

The Smithfield Town Council met in regular session on Tuesday, December 5, 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
Tom Bell
Sidney Broadwell
Clayton Narron
Andy Moore

Councilmen Absent:

Staff Present:

Peter T. Connet, City Manager
Debra Godwin, Town Clerk/HR Director
Mark Stephens, Finance Director
Paul Embler, Planning Director
Patrick Harris, Emergency Services Director
Steve Gillikin, Police Chief
Tim Johnson, Parks/Recreation Director
Marty Anderson, Public Works Director
Bobby Tripp, Interim Public Utilities Director

Also Present:

Bob Spence, Jr., Town Attorney

Other Staff Present :

Billy Langston, EMS Coordinator

The invocation was given by Councilman Ogburn. Carson Campbell, representing Troop 77, led the group in the Pledge of Allegiance.

APPROVAL OF AGENDA:

Mayor Pro-Tem Evans made a motion, seconded by Councilman Broadwell, to approve the agenda with the following amendments: (1) Add "Remarks by Town Attorney" to New Business and (2) move the item listed under Consent Agenda, "Resolution endorsing projects for consideration in the 2007-2013 Transportation Improvement Program", to New Business as requested by Councilman Williams. Unanimous.

Town Clerk Debra Godwin swore in persons wishing to speak during the public hearings.

PUBLIC HEARINGS

ITEM 1: Special Use Permit Request to allow a billboard/off site advertising sign on property located on the east side of the intersection of Holding Street and South Bright Leaf Boulevard - Interstate Outdoor - SUP-06-17

Mayor Johnson opened the public hearing.

Planning Director Paul Embler addressed the Council on a request for a Special Use Permit to construct and operate an off-site advertising billboard in accordance with the requirements of the Smithfield Sign Ordinance. The Planning Board voted 6-1 to recommend approval of the petition.

Mayor Johnson asked for comments from the audience.

Warren Stancil, 436 East Rose Street, stated that the proposed sign meets all the requirements and requested approval of the permit.

Mayor Johnson asked for comments from the Council.

Councilman Narron stated his opposition to the request due to the proposed billboard being erected in close proximity to a residential area.

Councilman Moore questioned if there were any Planning Department concerns with the request. Mr. Embler stated no.

Mayor Pro-Tem Evans questioned if the request met all requirements. Mr. Embler stated yes.

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

The Council reviewed the Findings 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 are 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 would not have an adverse impact on the properties and general area.
- 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 have significant adverse impacts on adjoining properties or the neighborhood.

Councilman Narron made a motion, seconded by Councilman Williams, to deny the Special Use Permit request based on (f) of the Findings of Fact not being met. Councilmen Bell, Ogburn, Williams and Narron voted yes to deny the petition. Councilmen Broadwell, Moore, and Mayor Pro-Tem Evans voted no. Motion passed 4-3.

1. Specifically the Board finds that the dimensions, location and design of the sign will have a significant adverse impact on adjoining properties and the appearance of the neighborhood. The applicant has proposed to squeeze the sign into the commercial area of the truck lane in Smithfield where the north side has mixed residential and commercial use behind the commercial strips on highway 301 and the south side has the South Smithfield residential development. The evidence was not clear if the sign would actually overhang the adjacent building because the sign location had been so tightly squeezed on the lot by the applicant at the chosen location. The site plan submitted by applicant shows the sign pole 5 feet from the building but the sign faces overhanging substantially over the crest of the roof. The sign itself would thus actually or virtually overhand a commercial retail building and be so much higher than the existing buildings at the location that it could overhang the adjacent building and be located within inches or feet of the monopole. The only evidence to contradict this adverse effect would be that the applicant said they might orient the sign so that it was not actually overhanging the building. Nevertheless, the monopole and the sign itself will be so close to the building as to at least appear to overhang it if not actually overhang.
2. The exact location of the sign and its faces in reference to the building, the angle of the faces and their closeness to actually overhanging the building were never clarified by the applicant. The Board finds that the location of the sign to appear to overhang an adjacent building will add such visual clutter and cause possible wind damage to adjacent structures. Therefore it would have an adverse effect on adjacent properties and the neighborhood.
3. Furthermore, the sign as proposed is much higher than and out of proportion or harmony with the commercial strip buildings at this location. It would thereby have a significant adverse impact on adjoining properties and the appearance of the neighborhood.
4. As is well known to the Council, this billboard is close to downtown, and will have an adverse effect on the entrance of the town by placing a structure of that size above other adjacent structures with the specific intent of the structure being by virtue of its sign, lack of harmony, and flashy advertising to attract attention because of its lack of harmony. Thus the dimensions, height, face size, location, and self attracting nature of the sign at a location close to downtown and adjacent neighborhoods is out of harmony with the other development in the area and has an adverse effect within the meaning of the ordinance so that the application should be denied.
5. The sign is close to two residential areas from which it will be visible and its appearance overhanging the building will break any common appearance design and have an adverse effect on the appearance of the

