

The Smithfield Town Council met in regular session on Tuesday, April 7, 2015 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
Travis Scott, District 3
Roger A. Wood, District 4
Emery D. Ashley, At-Large
Charles A. Williams, At-Large

Councilmen Absent

J. Perry Harris, District 2

Administrative Staff Present

Paul Sabiston, Town Manager
Lenny Branch, Public Works Director
Paul Embler, Planning Director
Pete Connet, Interim 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:

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

APPROVAL OF AGENDA:

Mayor Pro-Tem Moore made a motion, seconded by Councilman Williams, to approve the agenda with the following amendments:

- Remove – Presentation 1 – Proclamation in Memory of Norman Johnson

Unanimously approved.

PRESENTATIONS:

1. Recognition of Service by Regina Sanders expressing her appreciation to the Smithfield Fire Department, Four Oaks EMS and Johnston County EMS.

Regina Sanders and her husband, Daniel Sanders, expressed their appreciation to the members of the Smithfield Fire Department, Four Oaks EMS and Johnston County EMS for their life saving efforts on December 24, 2014. Councilman Scott read the below statement while Mayor Lampe gave the following emergency services responders Town pins:

Smithfield Fire Department

Captain Roger Olmstead
Johnny Parker
Engineer Bentley Powell
Thomas Johnson
Ryan Capps
Captain Steve Sasser

Johnston County EMS

Captain Jody Hudson
Shayla Youd
Glenn Neighbors

Four Oaks EMS

Leslie Lynch
Lisa Langston

Tuesday, April 7, 2015

Thank you to Public Safety

Regina Sanders Citizen of Smithfield

Working on emergency scenes have many high levels of stress factors and generally present hazardous situations where the people involved are running away, but the first responders are the ones doing just the opposite in efforts to help others. most of the time those in need are often strangers.

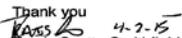
Our local public safety servants are always answering the calls to help others and many times the efforts they make go unnoticed. On December 24th 2104, One of our very active citizens Regina and Daniel Sanders were the ones in need. The call came out as cardiac arrest 09echo 1 response which to the responders means someone is not breathing and does not have a pulse. As the crews arrived and began gathering the immediate facts it was confirmed the Ms. Sanders was the victim in cardiac arrest. With the excellent care and professionalism displayed by our public safety personnel, they were able to revive Ms Sanders. These men and women put in countless hours of training and have team work like no other profession. It is clear they truly make a difference. At this time I would like to introduce Mr. and Mrs Daniel Sanders and invite them to share a few words.

Thank you

At this time I would like to ask those who are present, who responded to this medical call to please come forward and stand up front to be recognized for your service. Mr. and Mrs Sanders would like to briefly greet each of you. I would also like to invite Mayor Lampe to present each of you with a City pin to show our appreciation for your service.

One may wonder why so many respond to a medical call, when one's life is on the line we make sure adequate personnel are present to perform all the needed tasks.

This group of personnel represent three different departments made up of hundreds of providers. That serve throughout Johnston county. They will also be given a Save pin at their annual banquet in May 2015.

Thank you

Travis Scott Smithfield Councilman Dist 3

2. Recognition of Police Officer Michael Gray for obtaining the Advanced Law Enforcement Certification from the North Carolina Education and Training Standards Commission.

Police Chief Mike Scott and Mayor Lampe presented Master Police Michael Gray with a framed Advanced Law Enforcement Certificate. Members of Council expressed their appreciation to Officer Gray for his dedication and service to the Town of Smithfield.

PUBLIC HEARINGS:

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

1. Conditional Use Permit Request - NC 210 Car Lot (CUP-15-01)

This was tabled at the March 3, 2015 meeting

Councilman Scott made a motion, seconded by Councilman Wood, to open the public hearing. Unanimously approved.

Planning Director Paul Embler addressed the Council on a request for a Conditional Use Permit. The applicant is requesting a conditional use permit to construct and operate an automotive sales lot on property located within a B-3 (Business) zoning district. The property considered for approval is located on the west side of the intersection of Swift Creek Road and NC Hwy 210. The property is further identified as Johnston County Tax ID# 15109015H.

Planning Director Paul Embler has incorporated his entire record and provided it to Council in written form in the March 3, 2015 agenda packet.

