

The Smithfield Town Council met in regular session on Tuesday, June 2, 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
J. Perry Harris, District 2
Travis Scott, District 3
Roger A. Wood, District 4
Emery D. Ashley, At-Large
Charles A. Williams, At-Large

Councilmen Absent

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
Michael Scott, Chief of Police
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:

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

- Move from the Consent Agenda to the Business Items
 - Item # 11: *Approval of Various Budget Amendment for FY 2014-2015* – This item became Business Item #5.
- Add to the Consent Agenda:
 - Item # 12 – *Request for Approval of Donation of Sick Leave*
- Add to the Business Items:
 - Item # 4 – Discussion of Water Rates

Unanimously approved.

PRESENTATIONS:

1. Proclamation in Memory of Former Mayor Norman Johnson.

Mayor Lampe presented a proclamation to the family of Norman Johnson honoring his service to the Town of Smithfield.

**PROCLAMATION
In Memory of Norman R. Johnson**

WHEREAS, on behalf of the Town of Smithfield, we wish to extend our sincere condolences to the family of Norman R. Johnson; and

WHEREAS, Mr. Johnson's passing leaves our community with a deep feeling of sorrow for the loss of such an honored and respected citizen; and

WHEREAS, the operation of local government is judged by the dedication, compassion and professionalism of its leadership and such leaders are judged by their ability, character, understanding and respect for their fellow man; and

WHEREAS, Norman R. Johnson exemplified these qualities as a member of the Smithfield Town Council serving from 1983-1991; serving as Mayor Pro-Tem from 2003-2005; and serving as Mayor from 2005-2009; and

WHEREAS, not only did Mr. Johnson serve on the Town Council, but he also served as the Town's first full time Fire Chief; and

WHEREAS, Mr. Johnson was later named as the Director of Emergency Services which included Fire, Rescue and Emergency Medical Services; and

WHEREAS, under his leadership, the department received numerous awards for Fire Prevention and Safety; and

WHEREAS, Mr. Johnson earned the respect, admiration and high regard of all with whom he came into contact, and our community has sustained a great loss in his passing;

WHEREAS, for his service and dedication, Mr. Johnson was awarded the Order of the Long Leaf Pine in December 2009.

NOW, THEREFORE, I, *John H. Lampe II*, Mayor of the Town of Smithfield along with the members of the Town Council, in recognition of Norman R. Johnson's many contributions to the Town and its citizens, we hereby express our deep appreciation for his dedication to the community and extend to his family our sincere sympathy upon his passing

PUBLIC HEARINGS:

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

1. CUP-15-02 Smithfield Solar, LLC:

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 was requesting a conditional use permit to construct and operate a 5 megawatt solar farm on approximately 40 acres of land located within an R-20A (Residential-Agricultural) zoning district. The property considered for approval is located on the north side of US Hwy 70 Business West approximately 2300 feet north of its intersection with North Rogers Drive and further identified as Johnston County Tax ID# 15078011. Mr. Embler also stated that in the future, the Council should consider a special ordinance be drafted realting to solar farms.

Planning Director Paul Embler has incorporated his entire record and provided it to Council in written form in the June 2, 2015 agenda packet.

The Planning Board, at is May 7, 2015 meeting, unanimously voted to recommend approval of the conditional use permit request to allow for the construction and operation of a solar farm on property located within an R-20A (Residential-Agricultural) zoning district.

The Planning Department recommends approval of the Conditional Use Permit for a solar farm with the following conditions:

1. Provide a fifty foot landscape buffer with required plant material.
2. Install security fence with gate prior to operation of the facility.
3. Secure an approved NCDOT driveway permit prior to construction of facility.

4. Provide documentation from the Federal Aviation Administration documenting that glare from facility will not create adverse impacts on flight operations in the vicinity of Johnston County Airport.

Mayor Lampe asked if there were any questions/comments from the Council.

Councilman Williams stated that the Town does not have a solar farm ordinance and questioned if this is something that the Council should consider in the future. Town Attorney Bob Spence responded that eventually an ordinance will be needed. Mr. Spence explained that the Town has a code with certain categories. One category of property is public utilities which is typically 1/8 of an acre sites to serve the immediate area. Solar farms are different in nature and need their own set of criteria and separate category.

Mayor Pro-Tem Moore questioned the location of the entrance to the property .Mr. Embler responded that it would be a very minor type driveway.

Councilman Harris questioned the environmental impact because of the designated wetlands on the property. He further questioned the Town's role in making sure that the wetlands are properly dealt with. Mr. Embler responded that after the conditional use permit was approved and during the site plan process approval, staff requires that the wetlands be delineated. The applicant will have to have a permit to develop in the wetlands or avoid them entirely. Mr. Embler stated that the State and the Army Corps of Engineers will look at the site plans and staff will accept their finds.