neighborhoods and adjacent properties. Residential homes actually border the site on the north and across the street diagonally is the little league ball field leading into the South Smithfield residential area as well as homes directly on highway 301. Homes extend on both sides of highway 301 from the proposed overhanging sign location five blocks to the "Y" shaped intersection of highway 301 veering northeast and the more direct extension down third street into the old downtown. No structure is half so high as the proposed sign and the high, overhanging appearance of the sign at this location, with its distracting images and commercial messages, would adversely affect the appearance, harmony, planning pattern, and value of the residential area into which highway 301 leads from that location.

6. The applicant failed to present evidence sufficient to rebut the adverse effect of the sign as planned.

ITEM 2: Special Use Permit Request to allow a billboard/off-site advertising sign on property located on the northeast side of the intersection of Oak Street and East Market Street - Interstate Outdoor - SUP-06-18

Mayor Johnson opened the public hearing.

Planning Director Paul Embler addressed the Council on a request for a Special Use Permit to construct and operate an off-site advertising billboard. The Planning Board voted to recommend denial of the petition.

Mayor Johnson asked for comments from the audience.

Flora Grantham, 400 Dogwood Street, stated that the proposed advertising sign would be detrimental to the Pine Acres community and would be against the beautification efforts of the Town.

Tony Nixon, 8 Cedar Drive, stated his opposition to the billboards. He stated that he has seen statistics where there was no increase to local businesses due to billboard signage.

Councilman Moore stated that he felt the signage would help businesses and would challenge the survey and the margin of error. Further, he stated that each petition must be looked at on a case-by-case basis and he feels that traffic is a concern for this area.

Bertha Jenkins, 8 Aspen Drive, stated that the intersection at Pine Street and Market Street is a very busy one with the Community College young adults, Outlet Center and residents and felt that this would be a safety hazard if approved.

Warren Stancil, 436 East Rose Street, stated that the proposed billboard would promote business to other locations in town. Further, he stated that the petition meets all requirements.

Mayor Johnson asked for other comments from the Council.

Mayor Pro-Tem Evans questioned if any of the newly proposed road improvements would be affected. Mr. Embler stated no, other than possible right-of-way reservations.

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

The Council reviewed the Findings 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 are 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 would not have an adverse impact on the properties and general area.
- 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 have significant adverse impacts on adjoining properties or the neighborhood.

Following discussion, Councilman Williams made a motion, seconded by Councilman Narron, to deny the special use permit request due to (f) of the Findings of Fact not being met. Unanimous.