The Planning Board at its February 5th 2015 meeting unanimously voted to recommend approval of the Conditional Use Permit for an automobile sales lot at the west side of the intersection NC Hwy 210 and Swift Creek Road with the following conditions of approval:

1. An 8 foot white vinyl fence is installed on the west side of a reduced buffer yard.
2. Street trees nearest the intersection are set back an additional 10 feet.
3. Vehicular Surface Area is moved towards the public right-of-way.
4. All VSA's be screened with a continuous row of shrubs planted 5 foot on center.
5. All other minimum requirements of the UDO are met to include paving of all areas to be used for automobiles.

The Planning Department recommends approval of the proposed automobile sales lot providing that all parking spaces are paved and landscaping is installed in accordance with minimum development standards and that vehicular surface screening is installed adjacent to all vehicular surface areas.

Mr. Emblar explained that the applicant has revised the site plan to include a drive way on Swift Creek Road instead of Hwy 210. Mr. Emblar further explained that there are many uses in a B-3 zoning district that would not require a conditional use permit from the Council. Some of those uses include: auto parts stores, convenience store, health clubs, retail businesses, pawn shops, car washes, etc...

Councilman Ashley stated that should a permitted business wish to develop on the property in question then Council would have no say so. He further stated that the Council could place conditions on the proposed business.

Dan Simmons of Triangle Civil Works stated that he was in agreement with the testimony provided by Mr. Emblar. He further stated that the applicants have complied with all the necessary requirements. Mr. Simmons explained that the applicant would like to operate the car lot with the least impact to the neighborhood.

Randy White, an appraiser for the applicant, testified that it was his opinion that the proposed car lot would not affect the values of the adjoining properties. Mr. White further testified that the other approved B-3 uses would have more of an impact on the property values.

Councilman Wood questioned if Mr. White had something to compare this to. Mr. White responded that he'd never seen this exact situation.

Councilman Scott questioned if there would be a driveway entrance on Highway 210. Mr. Simmons responded that a driveway cannot be put on Highway 210 without going back to NCDOT for approval. Mr. Simmons stated that NCDOT has requested that the driveway be placed as far from the intersection as possible.

Town Manager Paul Sabiston reiterated that should the owner decide to put an approved use on the property then the Council would not be able to place conditions on the use. Mr. Sabiston further stated that the Council could impose reasonable conditions on the use causing the least amount of impact to the adjacent property owners.

Councilman Ashley suggested that the hours of operation be limited.

Mayor Lampe asked if there were any questions/from those in the audience that had been duly sworn to testify.

Mike Caporale of 2190 NC Highway 210 testified that the proposed used car lot would devalue his property.

Kathleen Caporale also of 2190 Highway 210 testified that she will have to see a used car lot every time she looks out her kitchen window. She further testified that the car lot would not be appealing in the current location.

Esther Watson of 2267 Highway 210 testified that she and her husband live directly across the street from the proposed site. She further testified that the area is primarily residential and agricultural and Highway 210 is already heavily traveled. Mrs. Watson stated that the used car lot will impact their quality of life.

Franklin Watson also of 2267 Highway 210 testified that he will see this car lot from his front door and there are single family homes surrounding this property. He asked that the Council deny this request.

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

The Written Finding of Facts

The Council of the Town of Smithfield shall decide the matter of this Conditional Use Permit Application by motion and vote on each of the following four findings of fact. Any motion to find against the application must be supported by statement of specific reasons or conclusions reached in support of the motion.

- **Finding One of Four:**

Approved:

Based on the evidence and testimony presented it is the finding of the Town Council that the application will not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and approved or is approved with the following stated conditions.

The proposed automobile sales lot at this location will not materially endanger the public were shown because the site has adequate parking available and layout of the site facilitates safe movement of automobiles and pedestrian traffic with little additional congestion.

Councilman Ashley made a motion, seconded by Councilman Williams, to approve Finding One. Unanimously approved.

- **Finding Two of Four:**

Approved:

Based on the evidence and testimony presented it is the finding of the Town Council that the application meets all required specifications and conforms to the standards and practices of sound land use planning and the Town of Smithfield Unified Development Ordinance or other applicable regulations or is approved with the following additional stated conditions.

The proposed automobile sales lot at this location conforms to standards and practices of sound land use planning and the Town of Smithfield Unified Development Ordinances providing the applicant submits a detailed site plan for planning staff approval that shows required landscaping, lighting, paved parking and utility connections prior to issuance of site plan approval and issuance of a valid zoning permit for an automobile sales lot.

Mayor Pro-Tem Moore made a motion, seconded by Councilman Williams, to approve Finding Two. Mayor Pro-Tem Moore, Councilman Williams, Councilman Ashley, Councilman Scott and Councilman Wood voted in favor of the motion. Councilman Lee voted against the motion. Motion carried 5-1.