Councilman Harris stated he observed that the proposed site was located in the middle of another large tract of land. Mr. Harris asked if the solar farm would affect the property values of the surrounding properties in regards to future development. Mr. Embler responded that it would limit what could be on the adjacent property. It would not limit single family residential development, but could hinder an industrial site.

Mayor Pro-Tem Moore questioned that since this is currently zoned R-20A, would the proposed use negatively impact future residential zoning and land development. Mr. Embler responded that it would only negatively impact residential properties in a more dense zoning area such as an R8, R10 or multifamily residential property. Any future development would require rezoning.

Councilman Williams questioned the specific type of buffer being proposed and would it be enough to hide the view from Highway 70. Mr. Embler responded that the proposed site could not be seen from the highway and a screening type plant material would be used as a buffer.

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

Chris Killenberg of Community Energy testified that his company was the developer of this project, Smithfield Solar LLC. Mr. Killenberg stated that the proposed site was chosen because it sits back off the road and wouldn't negatively impact the neighboring properties.

Mr. Killenberg further testified that the project site and surrounding property is all owned by the Robert Fleming family. Any future development on the property is all held with the same family and the family is hoping to continue to farm the adjacent properties.

Mr. Killenberg testified that the parcel is 60 acres in size and the proposed project is approximately 40 acres nested around the wetlands. The plan is not to encroach upon wetlands. The wetlands are forested and it is the intent to not disturb or develop on those wetlands. Also, depending on the final design may be able to get all the design in the southern end of the property.

Mr. Killenberg testified that the project is well off Highway 70. The developer has agreed to surround the fence with a buffer that fits the Town's ordinance.

Mr. Killenberg testified that there is an existing roadway farm path to the proposed site. The developer would apply to NCDOT for the proper roadway permits and do whatever they require. When the solar

farm is operating, there will not be a lot of traffic. During construction there will be more traffic, but the developer will work with local law enforcement and NCDOT.

Mr. Killenberg testified that in regards to the wetlands. They have a consultant, Terracon Consulting Services, which will delineate what they believe are wetlands. They will produce an application and a map to be sent to the Army Corps of Engineers. The Corps of Engineers will have the final say as to what is a wetland.

Mayor Pro-Tem Moore stated that he did not have an issue with the solar farm. He asked Mr. Killenberg to work with staff to locate the driveway in the most appropriate location for future land use.

Councilman Ashley questioned if the fifty foot buffer was located outside the fenced area. Mr. Killenberg responded that technically per the Town's Ordinance, the buffer is measured from the panel to the property line.

Councilman Scott questioned if the Airport was a concern. Mr. Killenberg responded that the FAA has a form and a tool online and they determine whether it will be an obstruction to the airport.

Councilman Scott questioned how the power is managed in the event of a disaster. Mr. Killenberg responded that the solar panels will produce power with any amount of light. It is DC power and each individual panel will produce 300 watts. If the wires are disconnected from the panel, it has the same effect as an electric fence. When it all comes together to produce power, it is in underground conduits and then transfers into steel enclosed boxes and inverters. Mr. Killenberg stated that the biggest concern is vandalism and curious teenagers.

Councilman Harris questioned the time frame for construction of the solar farm. Mr. Killenberg responded that it is the hope of the developer to have it constructed by the end of the year. Since these projects are partially funded by tax credits offered by the state, it must be 80% constructed by the end of the year to remain eligible for such tax credit. The goal is to have the entire project constructed by the end of the year.

The landowner, Mrs. Fleming, testified that she and her family were deeply in favor of this project. She stated that it would nice to have an income that pays part of the taxes on the land. It is the intent of the family to continue farming the adjacent properties.

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

The Written Finding of Facts

The Council of the Town of Smithfield decided the matter of this Conditional Use Permit Application by motion and vote on each of the following four findings of fact.

- **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 solar farm will not materially endanger the public health safety or general welfare; the panels are low profile, will be screened from view, do not produce sound, do not move and have no emissions. They are completely safe and will be installed following all local electrical and building codes. They will be designed to withstand wind loads and will be fenced in and buffered for safety purposes. They are monitored electronically on a 24 hour basis. There are no lights, so neighbors will not be visually disturbed.

- **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 solar farm will be in complete compliance with local ordinances and; meets required conditions and specifications. The project will be prepared by licensed North Carolina Engineers and constructed by licensed North Carolina Contractors and Electricians.

- **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 solar farm will not adversely affect the use or any physical attribute of adjoining or abutting property. It will be completely screened by a landscape buffer, it will be fenced in and locked so there is no debris or emission coming from the site, and dependable, renewable energy along with creation of new jobs is a benefit to the public.

- **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 violates the character of existing standards for development of the adjacent properties or is approved with the following additional stated conditions.

