

The Smithfield Town Council met in regular session on Wednesday, November 5, 2014 at 7:00 p.m. in the Council Chambers of the Smithfield Town Hall. Mayor John H. Lampe II. presided.

Councilmen Present:

M. Andy Moore, Mayor Pro-Tem
Marlon Lee, District 1
J. Perry Harris, District 2
Roger A. Wood, District 4
Emery D. Ashley, At-Large
Charles A. Williams, At-Large

Councilmen Absent

Travis Scott, District 3

Administrative Staff Present

Paul Sabiston, Town Manager
Paul Embler, Planning Director
Kenneth C. Griffin, Public Utilities Director
Patrick Harris, Emergency Services
Gary Johnson, Interim Parks & Rec Director
Tim Kerigan, Human Resources/PIO
Mike Scott, Police Chief
Greg Siler, Finance Director
Shannan Williams, Town Clerk

Present:

Bob Spence, Town Attorney

Staff Absent:

Lenny Branch, Public Works Director

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

APPROVAL OF AGENDA:

Councilman Ashley made a motion, seconded by Councilman Harris, to approve the agenda with the following amendments

- Add to Presentations Item # 4 – Strategic Economic Development Plan Update by Rocky Lane.
- Move Consent Agenda Item # 6 – *New Hire Report and Request for approval to hire a part-time Police Officer* to the Council Work Session on November 18, 2014
- Move Business Item #2 – *Designating the Buffalo Creek Greenway as part of the East Coast Greenway* to the Consent Agenda Item 6.

Unanimously approved.

Councilman Williams made a motion, seconded by Councilman Harris, to add a Closed Session pursuant to NCGS 143-318.11 (a) (6) to discuss a personnel matter.

Unanimously approved.

PRESENTATIONS:

1. Administering Oath of Office to new Police Officer Rontavier Wooden

Mayor Lampe administered the Oath of Office to new Police Officer Rontavier Wooden and welcomed him to the Town of Smithfield.

2. Recognition of Glenn Sheets and Jeff Stewart for successful completion of the ElectriCities Lineman Career Program and recognition for the successful completion of all requirements for the Lineman Apprenticeship Program

Mayor Lampe presented to Lineman Glenn Sheets and Lineman Jeff Stewart the North Carolina Department of Labor and U.S. Department of Labor Certificates of Completion of Apprenticeship. ElectriCities Chief Operating Officer Roy Jones presented Mr. Sheets and Mr. Stewart with certificates of completion of the ElectriCities of North Carolina Lineman Career Development Program.

3. 2014 Public Power Awards of Excellence

Roy Jones, Chief Operating Officer of ElectriCities, presented to Mayor Lampe and staff the 2014 Public Power Awards of Excellence in Service Excellence, Financial Stability and Energy Efficiency to the Town of Smithfield Electric Department.

4. Strategic Economic Development Plan Update

Sanford Holshouser Managing Partner Rocky Lane presented to the Council the Strategic Economic Development Plan Update.

Attached hereto and made an official part of these minutes is a copy of the 2014 Strategic Economic Development Plan Update. A Copy is on file in the Office of the Clerk.

PUBLIC HEARINGS:

Town Clerk Shannan Williams swore in persons wishing to offer testimony at the Public Hearing.

1. Amendment to the Electric Rates to Include the Economic Development Rider Electric Rate Code, ED-1.

Mayor Pro-Tem Moore made a motion, seconded by Councilman Harris, to open the Public Hearing. Unanimously approved.

Public Utilities Director Ken Griffin addressed the Council on a proposed amendment to the Town of Smithfield's Electric Rates. The purpose of the public hearing was to gain comments from citizens concerning the amendment.

Mayor Lampe asked if there were any questions from the audience.

Teresa Daughtry questioned if a business owner installs the load shedding generator then what is the cost offset in savings if they spend a tremendous amount of money for this equipment. Mr. Griffin explained that this rider is for existing customers that are expanding their current operations.