- **Finding Three of Four:**

Approved:

Based on the evidence and testimony presented it is the finding of the Town Council that the application will not substantially injure the value of adjoining or abutting property and will not be detrimental to the use or development of adjacent properties or other neighborhood uses or is approved with the following additional stated conditions.

The proposed automobile sales lot at this location will not substantially injure the value of adjoining or abutting property and will not be detrimental to the use or development of adjacent properties or other neighborhood uses providing required landscape buffers and street yards are installed and maintained in accordance with minimum development standards and that no more than 30 automobile sales for sale are on the lot at any given time. Automobiles for sale shall be no closer than 50 feet from the right-of-way of NC Hwy 210 and Swift Creek Road in accordance with the Town of Smithfield Unified Development Ordinance. All parking areas shall be paved or the applicant shall request a variance by the Town of Smithfield Board of Adjustment.

Mayor Pro-Tem Moore made a motion, seconded by Councilman Ashley, to approve Finding Three with the following conditions:

- Hours of operation limited to 8 am to 8pm Monday through Saturday and Sunday 8-6
- 8 foot vinyl fence on western property line plus landscaping
- No reduction of buffer for fence. Must maintain 40 foot buffer and must maintain transition yard planting fence must be planted on outside to provide additional screening for adjacent residence.
- No drive way access from NC 210....drive way access must be on Swift Creek Road as far as possible from the intersection of Swift Creek and NC 210

Mayor Pro-Tem Moore, Councilman Ashley and Councilman Williams voted in favor of the motion. Councilman Lee, Councilman Scott and Councilman Wood voted against the motion. Mayor Lampe cast the deciding vote in favor of the motion. Motion carried 4-3

- **Finding Four of Four:**

Approved:

Based on the evidence and testimony presented it is the finding of the Town Council that the application would not adversely affect the adopted plans and policies of the Town of Smithfield, or violate the character of existing standards for development of the adjacent properties or is approved with the following additional stated conditions.

The proposed automobile sales lot at this location will not adversely affect the adopted plans and policies of the Town of Smithfield, or violate the character of existing standards for development providing all minimum development standards are met to include landscaping, lighting, paved parking and all other minimum development standards.

Councilman Ashley made a motion, seconded by Mayor Pro-Tem Moore, to approve Finding Four. Mayor Pro-Tem Moore, Councilman Ashley and Councilman Williams voted in favor of the motion. Councilman Lee, Councilman Scott and Councilman Wood voted against the motion. Mayor Lampe cast the deciding vote in favor of the motion. Motion carried 4-3

Mayor Pro Tem Moore made a motion, seconded by Councilman Williams, that based upon satisfactory compliance with the above four stated findings and fully contingent upon acceptance and compliance with all conditions as previously noted herein and with full incorporation of all statements and agreements entered into the record by the testimony of the applicant and applicant's representative, moved to recommend approval of Conditional Use Permit Application # CUP-15-01 with the following conditions:

- Hours of operation limited to 8 am to 8pm Monday through Saturday and no Sunday hours of operation.
- 8 foot vinyl fence on western property line plus landscaping
- No reduction of buffer for fence. Must maintain 40 foot buffer and must maintain transition yard planting fence must be planted on outside to provide additional screening for adjacent residence.
- No drive way access from NC 210....drive way access must be on Swift Creek Road as far as possible from the intersection of Swift Creek and NC 210

Mayor Pro-Tem Moore, Councilman Ashley and Councilman Williams voted in favor of the motion. Councilman Lee, Councilman Scott and Councilman Wood voted against the motion. Mayor Lampe cast the deciding vote in favor of the motion. Motion carried 4-3

2. Rezoning Request - Larry Denning (RZ-15-02):

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

Planning Director Paul Embler addressed the Council on a rezoning request by Larry Denning. The applicant is requesting to rezone approximately 9.51 acres of land from the R-20A (Residential-Agricultural) zoning district to the B-3 (Business) zoning district. The property considered for rezoning is located on the south side of NC 210 Highway approximately 1,200 feet west of its intersection with Skyland Drive. The property is further identified as Johnston County Tax ID# 15076012A.

Planning Director Paul Embler has incorporated his entire record and provided it to Council in written form in the April 7, 2015 agenda packet.

The Planning Board, at its March 5, 2015 meeting unanimously voted to recommend approval of the request to rezone approximately 9.51 acres of land located on the south side of NC Highway 210 from the R-20A (Residential-agricultural) zoning district to the B-3 (Business) zoning district.