The screen buffer will be in complete harmony with the area, it will feature large, medium, and small trees and bushes, the solar panels will not be seen from neighboring sites and will not generate any noise or emissions. There are no impacts generated by the solar farm, it does not require sewer or water services, creates no traffic on the roads, does not impact school populations and requires no town services such as police or fire.

Councilman Ashley made a motion, seconded by Mayor Pro-Tem Moore, to vote in the affirmative all of the above four Finding of Facts. Unanimously approved.

Record of Decision – Approval of CUP 15-02

Councilman Ashley made a motion, seconded by Mayor Pro-Tem Moore, 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, move to recommend approval of Conditional Use Permit Application # CUP-15-02 with the following conditions:

- Provide a fifty foot landscape buffer with required plant material.
- Install security fence with gate prior to operation of the facility.

- Secure an approved NCDOT driveway permit prior to construction of facility.
- Provide documentation from the Federal Aviation Administration documenting that glare from facility will not create adverse impacts on flight operations in the vicinity of Johnston County Airport.
- The Utility will provide for the maintenance of the buffer area.

Unanimously approved

2. **Zoning Amendment : ZA-15-02 Town of Smithfield and Ordinance # 483**

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

Planning Director Paul Embler addressed the Council on a request by the Planning Department. Mr. Embler explained that The Planning Department is requesting to amend the Town of Smithfield Unified Development Ordinance, Article 19-4: (B) (5) On-Premise Development Identification Signs to include a minimum sign height of 50 feet in order for a sign to be classified as a high rise business identification sign. Mr. Embler further explained that the Town of Smithfield allows for two types of on-site ground signs for single tenant developments. The first being the traditional monument sign and the other being the high rise business identification sign. The traditional monument sign is a sign that is designed to be seen from the roadway from which it is oriented towards and when in close proximity to the retailer's driveway. Monument signs can have a maximum height of 8 feet in commercial zoning districts and 6 feet in residential zoning districts. The maximum area of the sign in a commercial zoning district is 50 square feet. Monument signs are approved through administrative review and permitting. High rise business identification signs are very tall signs designed to be seen from the I-95 corridor. Their purpose is to help travelers identify the retailer while approaching the exit needed to be taken to reach the intended destination. High rise business identification signs can have a maximum height of 100 feet and a maximum sign area of 400 feet per side. Single tenant developments that are within 660 feet of the I-95 corridor may qualify regardless of the zoning district. High rise business identification signs are approved through conditional use permit process.

Mr. Embler explained that conflicts have arisen in the past when an applicant requests zoning approval for a ground sign that exceeds maximum height requirements for a traditional monument sign. The applicant was given the choice of revising the application to meet current height standards or pursue a variance issued by the Town of Smithfield Board of Adjustment. Often the case, the applicant realizes the difficulty in proving hardship and the likelihood of the variance being rejected by the Board of Adjustment and chooses the conditional use permit process under the premise that they are requesting high rise business identification sign. When approved in this fashion, the resulting sign fails to meet minimum standards for a monument sign while also failing to meet the intended purpose of the high rise business sign. An elegant solution to this dilemma is to place a minimum height requirement of 50 feet in order for a sign to be considered a high rise business sign and eligible for a conditional use permit.

Planning Department Recommendations: Planning staff is recommending an amendment to the Unified Development Ordinance to create a minimum height requirement of 50 feet for a ground sign to be considered a high rise business identification sign and eligible for a conditional use permit.

Planning Board Actions Requested: The Planning Board at its May 7, 2015 meeting unanimously voted to recommend approval of a zoning text amendment to create a minimum height requirement of 50 feet for a ground sign to be considered for a conditional use permit as a high rise business identification sign.

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

Councilman Wood made a motion, seconded by Councilman Harris, to approve Zoning Amendment ZA-15-02 and Ordinance # 483. Unanimously approved.

ORDINANCE # 483
TO AMEND THE TOWN OF SMITHFIELD UNIFIED DEVELOPMENT ORDINANCE,
ARTICLE 19-4 ON-PREMISE SIGNS (B) ON-PREMISE SIGNS: SINGLE TENANT DEVELOPMENT

BE IT ORDAINED by the Town Council of the Town of Smithfield that Article 19-4 On-Premise Signs (B) On-Premise Signs: Single Tenant Development is amended to require High Rise Business Signs to be a minimum height of fifty feet to be considered as a high rise business sign and shall read in its entirety as follows:.

Article 19-4 On-Premise Signs (B) On-Premise Signs: Single Tenant Development, (5) On-Premise Development Identification Signs. Where a development identification sign is selected, such a sign or signs may be of the following types:

<u>Freestanding:</u> Ground High Rise Business Identification	<u>Attached:</u> Wall Projecting
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The sign(s) shall meet the following requirements based on the zoning district in which it is located.