Councilman Harris made a motion, seconded by Mayor Pro-Tem Moore to close the Public hearing. Unanimously approved.

Councilman Ashley made a motion, seconded by Mayor Pro-Tem Moore to adopt the Economic Development Rider Electric Rate Code, ED-1. Unanimously approved.

Town of Smithfield, North Carolina Economic Development Rider

Electric Rate Code ED-1

I Availability

This Rider is available only at the Town's option for existing nonresidential electric service (commercial and industrial) customers, who are served under the Town's LG-2 Rate Code for a period of 1 – 5 years as granted by the Town Council. The Town Council may grant an initial period of less than 5 years and subsequently extend the period up to the full 5 year period.

The purpose of this Rider is to provide an economic incentive for an existing business located within the Town of Smithfield to expand and as such this Rider applies only to the expansion load, which must be separately metered.

II Monthly Rate reduction

Per approval by Council, this Rider reduces the Energy Charge for the LG-2 Rate Codes by \$0.015/kWh for the expansion load only up to a maximum of 2,000,000 kWh per year and

shall be applicable for a period of up to 5 years as set by the Town Council when there is a minimum applicant capital investment of \$1,000,000 in plant and equipment, which may include the capital cost of purchase and installation of a CP load-shedding generator **and** depending on the number of jobs brought to the Town of Smithfield and employed by the applicant as follows:

Number of New Full-Time Equivalent Jobs Brought to Smithfield and

Employed by applicant	Applicable Period
10 jobs	1 year
20 jobs	2 years
30 jobs	3 years
40 jobs	4 years
50 jobs	5 years

Since this Rider applies only to the load-shedding Rate Code LG-2, the applicant must successfully shed a minimum of 75% of their Coincident Peak (CP) load when signaled by Electricities of North Carolina. This Rider will automatically terminate if less than 75% of the CP load is shed during the preceding four month period. Customer is and will be responsible for all non-reduced rate costs if for any reason it fails to shed 75% of its CP as set forth above.

Staff is authorized to amend the fee/rate structure as set forth herein and publish accordingly.

Note: The applicant must install a load-shedding generator for CP load-shedding concurrent with their expansion. Smithfield's CP load-shedding Rate Codes offer a very significant demand and energy charge price reduction and hence significantly lower monthly bills to its commercial and industrial Rate Code classes that take advantage of this option. Taken together, this Rider with the CP load-shedding Rate Code classes offers some of the lowest electric rates available in the State and region.

2. CUP-14-07 Guy C. Lee Manufacturing Company

Mayor Lampe asked that he be recused from the Public Hearing due to the applicant being a member of his family.

Councilman Williams made a motion, seconded by Councilman Harris, to recuse Mayor Lampe from the Public Hearing. Unanimously approved.

Councilman Harris made a motion, seconded by Councilman Ashley, to open the Public Hearing. Unanimously approved.

Planning Director Paul Emblar addressed the Council on a request by Guy C. Lee Manufacturing Company seeking a conditional use permit to operate an automobile storage yard on property located within a B-3 (Business) zoning district. The property considered for approval is located on the west side of West Market Street approximately 350 feet south of its intersection with Wilson's Mills Road and further identified as Johnston County Tax ID# 15078199K. Mr. Emblar stated the applicant has provided a revised preliminary site plan with a landscape plan indicating that 234 cars can safely be accommodated on the rear portion of this 6.04 acre tract of land. The preliminary site plan indicates the existing fence will remain and no office building location is shown on the plan. The applicant has stated that the front portion of the lot will not be improved beyond perimeter landscape yards at this time. However, paved access from the West Market Street to the vehicle storage lot will be provided in accordance with the site plan stamped received on October, 2 2014. Buffer yards are shown on the sketch plan and appear to meet minimum development standards as found in Article 17 of the Smithfield UDO. This includes a 15 foot street yard adjacent to West Market Street, 10 foot buffer yard adjacent to Sunset Memorial Cemetery, a 12.5 foot transition yard adjacent to Windsor Place Housing Development, a 40 foot buffer yard adjacent to an undeveloped residential zoned property in the rear and an 8 foot transition yard adjacent to the commercial strip center to the north. The applicant's intention is to not plant any interior landscaping on the front portion of the lot until such time that a tenant for this portion of the property has been secured. Vehicle storage is considered a commercial