The Planning Department recommends approval of the request to rezone approximately 9.51 acres of land located on the south side of NC Highway 210 from the R-20A (Residential-agricultural) zoning district to the B-3 (Business) zoning district.

The applicant stated that he was in agreement with the testimony provided by Mr. Embler.

Mayor Lampe asked if there were any questions/from those in the audience that had been duly sworn to testify.

Mayor Lampe asked if there were any questions/comments from the Council. There were none.

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

The Written Finding of Facts

Article 13 Section 13-17 of the Town of Smithfield Unified Development Ordinance requires all applications for a zoning map amendment to address the following eight findings. At its April 7, 2015 regular meeting, the Town Council determined that the zoning map amendment is warranted.

Finding One of Eight:

The zoning petition is in compliance with all applicable plans and policies of the Town of Smithfield.

Agree: The rezoning request from the Residential-Agricultural to the Business zoning district meets all the Town's plans and policies and will blend in well with the adjacent land

uses. The Comprehensive Land Use Plan directly indicates the subject property is best suited for high density residential and office/institutional land uses.

Finding Two of Eight

The rezoning petition is compatible with established neighborhood patterns of the surrounding area.

Agree: The rezoning request is compatible with established neighborhood patterns which includes a commercial zoning district immediately east of and adjacent to the subject property. Existing high density residential and commercial properties and uses are approximately 1,200 feet east of the subject property.

Finding Three of Eight

The rezoning petition is compatible with the changing neighborhood conditions that might warrant a rezoning.

Agree: The rezoning petition is compatible with the changing neighborhood conditions that might warrant a rezoning because the demand for multifamily housing and senior living facilities is creating a need for additional zoning districts that can support such uses.

Finding Four of Eight

The rezoning request is in the community interest.

Agree: The rezoning will allow for additional commercial zoning districts that can support high density residential and associated commercial land uses. The development that will occur from the rezoning will increase the tax base as an additional benefit.

Finding Five of Eight

The request does not constitute "Spot Zoning"

Agree: Since adjacent nearby properties are presently zoned B-3 (Business) then it is unlikely an argument could be made for "spot zoning" or "small scale" zoning.

Finding Six of Eight

Present regulations deny or restrict the economic use of the property.

Agree: The property is currently zoned R-20A (Residential-Agricultural). High density residential and commercial uses such as those permitted in the B-3 (Residential-Agricultural) zoning district cannot occur unless the property is rezoned.

Finding Seven of Eight

....the availability of public services allows consideration of this rezoning request.

Agree: In addition to public water and sewer being available to the site, the property is served by Duke Power with electricity. CenturyLink and Time Warner also serve the area with phone and cable respectively.

Finding Eight of Eight

Physical characteristics of the site prohibit development under present regulations.

Agree: Much of the property is not affected by physical restraints such as wetlands, stream buffers, potential flood hazard areas and storm water. There is no limiting geological and hydrological formation that would prohibit development (rock outcrops, lakes, etc.) on the portion closest to NC 210 Highway.

Councilman Ashley made a motion, seconded by Councilman Williams to vote in the affirmative to all of the above Findings. Unanimously approved.

Mayor Pro-Tem Moore made a motion, seconded by Councilman Ashley, to approve the rezoning request. Unanimously approved.

Rezoning Permit Approval

Mayor Pro-Tem Moore made a motion, seconded by Councilman Ashley that based upon satisfactory compliance with the above stated eight findings and fully contingent upon full incorporation of all statements entered into the record by the testimony of the applicant and applicant's representative, move to approve the Rezoning Petition RZ-15-02. Unanimously approved.

CITIZENS COMMENTS:

- Rodchester Ellis of 615 Barbour Road addressed the Council on the unpaved road in his neighborhood. Mr. Ellis explained that the road has never been paved and it is in horrible condition. He and another resident, Mr. Sanders, asked the Council for assistance. Public Works Director Lenny Branch explained that the street in question is not a Town maintained street. Town Manager Paul Sabiston explained that it was the property owners' responsibility to bring the road up to the Town's standard before the Town could accept the street. Mayor Lampe suggested that Mr. Sabiston and Mr. Branch meet with Mr. Ellis and Mr. Sanders to discuss the condition of the street.