	Zoning District	<u>Minimum Height Allowed</u>	Maximum Height Allowed	Maximum Square Footage Per Face
	R-20A, R-10, R-8, R-6, R-MH, PUD (Residential)	<u>N/A</u>	6 ft.	25 sq. ft.
Ground	O/I, B-2, B-2, and B-3	<u>N/A</u>	8 ft.	50 sq. ft.
	LI and HI	<u>N/A</u>	25 ft.	187.5 sq. ft.
High Rise Business	Conditional use in all districts when property is adjacent to the I-95 right-of-way and the sign is within six hundred sixty (660) feet of the edge of the I-95 right-of-way	<u>50 Ft.</u>	100 Ft.	400 sq. ft.

Setback for freestanding development identification signs in all zoning districts shall be 15 feet.

Prior to citizens' comments, Councilman Williams made a motion, seconded by Councilman Harris for a moratorium on solar farms in Smithfield and the ETJ until the development and approval of an ordinance. Town Attorney Bob Spence stated that he would like to investigate ordinances on solar farms before a moratorium is approved. Councilman Williams withdrew his motion and Councilman Harris withdrew his second.

CITIZENS' COMMENTS:

- Anthony Lee of 802 Martin Luther King, Jr. Drive addressed the Council on concerns about the street sweeping schedule. Mr. Lee was referred to Public Works Director Lenny Branch for follow-up.

CONSENT AGENDA:

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

1. Approval of Minutes:

May 5, 2015 – Regular Meeting

2. Special Event Approval: Fellowship of Smithfield Area Churches – June 13, 2015: AnSelmo Hernandez with Rey de Reyes FWB Church petitioned and gained approval from the Town Council to conduct an event to be held at Talton Park between the hours of 8 am and 6 pm. This event will have amplified sound.
3. Special Event Information: Spring Fling: The Greater Vision Worship Center/ Church of God of Prophecy – June 14, 2015. For informational purposes only as this event was approved by the Council as an annual event on May 3, 2011.
4. Special Annual Event Approval: Abuse Awareness Walk – June 15, 2015: The Johnston County Department of Social Services petitioned and gained approval from the Town Council to conduct an annual event. The event will be held at the Town Amphitheater and on the Greenway from the hours of 5pm to 8 pm. This event will have amplified sound.
5. Special Event Information: Tent Revival: The Greater Vision Worship Center/ Church of God of Prophecy – June 18-22, 2015. For informational purposes only as this was approved by Council as an annual event on May 3, 2011.
6. Special Annual Event Approval: Praise in the Park – July 18, 2015: David Goodine with Victory Ministries petitioned and gained approval from the Town Council to conduct an annual event. The event will be held at the Town Amphitheater from the hours of 8 am and 4 pm during the middle of July each year. This event will have amplified sound.
7. Special Annual Event Approval: Fun in the Park – July 25, 2015: The East Smithfield Improvement Organization petitioned and gained approval from the Town Council to conduct a special event. The event will be held at the Smith Collins Park from the hours of 11 am and 5 pm during the latter part of July every year. This event will have amplified sound.
8. Special Annual Event Approval: Neighborhood Reunion – July 25, 2015: George Curry of the Mid-Town Reunion Group petitioned and gained approval from the Town Council to conduct an outdoor non-profit event as an annual event. The event will be held between the hours of 8 am and 10 pm. A street closing is requested on South 7th Street on the block between East Johnston and Each Church Streets. The actual event will be held on private properties located along 7th Street.
9. Sign/ Time Change Approval: The Smithfield Police Department is requested and gained approval for the time change for the one way designation on Vermont Street between Sanders and Bingham Streets to remain consistent with the scheduled school day. The South Smithfield Elementary School requested that the signage be changed to read one-way designation from 7:40 am to 8:40 am and 3:20 pm to 4:10 pm.
10. Approval to allow the Smithfield Police Department to provide traffic control at no charge during the Three Little Pigs Triathlon.
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	\$7.50/hr
PT Pool Staff	P&R – Aquatics	10-6220-0220	\$7.50/hr
PT Instructor	P&R – SRAC	10-6220-0230	\$17.50/hr
PT Instructor	P&R – SRAC	10-6200-0230	\$10.00/hr
PT Camp Worker	P&R – SRAC	10-6200-0230	\$8.00/hr
PT Collections Asst.	PU – Electric	31-7230-0200	\$12.00/hr

12. Approval for sick time donation to a recently hired Water/Sewer employee that has depleted his sick and vacation time due to an injury he/she sustained outside of work.

Unanimously approved.

BUSINESS ITEMS:

1. North Carolina Eastern Municipal Power Agency (NCEMPA) Asset Sale to Duke Energy Progress (DEP) – Approval of Ordinance # 484

Town Manager Paul Sabiston addressed the Council on a requested to approve the NCEMPA asset sales agreements and Ordinance # 484. Mr. Sabiston explained that agreement proposed DEP to take over the power producing plants that are owned in parts owned by the thirty-two cities that make up the NCEMPA (also known as the Eastern Agency). The transaction is scheduled to close at the end of the month. Wholesale costs for the Town could be reduced by 18%. The Local Government Commission approved the transaction earlier in the day.

