinance.

Councilman Narron asked Mr. Watson if he wanted the approximately 29 mobile homes grandfathered in for the duration that they are on the lot or until they are destroyed or condemned. Mr. Watson stated he wanted the mobile homes exempt from the ordinance for as long as the property exists. Mr. Narron stated that he did not feel that any type of burden was being created with the adoption of the ordinance amendment.

There being no further comments, Mayor Johnson declared the public hearing closed.

Mayor Pro-Tem Evans made a motion, seconded by Councilman Ogburn, to approve the zoning ordinance amendment. Unanimous. ATTACHMENT I

3. Zoning Ordinance Amendment #425 - Section 307.1 "Table of Permitted Uses" to allow for residential uses above the first occupiable floor within the B-1 zoning district - Town of Smithfield - ZA-05-05

Mayor Johnson opened the public hearing.

Planning Director Paul Embler addressed the Council on a zoning ordinance amendment that is designed to allow for expedited review and approval of residential use proposals above existing retail spaces within the B-1 zoning district. The intent of the amendment is not to relieve new traditional multifamily and mixed use developments presently only allowed by the Special Use Permit process, but to create a zoning permit process that is more responsive to residential uses within the existing structures in the B-1 district when all required public infrastructure is in place. The Planning Board unanimously voted to recommend approval.

Mayor Johnson asked for comments from the Council.

Town Attorney Bob Spence suggested removing the language "and staff approved" from the ordinance amendment.

Mayor Johnson asked for comments from the audience. There were none.

There being no further comments, Mayor Johnson declared the public hearing closed.

Mayor Pro-Tem Evans made a motion, seconded by Councilman Moore, to approve the zoning ordinance as amended. Unanimous. ATTACHMENT II

4. Special Use Permit to allow for a crematory within an existing building on property located at 522 South Bright Leaf Boulevard - Underwood Funeral Home - SUP-05-25

Mayor Johnson opened the public hearing.

Planning Director Paul Embler addressed the Council on a Special Use Permit request by Underwood Funeral Home to install a cremation system within the existing structure located at 522 South Bright Leaf Boulevard. Cremation systems are not expressly permitted within the B-2 zoning district. The applicant provided documentation for the Council's review from Southern Environmental Sciences, Inc., showing expected emissions under various conditions at a similar facility. If a Special Use Permit is granted, no additional site improvements will be required. The Planning Board unanimously voted to recommend approval based on the Findings of Fact being met.

Mayor Johnson asked for comments from the Council.

Councilman Williams questioned if staff was confident that there would be no odor from the crematory. Mr. Embler stated yes.

Mayor Johnson asked for comments from the audience.

Chris Watson, petitioner, stated that State-of-the-Art equipment was being used and there would be no sensory identifiable emissions.

Councilman Moore questioned if there were any issues with regard to the Fire Department. Emergency Services Director Patrick Harris stated that all appropriate documentation had been provided and approval had been given by the Fire Marshall.

There being no comments, Mayor Johnson declared the public hearing closed.

The Council reviewed the Finding of Fact as follows:

- a. The Council agreed that all applicable specific conditions pertaining to the proposed use have been satisfied per staff with regard to meeting the zoning code.
- b. Councilmen agreed that access roads or entrance and exist drives are sufficient in size and properly located to ensure automotive and pedestrian safety and convenience, traffic flow, and control and access in case of fire or other emergency.
- c. Councilmen agreed that off-street parking, loading, refuse and other service areas being located so as to be safe, convenient, allow for access in case of emergency, and will minimize economic, glare, odor, and other impacts on adjoining properties and properties in the general neighborhood.
- d. Councilmen agreed that utilities, schools, fire, police and other necessary public and private facilities and other services will be adequate to handle the proposed use.
- e. Councilmen agreed that the location and arrangement of the use on the site, screening, buffering, landscaping, and pedestrian ways will harmonize with adjoining properties and the general area and minimize adverse impacts.
- f. Councilmen agreed that the type, size and intensity of the proposed use, including such considerations as the hours of operation and number of people who are likely to utilize or be attracted to the use, will not have significant adverse impacts on adjoining properties or the neighborhood.

Councilman Bell made a motion, seconded by Councilman Broadwell, to approve the Special Use Permit request based on the Findings of Fact being met. Unanimous.

CITIZEN COMMENTS

1. Ralph Watson requested a copy of the final draft of the ordinance as adopted in Public Hearing #1

regarding Class A mobile homes in the R-6 zoning district.

- 2 Cecil Vinson, noted that, while the Council was working to amend the ordinance regarding Class A mobile homes, there were streets in town that needed attention. He further mentioned a fence that has never been installed around the storm water drainage pond across from the Community College. Mr. Vinson then stated that the Planning Board should look into those issues that haven't been corrected.

CONSENT AGENDA

Councilman Ogburn made a motion, seconded by Councilman Broadwell, to approve the Consent Agenda as presented:

- Minutes of December 6, 2005
- 2005 Annual Certification of Firemens Roster (Attachment III)
- Authorization to sell surplus self-contained-breathing-apparatus (SCBA) and spare bottles

Note: (# 5 omitted)

REPORTS FROM STAFF AND TOWN BOARDS

6 Solid Waste Collection Center - Marty Anderson

Mr. Anderson addressed the Council on the request to open the solid waste convenience center for citizens to carry their garbage. He stated that a \$22,500 budget amendment would be needed if it were to open before the new budget year. He stated that this cost included a current employee to work overtime at the site on Saturdays. He stated the proposed hours of operation would be Monday thru Friday, 7 -4 and Saturday 7-12.