CONSENT AGENDA:

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

1. Approval of Minutes:

February 23, 2015 – Work Session
March 3, 2015 – Regular Meeting
March 17, 2015 – Work Session
March 24, 2015 – Work Session
March 24, 2015 – Closed Session

2. Special Event – Approval to allow Madison Stewart to host a Do-It-Yourself Fundraiser for the National Multiple Sclerosis Society to be held at the Town Commons Amphitheater on April 18, 2015 starting at 10 am and be completed by 1:00 pm.
3. Approval of Resolution # 556 (05-2015) declaring equipment as surplus personal property and the approval of the electronic auction of surplus personal property.

TOWN OF SMITHFIELD RESOLUTION # 556 (05-2015) AUTHORIZING THE SALE OF CERTAIN PERSONAL PROPERTY AT PUBLIC AUCTION

WHEREAS, the Town Council of the Town of Smithfield desires to dispose of certain surplus property of the Town in accordance with NC GS 160A-270; and

WHEREAS, the Town Council of the Town of Smithfield desires to utilize the auction services of a public electronic auction service.

NOW, THEREFORE, BE IT RESOLVED by the Town Council that:

- The following described property is hereby declared to be surplus to the needs of the Town:

Vin/Ser.#	Description
1GNDT135722295608	2002 Chevy Blazer
CZK05215	Canon Copier Model Number3480I
JVK18149	Finisher for Canon Copier
	1 water bottle attachment – Canon Copier
	2 boxes of staples – Canon Copier
GPR- 23	3) Canon Toners - Black
GPR-23	3) Canon Toners - Magenta
GPR- 23	3) Canon Toners - Yellow
GPR-23	2) Canon Toners - Blue
GPR-16	3) Canon Toners - Black
GPR- 20	1) Canon Toner -Yellow
GPR- 20	3) Canon Toners - Black
GPR – 36	1) Canon Toner - Blue
GPR – 36	1) Canon Toner - Yellow
GPR – 36	1) Canon Toner - Magenta
2500046	Radio - M/A-Com PRS INC Model # D28LPX
22886187	Philips Magnavox TV w/ remote Model #19PR19C125
6A45250724	Panasonic Microwave Model #NN-3935BP
1749647	Dukane Projector Model # 28A663 w/ stand
MV96E02580	Emerson VCR w/ remote –Model #

	EV598
YBE0643124590	Spectroniq DVD w/remote Model #PD1100

- The Town Manager or his designee is authorized to receive, on behalf of the Town Council, bids via public electronic auction for the purchase of the described property.
- The public electronic auction will be held beginning no earlier than April 18, 2015.
- The Town Council further authorizes the disposal of Town surplus property by use of a public electronic auction system provided by GovDeals Inc. The property for sale can be viewed at www.govdeals.com. Citizens wanting to bid on property may do so at www.govdeals.com. The terms of the sale shall be: All items are sold as is, where is, with no express or implied warranties; All items will be sold for cash or certified check only; Payment must be received for all items sold before they may be removed from the premises; All items sold must be paid for and removed from the site of the sale within 5 business days of the sale, or they will be subject to resale.
- The Town Clerk shall cause a notice of the public auction for surplus property to be noticed by electronic means in accordance with G.S. 160A-270(c), available on the Town of Smithfield website www.smithfield-nc.com
- The highest bid, if it complies with the terms of the sale, may be accepted by the Finance Director or his designee and the sale consummated.

Adopted this 7th day of April 2015.

4. **Consideration and approval of Resolution # 557 (06-2015) Opposing House Bill 51 – Justice for Rural Citizens Act.**

**RESOLUTION #557 (06-2015)
IN OPPOSITION OF HOUSE BILL 51
JUSTICE FOR RURAL CITIZENS ACT**

WHEREAS, states have recognized municipalities' need to regulate their extraterritorial areas to protect public health and safety since the 1800s and a form of extraterritorial jurisdiction authority has existed in North Carolina since 1949;

WHEREAS, the U.S. Supreme Court has upheld the right of municipalities to exercise extraterritorial jurisdiction authority;

WHEREAS, extraterritorial jurisdiction rights are necessary to ensure that development at the edge of cities is compatible with development within cities is orderly, and promotes health and safety;

WHEREAS; extraterritorial jurisdiction eases the way for development on property that crosses municipal borders;

WHEREAS, extraterritorial jurisdiction helps us as local elected officials to make sure our residents' property values and enjoyment of their property is maintained. Even though we're small, it is our responsibility as local elected officials to keep the peace when people live close together;

WHEREAS, extraterritorial jurisdiction protects the quality of life for the municipality;

NOW, THEREFORE, BE IT RESOLVED that the Town of Smithfield adopts this resolution in opposition of House Bill 51, Justice for Rural Citizens Act;

FURTHER BE IT RESOLVED that copies of this resolution is transmitted to the members of the General Assembly representing the Town of Smithfield to let them know of our opposition to this issue.