ElectriCities Chief Operating Officer Roy Jones explained that all 32 cities in the Eastern Agency have been focused on this deal for many years. NCEMPA has been looking for a way to reduce the debt because it has been the debt that has caused utility rates to be higher than DEP rates. It's been the in use customer that has had to pay the high debt.

Mr. Jones further explained that the 32 cities have been paying \$260 million a year in debt service payments and by selling the four power plants to DEP, the Eastern Agency's debt will be reduced to \$57 million a year for ten years.

Councilman Scott expressed his concerns about the agreement. Mr. Scott stated that the Town is still going to have \$12.9 million dollars in debt over a 10 year period. He questioned the difference of the amount of debt repayment by each Town/City and if there was any way that amount could be renegotiated. Mr. Jones explained that representatives from the 32 cities agreed that using the load from the 1990's would make the debt repayment amounts fair for all cities. Mr. Jones responded that there is no opportunity to renegotiate because this is the best deal for all 32 cities.

Councilman Harris stated that he wanted the citizens to understand the savings that the Town is going to receive is about \$320,000 a month in interest but that there are other costs associated with this deal. Mr. Harris further stated that this is a ten year debt repayment and that immediately rates will be able to be reduced, but after the ten year period that could change. Mr. Harris also stated that ElectriCities is getting the best rate from DEP than any of DEP's other customers.

Mayor Pro-Tem Moore disclosed that he has consulted with the Town Attorney concerning this matter because he is a DEP shareholder. The Town Attorney advised him that there was no conflict of interest for him voting on this matter.

Councilman Ashley stated that another factor is that the 32 cities give up ownership, liability and costs associated with decommissioning the plants.

Councilman Ashley made a motion, seconded by Councilman Williams, to approve the NCEMPA – DEP Agreement and Town Ordinance # 484 as attached. Unanimously approved.

(Attached hereto and made an official part of these minutes is Ordinance # 484)

2. Consideration and Approval of Engineering Services Agreement with Booth and Associates in the amount of \$85,000 to begin engineering of the installation of a second transformer at the Brogden Road Substation.

Interim Public Utilities Director Pete Connet addressed the Council on consideration to approve a proposal from Booth and Associates for engineering services for the installation of a second 30.0 MVA -230KVA transformer at the Brogden Road substation. This project is included in the FY 2015-2016 recommended budget and will allow for future load growth. Mr. Connet explained that if the Town were to lose the current transformer due to a storm or other reasons then the Town would not be able to provide power to the U.S. 301 South area. The second transformer will allow the Town to take the current transformer off-line for routine maintenance, which could last for several days. The Booth proposal is for engineering fees amounting to \$85,000 and is included in the total estimated project cost. Mr. Connet further explained that the reason for asking for approval at this time is so that work on this project can begin as soon as possible, since it will take close to a year for the transformer to be ordered, built, and installed.

Councilman Scott asked for an explanation as to why this transformer was needed. Mr. Connet responded that if something were to happen to that transformer then there is no back up. A mobile transformer would have to be found to service that area and it is unlikely like DEP would have one that the Town could use. Installing this transformer gives the Town redundancy and back-up and allows us to service the transformer.

Councilman Scott stated that this is an expensive endeavor and we should consider all of our options before we decide. Mr. Connet explained to the Council that the long range goal was to have the Brogden Road Substation serve as the Town's substation because the Town is currently paying a monthly lease on the Hospital Road Substation

Councilman Scott made a motion seconded by mayor Pro-Tem Moore to delay this request until after the budget has been approved. Unanimously approved.

3. Consideration and Approval of an Engineering Service Agreement with the Wooten Company to begin engineering Sand Removal Improvements at the Existing Raw Water Wet Well-Smithfield Water Treatment Plant.

Interim Public Utilities Director Pete Connet addressed the Council on consideration for a proposal from the Wooten Company for engineering services to design and bid the work on the Sand Removal System. This project is included in the FY 2015-2016 budget. This project is to address the sand issue at the Raw Water intake at the Neuse River. The project budget in the upcoming FY2015-2016 year is \$530,000. Mr. Connet explained that the engineering services under this agreement are generally as follows: Removal of Raw Water Pump #2 from Service; Installation of New Baffle Plates and Submersible Grit Pump in the Raw Water Wet Well; Installation of a New Grit Classifier and associated Piping and Appurtenances. The engineering services shall be completed by November 30, 2015. The Project construction is being planned to coincide with the painting of the interior of the Clear Well Tank in the spring of 2016, when the plant will be shut down for 30 to 45 days. The Wooten Company's Proposal is for engineering fees amounting to \$67,000 and is included in the total estimated project cost. The reason for asking for your approvals now is so that we can design and bid this project, and be in a position to begin work on this project in the spring of 2016 as mentioned above.