parking lot by definition as found in Article 2 of the Smithfield UDO and must be graded and surfaced with blacktop, concrete, brick, or other such surfacing material to ensure a dustless surface condition in accordance with Article 18 of the Smithfield UDO. Stormwater facilities are shown at the rear of the lot and will be constructed if required. Access will be provided by an NCDOT approved driveway located on West Market Street and will be required to conform to current NCDOT driveway standards. The applicant will be required to submit a detailed landscape plan, lighting plan and stormwater permit application prior to final site plan approval and zoning permit.

The Planning Board at its September 4th, 2014 meeting voted 4 to 3 to table the request for thirty days. The Planning Board requested the proposed tenant of the vehicle storage lot to appear before the Planning Board at its October 2nd, 2014 public hearing.

The Planning Board at its October 2nd, 2014 meeting voted 6 to 1 to recommend approval of the proposed vehicle storage lot on a portion of property located within the a B-3 (Business) zoning district.

The Planning Department recommended that the Town Council make a determination if any adverse impacts on adjacent land uses will occur and that the site plan meets or exceeds all minimum development standards to include adequate buffers as required by the Town of Smithfield Unified Development Ordinance.

Councilman Wood questioned if this was a similar request as one that was recently denied for this same location. Mr. Embler responded that each conditional use permit application has to be held on its own merit.

Councilman Harris questioned if there was a defined difference between a junk yard and a storage yard. Mr. Embler responded that a junk yard is not defined in the UDO.

Town Attorney Bob Spence informed the Council that they have the authority to place any additional restrictions or conditions on the applicant.

Mayor Pro-Tem Moore asked the applicant if he was in agreement with the testimony offered by Mr. Embler. Mr. Ross Lampe stated that he was in agreement with the testimony and offered the following additional testimony. Mr. Lampe explained that the property was purchased in June with the hopes to rent the space to a potential client for storing repossessed cars that are one to six years old. Mr. Lampe further explained that no maintenance would occur on site and landscaping would be done in accordance with the UDO. Mr. Lampe asked that the Council not require that he pave the parking lot or the driveway.

Mr. Spence responded that the road has to be constructed or the UDO has to be amended to accommodate the request by the applicant. Mr. Spence further stated that the Council could not waive that requirement.

Councilman Ashley made a motion, seconded by Councilman Harris, to close the public hearing. Unanimously approved.

Mayor Pro-Tem Moore asked the applicant if he wished to withdrawal his application at this time. Mr. Lampe responded that he would withdrawal his application for a conditional use permit since paving the lot and the driveway were required.

CITIZENS COMMENTS: None

CONSENT AGENDA:

Councilman Ashley made a motion, seconded by Councilman Harris, to approve the following items as listed on the Consent Agenda:

1. Approval of Minutes:

October 7, 2014 – Regular Meeting

October 21, 2014 – Work Session

2. Special Event – Sarah Edward on behalf of the Downtown Smithfield Development Corporation petitioned the Town to close North Third Street from Market to Bridge Street for the annual Christmas Tree Lighting on December 4, 2014 between the hours of 5:30pm – 8:30pm.
3. Governor’s Highway Safety Program (GHSP) Grant – Authorized receipt of the grant award to purchase 3 squad car video cameras and approve the below budget amendment.