Adopted this the 7th day of April, 2015.

5. **Approval to amend the Municipal Records Retention Schedule as recommended by the NC Department of Cultural Resources and approval of Resolution # 558 (07-2015).**

**TOWN OF SMITHFIELD
RESOLUTION #558 (07-2015)
ACCEPTING THE AMENDMENTS TO THE MUNICIPAL
RECORDS RETENTION AND DISPOSITION SCHEDULE
AMENDED JANUARY 5, 2015**

WHEREAS, The Municipal Records Retention and Disposition Schedule is endorsed by the Division of Archives and History and the Department of Cultural Resources; and

WHEREAS, The Town of Smithfield currently uses this system for record retention and disposal; and

WHEREAS, The Municipal Records Retention and Disposition Schedule was published on September 10, 2012; and

WHEREAS, the Town of Smithfield adopted the Municipal Records Retention and Disposition Schedule on January 3, 2013; and

WHEREAS, The Town of Smithfield recognizes the amendments to the Municipal Records Retention and Disposition Schedule dated January 5, 2015

NOW, THEREFORE, BE IT RESOLVED THAT THE SMITHFIELD TOWN COUNCIL accepts the Municipal Records Retention and Disposition Schedule Amendment issued by the North Carolina Department of Cultural Resources, Division of Archives and History, Archives and Records Section, Records Services Branch, dated January 5, 2015. Attached hereto are the amendments and they are as follows:

STANDARD 9. LAW ENFORCEMENT RECORDS

Amending item 136, Law Enforcement Audio and Video Recordings, as shown on substitute page 90.

STANDARD 12. PERSONNEL RECORDS

Amending item 19 Employee Eligibility Records as shown on substitute page 105.

Adopted this the 7th day of April 2015.

6. Budget Advisement for reallocation of budgeted capital items for three items for the Water Plant Department using savings realized. *No additional dollars are requested.* The three items are as follows: 1) to expend \$49,965 with the Perkinson Company for design, purchase and installation of Loss of Head (LOH) and Rate of Flow(ROF) Water Filter controllers as recommended by the NC DENR; 2) to expend \$17,280 with R.D. Braswell of Smithfield, NC for the erection of the new

bulk storage tank that can be used to store either Alum or Ferric sulfate; and 3) To expend \$4,001 with Southern Corrosion for inspection and cleaning of the Town's 1 MG Clearwell.

7. Budget Advisement for reallocation of a portion of the FY 14-15 AMI/Smart Grid budgeted capital item from the Water & Sewer Fund for removal of sand and sediment and repair of the inflow/outflow piping in the Water Plant Raw Water Intake Pond. The estimated cost to remove sand and sediment and repair the inflow/outflow piping in the Raw Water Intake Pond is \$330,000. The adopted FY 14-15 Budget allocated \$150,000 for this remedial work. A total of \$223,950 remains in the AMI/Smart Grid Project line item. This Budget Advisement seeks to allocate \$180,000 of these dollars to complete remediation of the Raw Water Intake Pond. No additional dollars are requested.

WATER FUND	BEFORE	ADJ.	AFTER
1. Expenditure			
30-7220-7400 Water Distribution/Sewer Collection - Capital Outlay	\$ 916,739	\$ (180,000)	\$ 736,739
30-7200-7400 Water Plant - Capital Outlay	\$ 380,000	\$ 180,000	\$ 560,000
	<u>\$ 1,296,739</u>	<u>\$ -</u>	<u>\$ 1,296,739</u>
To fund additional cost of dredging and repairing the inflow/outflow piping in the Water Plant Raw Water Intake 150K in FY15 budget, but cost estimated at 330K.			