Councilman Ashley stated that the Council had a meeting where the engineers of the Wooten Company gave us an option and then we later find out that there are other options. Mr. Sabiston responded that the Wooten Company would prefer to move the intake but Council asked for something more cost effective and this is what they are now proposing. We asked them to come back with a more affordable fix once we were not awarded the grant.

Councilman Scott made a motion, seconded by Councilman Williams, to approve the \$67,000 engineering fees and authorize the appropriate Town Officials to sign the necessary engineering agreements with The Wooten Company. Unanimously approved.

4. Discussion on Water Rates

Councilman Scott stated that he would like to have some discussion and offer some background concerning water rates. Mr. Scott explained that in discussing the proposed water rate increase, he and several other Councilmembers discovered that the current rate is not what's been budgeted. Mr. Scott stated that he wanted to be transparent with the citizens and inform them that staff caused an error. Mr. Scott further stated that he requested documents from staff that he had not received. Mr. Scott again stated that the Town's current budget has the fee schedule with rates included but rates were not included in past fee schedules. Mr. Scott stated that it is important that we put in a check and balance system in place so that these errors do not occur in the future. Mr. Scott informed the Council that he had gathered information and discovered that the Town has lost \$45,000 - \$50,000 in revenue a year for a total for \$ 210,000. Mr. Scott stated that he talked with the Manager about this and the citizens deserve an answer.

Mr. Sabiston responded that after much research on this matter, he could find no definitive evidence that the rate increase was ever approved by Council. Mr. Sabiston stated that the minutes never reflected an approval by Council and the rates were never included in the fee schedule.

Mr. Scott stated that the Manager is the leader of our staff and it's important that we have checks and balances in place. Mr. Scott further stated that he was concerned because the Town has to be transparent and has to have trust. The water rates were not changed and someone has to be accountable for the error.

Mayor Pro-Tem Moore stated that the rate error did not cost the citizens anything but actually saved them money. Mr. Moore further stated that proposed increase in rates to \$9.00 would be the recommendation even if the current rates the customers were being billed was \$6.02.

Councilman Scott asked for an audit of the utility rates and what the Town should be billing the customers.

Councilman Williams questioned that if the Council approved the fee schedule as a part of the budget then why would the rates not be changed. Mr. Sabiston responded that he could find evidence of a rate discussion in 2010-2011 but there was never a vote. Any rate discussion should be reflected in the minutes, but it was not. Mr. Sabiston explained that he was unsure if a rate increase was approved why it was not put into the billing system.

Councilman Harris stated that his concern was of the Manager not informing the Council the moment he became aware of the discrepancy.

Councilman Scot directed Mr. Sabiston that in the event of any errors or discrepancies that the Council be notified immediately. Mr. Scott explained that the Town has had some integrity issues in the past and the Town has to move forward. Mr. Sabiston responded that he has always informed the Council of any issues and will continue to do so. This error occur prior to his employment with the Town.

5. Approval of Various Budget Amendments for FY 2014-2015

Finance Director Greg Siler addressed the Council on various budget amendments. Mr. Siler explained that the majority of the amendments were to fund expense line with zero budgets. Zero budgets are often the result of creating new expense lines to specifically account for expenditures that were previously paid under line with general descriptions.

Councilman Ashley stated that these budget amendments do not create additional spending. They were simply being created as a better way to track expenditures.

Mayor Pro-Tem Moore made a motion, seconded by Councilman Wood to approve the various budget amendments for FY 2014-2015. Unanimously approved.

<u>GENERAL FUND</u>	<u>BEFORE</u>	<u>ADJ.</u>	<u>AFTER</u>
1. Revenue			
10-3990-0000 Fund Balance Appropriated	\$ -	\$ (250,342)	\$ (250,342)
Expenditures			
10-4110-5720 Non Departmental - Fund Balance Reserve	\$ 250,342	\$ (250,342)	\$ -

To correct budget intended to increase fund balance. The correct way to increase fund balance is to intentionally under estimate revenue

2. Expenditures			
10-9990-5300 General Fund Contingency	\$ 391,311	\$ (1,850)	\$ 389,461
10-4100-3501 General Government - Service Contracts	-	1,750	1,750
10-4100-3000 General Government - Fuel	-	100	100
	<u>\$ 391,311</u>	<u>\$ -</u>	<u>\$ 391,311</u>