1. Specifically the Board finds that dimensions and design of the sign will be out of harmony with the scheme of development for the adjoining properties and the neighborhood and would therefore have an adverse impact on such properties and neighborhood. The sign would be a little over 250 feet from the main entrance to town. This entrance is at the intersection on Highway 70 east where Oak Street leads directly and visibly into the Johnston Community College on the South and into the Historic Pine Acres Subdivision on the North. Further past the intersection Highway 70 leads away from the I-95 traffic into the smaller business of the downtown area. This smaller business area does not have a structure half as tall as the sign for over a thousand feet as it extends towards the overpass near the old downtown area. The sign will detract from the entrance to both the college and the subdivision. It is a large billboard sign for off site advertising that it out of harmony with the existence pattern of planned development for the road leading into town. Its dimensions of 30 feet high and 200 foot surface area at the intersection are out of harmony with the development of the intersection, itself, which is an entrance to the smaller business areas of the town away from and distinct from the I-95 business area attracting interstate traffic. It will be a high structure with a 200-foot face that will overpower and distract from the smaller signs at this area for entrance areas to the college and subdivision. It will be far more apparent and intrusive in appearance than even a small business office on the lot or other permitted commercial development due to its size and its intent to attract the attention of traffic to off site issues.
2. The size of the proposed sign is inappropriate at that location and the sign itself will be a distraction to traffic where the school and subdivision have many young drivers entering East Main Street, Highway 70, in a hurry as the classes change. While the town has permitted such signage at other locations on primary roads, the particular proximity of this sign to the entrance to both the subdivision and the college would make it a server aesthetic eye sore at such an entrance location. Thus due to all these factors the sign, its type, size and intensity of use would have a significant adverse impact on the adjoining property that mere landscaping could not cure.
3. The sign is within the minimum setback of the fifty foot buffer area for the planned widening of highway 70 at the intersection and thus violates the side set back.
4. The sign at the intersection would distract teenage, inexperienced, inattentive drivers where there is a high concentration of periodic traffic from college.
5. Looking at the entrance area from the school or the subdivision, the sign will be visible through trees and natural vegetation and will from the point of view of both locations be out of harmony with the entrance intersection. The purpose of the sign and the applicant's intent in designing it is to grab attention to off site issues. It is out of proportion, harmony and taste with the scaled down presentation of the entrances to these two non-commercial area as well as the smaller businesses down highway 70 into downtown.
6. Three local residence of the subdivision spoke against the sign because it was located adjacent to their subdivision, was large and intrusive, distracted traffic, and would damage their historic neighborhood and the appearance of the subdivision from which it would be visible and the appearance of the entrance. All three speakers, one speaking for a citizen group, presented the disharmony of the sign with the existing planning pattern, the dimensions, design, intent to attract attention to off site information as having an adverse impact on the neighborhood and college entrance and the neighborhood itself. One representative from the applicant spoke stating that the sign would be near the Waffle House which is in the I-95 area and would help draw people to downtown. The applicant did not offer evidence to rebut the evidence of significant adverse impacts on adjoining properties or the neighborhood and the Council finds the billboard application should be denied due to said adverse impact.

ITEM 3: Rezoning Petition - 75.63 acre tract of land - from R-20A to R-10 - property is located on Buffalo Road, approximately 550 feet north of its intersection with Hospital Road - Richard Braswell - RZ-06-05

Mayor Johnson opened the public hearing.

Planning Director Paul Embler addressed the Council on a request by the petitioner to continue the public hearing until the January 2007 meeting.

Mayor Pro-Tem Evans made a motion, seconded by Councilman Moore, to continue the public hearing until the January 2007 meeting. Unanimous.

ITEM 4: Rezoning Petition - 3 tracts of land totaling 11.33 acres - from R-20A to B-3 - property is located on the northeast end of Dogwood Street approximately 200 feet northeast of its intersection with Aspen Street - Dale Sparks - RZ-06-06

Mayor Johnson opened the public hearing.

Planning Director Paul Embler addressed the Council on a request to rezone three tracts of land, located on the northeast end of Dogwood Street approximately 200 feet northeast of its intersection with Aspen Street.

Mayor Johnson asked for comments from the audience.