Councilman Narron stated that since the Town currently picks up debris and provides for pickup of multiple items, he did not see a need for the expenditure.

Mayor Johnson stated that the purpose of the hours on Saturday would be for those such as churches who would have Saturday clean-up days. Further, he stated that he disagreed with the Saturday hours. Mayor Johnson also stated that he felt it was too much money to discuss at this time but was in favor of a convenience center for residents to carry their trash.

It was the general consensus of the Council to look at this expenditure during budget discussions this spring.

OLD BUSINESS

7 Approval of Proposed Electric Rates Increase

Public Utilities Director Bobby Tripp addressed the Council on a proposed rate increase that is passed on to municipalities by ElectriCities. He discussed three options with the Council:

Option 1 would increase all rates by 8.22%

Option 2 would maintain the basic rate but increase the energy rate by 8.57%. This option would

have the least amount of impact on small customers.
Option 3 would increase the cost of each kwh by \$0.74

Mayor Pro-Tem Evans asked for an average approximate increase amount. Mr. Tripp stated between \$7.00 and \$10.00 per month.

City Manager Pete Connet recommended an effective date of February 1, 2006.

Councilman Broadwell requested that staff inform the public on the incentive programs sponsored by the Town to assist residents.

Following discussion, Councilman Bell made a motion, seconded by Mayor Pro-Tem Evans, to adopt Option 2, which would maintain the basic rate but increase the energy rate by 8.57% effective with the February 1, 2006 bills. Unanimous.

8 Authorization to file condemnation proceedings against Judge and Mrs. Yates Dobson in order to gain the necessary easements or rights-of-way to do repairs to the Town's storm water system on Second Street

Councilman Narron made a motion, seconded by Councilman Williams, to authorize the filing of condemnation proceedings. Unanimous.

8A Request from Johnston County School System to divide the cost of putting a monthly newsletter in the Utility Bill mailings (Tabled at December 2005 meeting)

Councilman Bell stated that he felt that the Town would be setting a precedent with allowing the monthly newsletter in the bill mailings and wasn't sure this was the best venue to get the information out. He felt there was no editorial control as well as this being an unbudgeted expenditure.

Councilman Williams stated that he felt it wasn't the right time to discuss such an expenditure with budget meetings coming up in the spring.

Downtown Smithfield Development Corporation Executive Director Chris Johnson stated that it was just an idea for a good tool to promote Smithfield's schools to the citizens.

Councilman Narron stated that he would be willing as a councilman to give up his yearly earnings to go toward the cost of the mailings and would work with whomever the Council chose as the "editor".

Following discussion, Mayor Johnson appointed the following committee to this cause: Councilmen Narron, Moore and Bell to work with the City Manager.

NEW BUSINESS

9 Approval of Ordinance repealing and replacing the entire Chapter 4 "Animals and Fowl"

Planning Director Paul Embler and Police Chief Steve Gillikin addressed the Council on the numerous complaints over the years from citizens about animals roaming at large, unsanitary animal conditions, vicious animals and farm animals inside the town limits. Recently, due to the large number of violations, it has become evident that the Town's ordinance as written does not adequately address the enforcement issues that are being encountered with the day to day operations of the animal control officer. The ordinance amendment as proposed will provide the animal control officer with the necessary authority to

pursue violations issue citations, and levy penalties for habitual violators of the ordinance.

Mayor Pro-Tem Evans stated that he did not see where there was a provision in the proposed ordinance for feeding stray animals.

Further, the Council discussed the fee table for violations and recommended corrections.

Following discussion, Mayor Pro-Tem Evans made a motion, seconded by Councilman Moore to table this item until the February meeting to allow staff more time to review the amendment. Unanimous.

10 Authorization to enter into a contract with a fund-raising firm who will assist in the task of raising money in the community for the Community Center (a joint project with the School System) - Tim Johnson

Parks/Recreation Director Tim Johnson addressed the Council on hiring a firm to raise additional funds to keep the funding amount of 3.5 million as close as possible.

Councilman Narron made a motion, seconded by Councilman Ogburn, to authorize entering into a contract with a fund-raising firm. Unanimous.

11 The National Demonstration Program for Citizen-Soldier Support - Tim Johnson

Councilman Narron made a motion, seconded by Councilman Williams, to approve the program. Unanimous.

12 Authorization to enter into a joint-use agreement with the Johnston County School System concerning the Smithfield Community and Spartan Activity Center

(Tabled until the February Meeting)

13 Approval for City Manager and Downtown Smithfield Development Corporation Director to file a loan application with the Rural Development Center to carry out sidewalk repairs in the downtown area

Mayor Pro-Tem Evans made a motion, seconded by Councilman Moore, to approve the filing of a loan application. Unanimous.

14 Approval of new Ordinance regulating the care of public trees within the town

Councilman Broadwell made a motion, seconded by Councilman Moore, to table this item until the February meeting. Unanimous.

15 Acceptance of Appearance Commission's recommendations of initial entryway Beautification Program for Brogden Road

Councilman Broadwell made a motion, seconded by Councilman Moore, to table this item until the February meeting. Unanimous

16 Approval of amendment to the J.B. George Endowment Agreement, dated January 3, 2006

Councilman Ogburn made a motion, seconded by Councilman Broadwell, to approve the agreement amendment. Unanimous. ATTACHMENT IV

There being no further business, the meeting was adjourned.

Norman R. Johnson, Mayor

ATTEST:

Debra W. Holmes, Town Clerk