To establish and fund Fuel Cost and Service Contracts with Contingency

3. Expenditures			
10-9990-5300 General Fund Contingency	\$ 389,461	\$ (30,572)	\$ 358,889
10-4110-3502 Non Depart. - C.S./Sanford Holshouser	-	572	572
10-4110-5503 Non Depart. - Misc./Settlements and Release	-	30,000	30,000
	<u>\$ 389,461</u>	<u>\$ -</u>	<u>\$ 389,461</u>

To establish and fund remainder of Economic Development Study and Release From Law Suit with Contingency

4. Expenditures			
10-4120-9543 Debt Service - Smithfield Crossing USDA	\$ 157,411	\$ (450)	\$ 156,961
10-4120-9537 Debt Service - Street Paving 2009	58,275	450	58,725
	<u>\$1,777,230</u>	<u>\$ -</u>	<u>\$1,777,230</u>

To correct debt service cost

5. Expenditures			
10-4200-0400 Finance - Professional Fees/Dues	\$ -	\$ 1,260	\$ 1,260
10-9990-5300 General Fund Contingency	358,889	(1,260)	357,629
	<u>\$ 358,889</u>	<u>\$ -</u>	<u>\$ 358,889</u>

To establish and fund Professional Fees/Dues with Contingency

	<u>BEFORE</u>	<u>ADJ.</u>	<u>AFTER</u>
6. Revenue			
10-3423-0000 EMS - Insurance/Debtsetoff Collection	\$ 5,000	\$ 1,500	\$ 6,500
Expenditures			
10-5400-3300 EMS - Supplies/Operations (COECO)	\$ -	\$ 500	\$ 500
10-5400-3500 EMS - Contracted Services (Mgmt Consult)	-	1,000	1,000
	<u>\$ -</u>	<u>\$ 1,500</u>	<u>\$ 1,500</u>

To establish and fund final expenses for EMS with monies collected through debt setoff

7. Expenditures

10-6200-3400 Recreation - Contract Services	\$ -	\$ 275	\$ 275
10-6200-0300 Recreation - Supplies/Operations	<u>83,000</u>	<u>(275)</u>	<u>82,725</u>
	<u>\$ 83,000</u>	<u>\$ -</u>	<u>\$ 83,000</u>

To establish and fund a budget for Contract Services by reducing the Supplies/Operations budget

8. Expenditures

10-6220-0300 Aquatic Center - Temporary Labor	\$ -	\$ 7,032	\$ 7,032
10-6220-3509 Aquatic Center - C.S./PNC Merchant Services	-	5,578	5,578
10-6220-4300 Aquatics Center - Jump Start Program	<u>14,000</u>	<u>(12,610)</u>	<u>1,390</u>
	<u>\$ 14,000</u>	<u>\$ -</u>	<u>\$ 14,000</u>

To fund a budget for Temporary Labor and PNC Merchant Services by reducing the Jump Start Programs budget

WATER FUND**9. Expenditures**

30-7220-0210 W/S Distribution - Salaries/Council	\$ -	\$ 9,000	\$ 9,000
30-9990-5300 W/S Fund	<u>207,096</u>	<u>(9,000)</u>	<u>198,096</u>
Contingency			
	<u>\$ 207,096</u>	<u>\$ -</u>	<u>\$ 207,096</u>

To establish and fund a budget for Council Salaries with Contingency

ELECTRIC FUND**10.****Expenditures**

31-7230-3502 Electric - C.S. Logics	\$ -	\$ 28,000	\$ 28,000
31-7230-4402 Electric - Miscellaneous	-	200	200
31-7230-3501 Electric - Service Contracts	<u>447,258</u>	<u>(28,200)</u>	<u>419,058</u>
	<u>\$ 447,258</u>	<u>\$ -</u>	<u>\$ 447,258</u>

To fund a separate budget for Logics Software and Miscellaneous by using Contract Services funds

Councilmembers Comments:

- Councilman Williams asked when the next budget meeting was scheduled. Town Clerk Shannan Williams informed him that the public hearing was scheduled for June 9th. It was the consensus of the Council that another budget session be scheduled. Mayor Pro-Tem Moore suggested that the Public Hearing be held as advertised and an additional meeting be scheduled to discuss and adopt the budget.
- Councilman Wood expressed his appreciation to staff for their work on the budget.
- Councilman Lee expressed his appreciation to Mayor Lampe, Mayor Pro-Tem Moore, Councilman Williams and Chief Scott for attending the Policing Ourselves Forum.

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 April 30, 2015 were \$553,134 and YTD revenues were \$11,164,610. The general fund expenditures for the month ending April 30, 2015 were \$723,914 and YTD expenditures were \$8,877,632.

- **Manager's Updates**

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

- NCEMPA Asset Sale Closure

Adjourn

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

The meeting adjourned at approximately 9:05 pm.