Dan Simmons, representing Lee McLamb who now owns the property, stated that he and Mr. McLamb had met with three Pine Acres representatives regarding the concerns stated at the Planning Board meeting. Mr. Simmons further stated that the petitioner has agreed to leave an undisturbed 50' buffer. In addition, a 25' easement wall could be constructed along the easement which would reduce the undisturbed buffer to 25'. Further, Mr. McLamb is willing to deed to the Pine Acres Home Owners Association a 5' strip of land to alleviate access to the subdivision.

Carl Evans, 23 Cedar Drive, stated that the concerns of the Pine Acres residents are to preserve and protect the integrity of the community. Further, on their behalf, he would like to see a permanent fixture along the 50' easement and would address the Town with that at some future point. Further, he stated that the residents fully support the petition at this time.

Mayor Johnson asked for comments from the Council.

Councilman Narron thanked Mr. Simmons for working with all parties to reach a favorable resolution to their issues.

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

Mayor Pro-Tem Evans made a motion, seconded by Councilman Broadwell, to approve the rezoning petition. Unanimous.

ITEM 5: Rezoning Petition - 1.46 acre tract of land - from R-8 to O&I - property is located on the northeast corner of South Third Street and Church Street - First Presbyterian Church - RZ-06-07

Mayor Johnson opened the public hearing.

Planning Director Paul Embler addressed the Council on a request to rezone a 1.46 acre tract of land, located 215 South Third Street, from R-8 to O&I.

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

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

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

Councilman Broadwell made a motion, seconded by Mayor Pro-Tem Evans, to approve the rezoning petition. Unanimous.

ITEM 6: Question of annexation of a 5.29 acre tract of land located on the east side of Brogden Road approximately 4,055 feet south of its intersection with Old Dupree Road, owned by the Town of Smithfield and further identified as NCPIN# 169202-69-6139 and Ordinance # 433 adopting the annexation

Mayor Johnson opened the public hearing.

City Manager Pete Connet stated to the Council that this was the next step in the process to annex this property that will save the Town about \$40,000 with regard to the Utilities Commission.

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

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

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

Councilman Broadwell made a motion, seconded by Councilman Williams, to approve the annexation ordinance. Unanimous. ATTACHMENT I

CITIZEN COMMENTS

There were none.

CONSENT AGENDA

Councilman Broadwell made a motion, seconded by Mayor Pro-Tem Evans, to approve the consent agenda as follows:

- Minutes of November 7, 2006
- Certification of Municipal Ordinance # 434 declaring speed limit modifications to Third Street from Caswell Street to North Street (ATTACHMENT II)

Unanimous.

OLD BUSINESS

1. Approval of a budget amendment to provide funding for the renovation of the Jones House on Buffalo Road for Parks and Recreation office space

City Manager Pete Connet addressed the Council on a budget amendment of \$30,000 to renovate the Jones House on Buffalo Road for staff to move from the Hastings House on Front Street until the Community Center is complete in two years.

Councilman Narron questioned if there was a contingency for unforeseen items. Mr. Connet stated that the estimated cost is \$24,200 and the remaining \$5,800 is a contingency.

Councilman Narron asked Parks/Recreation Director Tim Johnson if he had any problems with the proposal. He stated no. He stated that he didn't prefer to move two times in two years but it made no difference to him whether the department moves to the Jones House or not. Further, Councilman Narron asked Mr. Johnson if someone was pushing him out of the Hastings House. He stated no.

Councilman Moore questioned the Council on how this request was presented.

City Manager Pete Connet stated that he had received the request from Councilman Ogburn.

Councilman Ogburn stated that he had been approached by some people regarding inappropriate use of the house. Further, someone advised him that some antiques were left at the House and were now missing. Further, Councilman Ogburn stated that it made perfect sense to him to move the department closer to the Community Park.

Councilman Moore stated that the Community Park was not the only park in Town and it would take less than five minutes to drive to the park.