GENERAL FUND

	<u>BEFORE</u>	<u>ADJ.</u>	<u>AFTER</u>
Revenue			
10-3900-1700 Grant Revenue	\$ 12,000	\$ 9,000	\$ 21,000
10-3900-0001 Fund Bal. Approp. - Unauthorized Sub./Fed Forfeiture	-	<u>9,000</u>	<u>9,000</u>
	<u>\$ 12,000</u>	<u>\$ 18,000</u>	<u>\$ 30,000</u>
10-5100-3300 Police Supplies/Operations	\$ 75,710	\$ 9,000	\$ 84,710
10-5100-4000 Police - Drug Forfeiture	-	<u>9,000</u>	<u>9,000</u>
	<u>\$ 75,710</u>	<u>\$ 18,000</u>	<u>\$ 93,710</u>

To Fund the Purchase of Three (3) Squad Car Video Cameras for \$18,000 with \$9,000 Grant Proceeds and \$9,000 Drug Forfeiture Monies

4. Bid Award and Contract Approval to KS Bank in the amount of \$491,185 for an equipment loan. Also, Approval of Resolution # 550 (13-2014) approving the financing terms. Interest rates and fees are as follows:

Town of Smithfield Financing Proposal Results for Equipment Loan of \$491,185							
5 years (60) Months							
	KS Bank	First Citizens	BB&T	Four Oaks	SunTrust	PNC	Wells Fargo
Rate	1.55%	1.600%	1.79%	1.76%	1.820%	2.510%	No Response
Fees	\$0	\$200	\$0	0	0	0	
Prepayment Penalty	None	1%	None	None	None	None after 3 Years	
Annual Payment	Fixed at \$51,236.50	Fixed at \$51,305.54	Fixed at \$51,568.67	Fixed at \$51,604.55	Fixed at \$51,610.29	Fixed at \$52,572.32	
Total Repayment (Including Bank Fees)	\$512,365	\$513,255	\$515,687	\$516,046	\$516,103	\$525,723	

Resolution #550 (12-2014)
Approving Financing Terms

WHEREAS: The Town of Smithfield ("Town") has previously determined to undertake a project for the financing of equipment, (the "Project"), and the Finance Officer has now presented a proposal for the financing of such Project.

BE IT THEREFORE RESOLVED, as follows:

1. The Town hereby determines to finance the Project through KS Bank in accordance with the proposal dated October 21, 2014. The amount financed shall not exceed \$491,185, the annual interest rate (in the absence of default or change in tax status) shall not exceed 1.55%, and the financing term shall not exceed 5 years from closing.
2. All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the Town are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution. The Financing Documents shall include a Financing Agreement and Deed of Trust and a Project Fund Agreement as KS Bank may request.
3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by Town officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Officer shall approve, with the Finance Officer's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.
4. The Town shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The Town hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3).
5. The Town intends that the adoption of this resolution will be a declaration of the Town's official intent to reimburse expenditures for the project that is to be financed from the proceeds of the KS Bank financing described above. The Town intends that funds that have been advanced, or that may be advanced, from the Town's general fund, or any other Town fund related to the project, for project costs may be reimbursed from the financing proceeds.
6. All prior actions of Town officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Approved this 5th day of November, 2014.

5. Observed Employee Holidays for the 2015 Calendar Year. The holidays are indicated below.
 - New Year's Day
 - Martin Luther King's Birthday
 - Friday before Easter
 - Memorial Day
 - Independence Day
 - Labor Day
 - Veteran's Day

- Thanksgiving Day
 - Friday after Thanksgiving Day
 - Christmas (December 23, 24 & 25, 2015)
6. Designating the Buffalo Creek Greenway as part of the East Coast Greenway from the Bob Wallace Kiddie Park to the Smithfield Community Park as part of the East Coast Greenway (ECG). The East Coast Greenway Alliance will provide trail markers (at no cost to the Town) to be installed along the route of the Buffalo Creek Greenway that designates it as part of the ECG. The Town's responsibility will be to install the trail markers and maintain them.

Unanimously approved.