8. Advisory Board /Committee Appointments:
 - (1st Term) Historic Properties Commission– Sheila Bryant
 - (1st Term) Appearance Commission – Gary Stewart
9. Approval of Contract for Interim Public Utilities Director Pete Connet
10. North Carolina Eastern Municipal Power Agency (NCEMPA) Board of Commissioners appointment – Consideration to appoint Interim Public Utilities Director, Pete Connet, to serve as the First Alternate Commissioner representing the Town of Smithfield.
11. New Hire Report

<u>Position</u>	<u>Department</u>	<u>Budget Line</u>	<u>Rate of Pay</u>
PT Pool Staff	P&R – Aquatics	10-6220-0220	\$8.00/hr
PT Pool Staff	P&R – Aquatics	10-6220-0220	\$7.50/hr.
PT Instructor	P&R – Aquatics	10-6220-0230	\$14.00/hr
Water Plant Trainee	PU – Water Plant	30-7200-0200	\$12.84/hr (\$26707.20/yr)
WP Superintendent	PU – Water Plant	30-7200-0200	\$24.039/hr (\$50,001.12/yr)
Streets Maint. Worker	PW – Streets	10-5600-0200	\$11.07/hr (\$23,025.60/yr)

Unanimously approved.

BUSINESS ITEMS:

1. Consideration of a Second Endowment from James P. George and approval of Resolution # 559 (09-2015)

Town Manager Paul Sabiston addressed the Council that a second endowment offered to the Town by Mr. James P. George. He explained that Mr. George requests to establish a second endowment of approximately \$25,000 with the Town of Smithfield to support tree projects undertaken by the Town. The donation will be held in perpetuity as a permanent endowment with only the dividends or interest expended for projects. Finance Director Greg Siler explained that if the endowment is accepted, the monies will come to the Town in the form of preferred stocks and/or bonds held by an investment broker of Mr. George's choice and will be maintained as such. Mr. George has stated that the dividend from the investment is approximately \$1,500 per year as presently invested. The intent of Mr. George and staff is to allow these funds to remain in an interest bearing investment account for as long as possible as opposed to reinvesting in an account that returns a low interest rate. North Carolina restricts how towns may invest their cash funds to avoid risk. The result is typically a low return of

interest. The LGC has indicated its approval of the Town investing these funds in their present account if this is the desire of Mr. George. However, if such account is converted to cash then the standard rule for investments will apply. Staff is getting approval to add language to the agreement indicating that the \$25,000 donation will remain in the present fund and give the Town flexibility to handle and invest funds in the future in similar investment vehicles. Mr. Sabiston further explained that there are a few items in the agreement that would need to be reviewed by Town Attorney Bob Spence and that language would need to be included based on the LGC requirements.

Councilman Ashley made a motion, seconded by Councilman Williams, to approve the agreement with the additional language and review by the Town Attorney and to approve Resolution # 559 (09-2015). Unanimously approved.

**Town of Smithfield, North Carolina
Resolution # 559 (09-2015)
Approving an Endowment Agreement – J.P. George Tree Lined Street Fund**

WHEREAS, James P. George desires to establish a second endowment of approximately \$25,000 entitled the J.P. George Tree Lined Street Fund; and

WHEREAS, the donation will be held in perpetuity as a permanent endowment with only the dividends or interest expended for project; and

WHEREAS, attached hereto is the agreement outlining the terms of the endowment.

NOW, THEREFORE BE IT RESOLVED, by the Town of Smithfield's Town Council approves the endowment agreement with James P. George and accepts the donation subject to the terms of the Agreement.

2. Approval of Resolution #560 (10-2015) to Modify the Electric Fund Revenue Bond Rate and Payment with Southern Bank.

Finance Director Greg Siler addressed the Council on a request to modify the electric fund revenue bond. Mr. Siler explained for a second time, Southern Bank has agreed to reduce the Town's rate of interest on the Electric Revenue Bond loan (from 3.25% to 2.89%). The original 20 year loan of \$5M was taken out in August, 2007, at 4.03%, but was negotiated down to 3.25% in May, 2014. The negotiations saved the Town 239K or \$18,395 per year over 13 years. The principal balance outstanding is 3.668M with 13 remaining annual payments. Interest will continue to accrue at the current rate of 3.25% until April 8, 2015. After this date, the interest would accrue at the new rate of 2.89%. This fiscal year's principal and interest payment of \$368,887 has already been paid, so in order to avoid paying additional accrued interest (approximately \$79,485 at closing - which was not budgeted), the next scheduled payment on August 15, 2015, will remain at the current amortized payment of \$350,491. Hence, no additional savings will be realized in FY16, but each year thereafter the reduce payment will be \$343,054. Meaning, after FY16 the saving will be approximately \$7,437 per year or approximately \$89,244 (less closing cost) over the remaining 12 years. This is in addition to the 239k savings realized in the last modification. Below is the loan history in chart form.