Councilman Narron questioned Councilman Ogburn on the names of persons who contacted him. He stated that he had talked to Historic Properties Commission members Mrs. Tom Lassiter, Vivia Creech, Jan Branch, Richard Williams and no one supported the move. He stated that it was a waste of taxpayers money.

Councilman Williams stated that money should be spent for park police. Councilmen Ogburn and Moore agreed.

Councilman Narron stated that it was appalling to him that members of the Town Council would threaten a Department Head with retaliation. Further, he stated that if no one is aware of who wants the house, how can the Town spend \$30,000 on a building to be torn down in a couple of years.

Councilman Moore questioned why action needed to be taken to move the staff at this time. Councilman Ogburn stated that he felt that the Town didn't need to wait. Further, Councilman Moore stated that this money should be placed in a savings account for the future.

Councilman Moore stated that (1) no request had been made from any group with a plan for its use, preservation, or upkeep. Therefore, the Town should not force the Department out without a plan; (2) this project is unfunded and the money should be placed in savings; and (3) he now has a vested interest in parks and recreation with his three children. Further, he commended Tim Johnson on supplying the Council with the facts.

There being no further comments, Mayor Johnson called for a vote.

Councilman Ogburn made a motion, seconded by Councilman Broadwell, to approve the budget amendment for renovations to the Jones House for the Parks/Recreation Staff in the amount of \$30,000. Councilmen Ogburn, Bell, Broadwell and Mayor Pro-Tem Evans voted to approve the motion. Councilmen Narron, Williams and Moore voted to deny approval. Motion passed 4-3.

New Business

1. Resolution # 417 endorsing projects for consideration in the 2007-2013 Transportation Improvement Program (ATTACHMENT III)

Councilman Williams requested that the resolution include realignment of east Market Street for a stoplight at the intersection of Market Street and Futrell Way.

Councilman Broadwell made a motion, seconded by Councilman Moore, to adopt the resolution with the amendment to add realignment of the street for a stoplight at the intersection of Market Street and Futrell Way. Unanimous.

2 Remarks from Town Attorney on Board of Adjustment Membership

Bob Spence, Jr. advised the Council that staff was having a difficult time with getting a quorum for the Board of Adjustment meetings and stated that he would be presenting a recommendation to the Council at a later date to expand the number of alternate members on the Board of Adjustment and/or allow the prior Planning Board members to be alternate members. No action.

3 Adoption of Draft Resolution honoring the late former Councilman Franklin U. Creech

Councilman Ogburn made a motion, seconded by Councilman Bell, to adopt the resolution honoring the late Councilman Creech and to present the resolution to the family at a later date. Unanimous. (ATTACHMENT IV)

4 Adoption of new “Cross-Connection/Backflow Protection” Ordinance

Public Utilities Director Bobby Tripp addressed the Council on the need for the new ordinance and asked for approval.

Councilman Broadwell made a motion, seconded by Councilman Ogburn, to adopt the ordinance as presented. Unanimous. (ATTACHMENT V)

5 Amendments to the JB George Agreement

City Manager Pete Connet addressed the Council on amendments to the JB George Agreement to be effective January 1, 2007.

Councilman Broadwell made a motion, seconded by Councilman Ogburn, to adopt the amendments to the Josephine B. George Endowment Agreement. Unanimous (ATTACHMENT VI)

Closed Session - City Manager’s Annual Evaluation

Councilman Broadwell made a motion, seconded by Councilman Bell, to go into closed session to discuss the City Manager’s Evaluation. Unanimous.

Closed Session Minutes

The Council discussed Pete Connet’s annual evaluation. It was the general consensus of the Council to give the City Manager a 3.7% increase in pay.

Councilman Broadwell made a motion, seconded by Councilman Bell, to reconvene into regular session.

It was the general consensus of the Council to change the January 2, 2007 Council meeting to January 9, 2007.

There being no further business the meeting was adjourned.

Norman R. Johnson, Mayor

ATTEST:

Debra W. Godwin, Town Clerk