BUSINESS ITEMS:

1. Mill Eligibility Certification for the Water Treatment Plant.

Town Manager Paul Sabiston addressed the Council on a request by DSDC Executive Director Sarah Edwards. Ms. Edwards requested that the Council consider mill eligibility certification for the Water Treatment Plant. The creation of the North Carolina Mill Rehabilitation Tax Credits, prompted by the closure of many textile, tobacco and furniture plants during the past decade, is considered a major economic development initiative that will enhance the economic feasibility of reusing many of the state's former industrial sites. State tax credits are available for the rehabilitation of income- and nonincome-producing historic mill properties.

Councilman Ashley made a motion, seconded by Councilman Harris, to approve the request as submitted. Unanimously approved.

2. Emergency engineering services and permitting for the repair of the Buffalo Creek Greenway.

Planning Director Paul Embler addressed the Council on a recommendation that the Town Council take action on retaining an engineering consultant for the purposes of providing emergency engineering services and permitting for the repair of the Buffalo Creek Greenway in the vicinity of Bridge Street behind the Boy Scout Hut. Mr. Embler explained that due to abnormal rainfall this year, the Neuse River had higher than normal water levels for extended periods of time. These high water levels caused accelerated erosion on the banks of the Neuse River in the vicinity of the Boy Scout Hut at the end of Bridge Street. As a result, the bank has eroded to such an extent that the greenway has been undermined for approximately 75 to 100 feet. In addition, the main sanitary sewer outfall to the wastewater plant is also in jeopardy of being exposed. Staff has contacted DNER and the Corps of Engineers who have jurisdiction over construction performed in the riparian buffer of the Neuse River. In order to undertake emergency repairs to the greenway and to stabilize the bank, it will require some limited engineering and permitting assistance. In order to construct a long term fix for the erosion problem, additional engineering and permitting will be required. To that end, planning staff has contacted three engineering firms who specialize in stream bank restoration work (McKim Creed, Kimley Horn and Hazen and Sawyer). McKim Creed said they could not assist due to work load, Hazen and Sawyer has said they would come and look at the problem to see if they can assist, but has not arrived to inspect. Kimley Horn came the next day for on-site observation and submitted a proposal the following day. Kimley Horn proposal was designed as to provide flexibility based on existing information available for permitting and the abilities of the contractor and town staff. Kimley Horn will provide the letter and back up information necessary for DNER and the Corps to allow the emergency repairs to be permitted. Their fee for this service will be \$1,000 but assumes that the existing construction plans and soil borings for the greenway will be sufficient for permitting. For approximately another \$5000.00 they propose to provide enough engineering to permit and construct a long term fix for the erosion by working with a contractor that is retained by the Town. Their proposal does not include contract documents for obtaining public bids for construction but rather working one on one with the contractor with minimal plans sufficient to permit and construct.

Councilman Ashley stated that the Greenway was in need of repair.

Councilman Harris stated that the Greenway was going to continue to cost the Town money and funding should be allocated on a yearly basis for repairs and maintenance.

Councilman Williams made a motion, seconded by Mayor Pro-Tem Moore to hire Kimly Horn to provide a letter and back up information necessary for DNER and the Corps of Engineers to allow the emergency repairs to be permitted. Fee incurred by Kimly Horn are not to exceed \$5,000. Councilman Williams, Mayor Pro-Tem Moore, Councilman Ashley and Councilman Wood voted in favor of the motion. Councilman Harris and Councilman Lee voted against the motion. Motion passed 4-2.

3. Authorization to advertise Closing the Right of Way on two alleys

Planning Director Paul Embler addressed the Council on a request by Cathy Scott to close and vacate an existing alley right of way in the block enclosed by S Brightleaf Blvd, Massey Street, 9th Street and E. Johnston Street. Mr. Embler stated that the petitioner was requesting that the Town Council take under consideration the closing of two alley ways on property located internal to the block bound on the north by Massey Street, to the east by 9th Street, to the south by E Johnston Street and to the west by S Brightleaf Blvd. There are a total of eight parcels of land in the block. All eight parcels of land abut the alley ways to some extent. In fact, some of the alley ways have structures from adjacent parcels encroaching into the alley rights of way. Upon the closing of the rights of ways, the land within the alley ways will revert to the adjacent property owners according to parcel frontage to the center line of each right of way. Mr. Embler explained that the purpose of petitioning the Council to close the alley rights of way is so the property can be marketed as one parcel of land for sale. If Town utilities are present within the alley ways the owners agree to grant easements to the Town for the purpose of operating and maintaining said utilities. Mr. Embler further asked that the Town Council take the request under consideration and direct staff to advertise for a public hearing for the alley closings.