Loan Date/Mod. Date	Loan/Prin. Amount	Payment	Interest Rate	New Payment Effective Date
8/15/2007	\$5,000,000	\$368,886.76	4.03	N/A
5/10/2014	3,888,730	350,491.03	3.25	8/15/2015

4/8/2015

3,668,555

343,053.98

2.89

8/15/2016

This rate and payment modification will not amend the provision in the bond agreement to maintain 120% debt service coverage ratio that was noted in the Town's FY13 audit. Mr. Siler also informed the Council that the closing costs will be approximately \$2,000.

Councilman Scott made a motion, seconded by Mayor Pro-Tem Moore, to approve Resolution #560 (10-2015) and to approve the modification agreement with Southern Bank. Unanimously approved.

Resolution #560 (10-2015)
Approving an Agreement To Further Reduce the Interest Rate
On the Town's Existing Electric System Revenue Bond

WHEREAS --

The Town has previously issued its \$5,000,000 Electric System Revenue Bond, Series 2007 (the "Bond"), to Southern Bank and Trust Company (the "Bank") to provide financing for the construction of an electric substation. In 2014, the Bank agreed to lower the interest rate on the Bond from 4.03% to 3.25%.

At the Town's request, the Bank has agreed to again reduce the annual interest rate on the Bond, this time from 3.25% to 2.89%. The other terms of the Bond will remain unchanged, except that the amount of future annual payments will go down to reflect the lower interest rate.

There has been presented to this Council a draft of a Modification Agreement to be dated as of April 8, 2015, to carry out this rate reduction.

BE IT THEREFORE RESOLVED by the Town Council of the Town of Smithfield, North Carolina, as follows:

1. **Approval of Rate Modification** -- The Council approves the interest rate reduction described above.
2. **Approval of Modification Agreement** -- The Mayor or the Town Manager (or either of them) is authorized to execute and deliver the Modification Agreement in its final form. The Modification Agreement in its final form must be in substantially the form submitted to this meeting, which is hereby approved, with such changes as the officer signing the final form agreement may approve.
3. **Ratification of Existing Proceedings** -- Except as described in this resolution and the Modification Agreement, the Town ratifies and confirms the remaining provisions of the Bond and of the Bond Order and the Series Resolution, each adopted by the Council on August 7, 2007, which provided for the issuance of the Bond.
4. **Miscellaneous Provisions** -- All Town officers and employees are authorized to take all further action as they may consider appropriate in furtherance of the purposes of this resolution. All such prior actions of the Town officers and employees are ratified. All other Council proceedings or parts thereof, in conflict with this resolution are repealed, to the extent of the conflict. This resolution takes effect immediately.

3. Report on Merchant Account Comparison.

Mr. Siler explained to the Council that in March 2014, the Town Council approved PNC Bank, the lowest bidder, as its merchant services provider (debit and credit card transactions). At that time, the Town wasn't eligible for First Citizens Bank's reduced charges through their VISA Utility Program until

eligibility requirements could be met. If eligibility could have been achieved, the Town could expect savings of \$21,700 annually. The Town has already achieved that savings threshold after being with PNC for ten (full) months. Savings to date is \$24,874 and is expected to reach \$30,000 by the twelfth month. The Town can expect to annually realize this amount of savings.

Councilman Williams questioned why utility customers were being charged for payments made over the phone or via the website. Mr. Siler explained that those charges were considered convenience fees and could be passed along to the customer.

Councilman Williams further questioned who pays the fees when customers pay in person at the collection windows. Mr. Siler responded that the Town pays those fees for debit/credit card transactions that are made in person.

Councilmembers Comments:

- Councilman Scott congratulated the Smithfield Police Department for becoming a CALEA agency.

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 February 28, 2015 were \$651,521 and YTD revenues were \$9,286,040. The general fund expenditures for the month ending February 28, 2015 were \$705,568 and YTD expenditures were \$7,294,063.

- **Manager's Updates**

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

- Cost of Service Study and Rate Analysis – The net cost will be approximately \$20,700 but could increase slightly should the Town decide to request an impact analysis for certain classes of customers.
- Finance Department Renovations – The original estimated cost of the renovations was \$50,113. The Finance Director was able to negotiate that amount to \$42,000.
- Police Department Accreditation – Mr. Sabiston Congratulated the Police Department for the CALEA accreditation.

Adjourn

There being no further business, Councilman Wood made a motion, seconded by Mayor Pro-Tem Moore to adjourn. Unanimously approved.

The meeting adjourned at approximately 8:43 pm.

John H. Lampe II, Mayor

ATTEST:

Shannan L. Williams, Town Clerk