Councilman Ashley made a motion to direct staff to advertise for a public hearing to close the right of way on two alleys. Motion died for lack of a second.

4. West Smithfield Beautification Project – Review of Draft Plan

Planning Director Paul Embler addressed the Council on a review of the draft plan for the West Smithfield Beautification Project. Mr. Embler presented to the Council the preliminary master plan for the US 70 West landscape improvements from the Neuse River to Buffalo Road. Mr. Embler explained that staff has mapped the existing conditions including property lines, structures, existing drives, poles, signs, utilities and any other physical limitations that will place constraints on where to locate the landscaping. A site analysis has been performed to determine the areas suitable for planting of large trees, small trees and shrubs. Also, consideration has been given to drive way locations and configurations in order to minimization of traffic hazard and to determine possible landscape islands locations in the area between the edge of the existing pavement of US 70 and the right-of-way. Council was asked to review the preliminary landscape plan. Mr. Embler further explained that staff will meet with each affected property owner so that they can see what is proposed and what effects the landscaping will have on their properties. After receiving comment from the owners, the plans will be finalized and presented to Council for final review and comment. Once Council is satisfied with the proposed landscape improvements, Council will need to pass a resolution asking NCDOT to approve and assist in the landscape improvements. Once NCDOT approves the plan then they will be taking the lead in the project.

Councilman Ashley made a motion, seconded by Councilman Harris, to approve the preliminary landscape plan and work with the affected property owners. Unanimously approved.

5. Discussion on IT Assessment

This item was originally discussed at the October 7, 2014 regular meeting where no action was taken.

Town Manager Paul Sabiston discussed with the Council the desire to move forward with implementing the workstation improvements, email in the Cloud and the server in the Cloud that was suggested in the analysis by Alphanumeric.

Councilman Harris made a motion, seconded by Councilman Ashley, to direct the Town Manager to include the workstation improvements, email in the Cloud and server in the Cloud in the FY 2015-2016 budget process. Unanimously approved.

Councilmembers Comments:

- Councilman Wood expressed his appreciation to Councilman Harris, Paul Sabiston, Paul Emblar and Lenny Branch for all their hard work on the West Side Beautification Project.

Town Manager's Report:

- **Department Reports**

- A highlight of each department's monthly activities was given to the Council.

- **Financial Report**

- General Fund revenues for the month ending September 30, 2014 were \$1,322,834 and YTD revenues were \$2,195,183. The general fund expenditures for the month ending September 30, 2014 were \$733,660 and YTD expenditures were \$2,350,418.

- **Manager's Updates**

Mr. Sabiston gave the Council a brief update on the following issues:

- The Court issues the order granting the Town's motion for summary judgment filed against the Town in the Williams' case.
- The FY 2013-2014 draft audit has been completed and will be presented to the Council at the December meeting.

Closed Session: Pursuant to NCGS 143-318.11 (a)(6)

Councilman Williams made a motion, seconded by Mayor Pro-Tem Moore to enter into Closed Session pursuant to NCGS 143-318.11 (a) (6) Unanimously approved.

Reconvene In Open Session:

Councilman Harris made a motion, seconded Councilman Ashley, to reconvene in open session. Unanimously approved.

Adjourn

There being no further business, Councilman Ashley made a motion, seconded Councilman Harris, to adjourn. Unanimously approved.

The meeting adjourned at approximately 9:50pm.

John H. Lampe II., Mayor

ATTEST:

Shannan L. Williams, Town Clerk