John H. Lampe II, Mayor

ATTEST:

Shannan L. Williams, Town Clerk

TOWN OF SMITHFIELD

ORDINANCE # 484

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SMITHFIELD, NORTH CAROLINA, DETERMINING THAT IT IS IN THE BEST INTERESTS OF THE TOWN OF SMITHFIELD TO APPROVE THE ASSET PURCHASE AGREEMENT AND THE FULL REQUIREMENTS POWER PURCHASE AGREEMENT BETWEEN NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY AND DUKE ENERGY PROGRESS, INC., TO CONSENT TO THE TRANSACTIONS CONTEMPLATED THEREBY, AND TO APPROVE AND AUTHORIZE THE EXECUTION AND DELIVERY OF THE DEBT SERVICE SUPPORT CONTRACT, THE FULL REQUIREMENTS POWER SALES AGREEMENT AND THE POWER SALES AGREEMENTS TERMINATION AGREEMENT BETWEEN THE TOWN OF SMITHFIELD AND NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY

WHEREAS, the Town of Smithfield, North Carolina (the "Municipality") and North Carolina Eastern Municipal Power Agency ("Power Agency") entered into an Initial Project Power Sales Agreement dated as of July 30, 1981, as amended by an Amendment Agreement dated as of October 31, 1984 (the "Project Power Sales Agreement"), pursuant to which Power Agency sells and the Municipality purchases and pays for the Municipality's Participant's Share (as defined in the Project Power Sales Agreement) of Project Output (as defined in the Project Power Sales Agreement); and

WHEREAS, the Municipality and Power Agency entered into a Supplemental Power Sales Agreement dated as of July 31, 1981, as amended by an Amendment Agreement dated as of October 31, 1984 (the "Supplemental Power Sales Agreement"), pursuant to which Power Agency sells and the Municipality purchases and pays for All Requirements Bulk Power Supply

(as defined in the Supplemental Power Sales Agreement), which consists of Project Output (as defined in the Supplemental Power Sales Agreement) and Supplemental Bulk Power Supply (as defined in the Supplemental Power Sales Agreement); and

WHEREAS, Power Agency and Duke Energy Progress, Inc. ("DEP") have entered into an Asset Purchase Agreement (as supplemented and amended, the "APA") dated as of September 5, 2014, pursuant to which Power Agency has agreed to sell and transfer to DEP, and DEP has agreed to purchase and pay for, the following undivided ownership interests of Power Agency in the following electric generating facilities: (i) 16.17% in Harris Unit No. 1, (ii) 18.33% in Brunswick Unit No. 1, (iii) 18.33% in Brunswick Unit No. 2, (iv) 16.17% in Mayo Unit No. 1, and (v) 12.94% in Roxboro Unit No. 4 and 3.77% in the common facilities that support Roxboro Unit No. 4 and the three (3) other coal-fired generation facilities located at the site of Roxboro Unit No. 4 (collectively, the "Joint Facilities"); and

WHEREAS, in connection with the sale and transfer of the Joint Facilities to DEP, Power Agency is required to redeem, purchase, otherwise retire or defease all of its bonds (the "Outstanding Bonds") issued pursuant to, and outstanding under, Resolution R-2-82, adopted by Power Agency on April 1, 1982, as amended and supplemented thereafter; and

WHEREAS, such redemption, purchase, retirement or defeasance by Power Agency of the Outstanding Bonds will result in Power Agency being obligated to pay certain costs associated therewith (the "Defeasance Costs"); and

WHEREAS, portions of the Defeasance Costs will be funded from proceeds of the sale and transfer of the Joint Facilities to DEP and other funds available to Power Agency for such purpose, and Power Agency proposes to finance the balance of the Defeasance Costs by the issuance of revenue bonds (the "Bonds") pursuant to a bond resolution substantially in the form

and content of the proposed form of bond resolution dated April 24, 2015, previously delivered to the Municipality by Power Agency (the "Draft Bond Resolution"); and

WHEREAS, Power Agency proposes to enter into a Debt Service Support Contract dated as of April 24, 2015, with each of its members, including the Municipality, in order to support Power Agency's obligation to pay debt service on the Bonds, pursuant to which Debt Service Support Contracts each of its members, including the Municipality, is obligated to pay to Power Agency its Member's Share (as defined in the Debt Service Support Contract) of Monthly Support Costs (as defined in the Debt Service Support Contract) pursuant to the terms of the Debt Service Support Contracts; and

WHEREAS, the Bonds will be secured by, among other things, revenues derived by Power Agency pursuant to the Debt Service Support Contracts; and

WHEREAS, pursuant to Section 5 of the Debt Service Support Contract, the payment by the Municipality of its Monthly Support Costs is to be made to Power Agency unconditionally and without offset, counterclaim or other reduction, whether or not all or any portion of the electric power and energy contracted for under the member's Full Requirements Power Sales Agreement (described below) is delivered to the member or such Full Requirements Power Sales Agreement expires or is terminated in whole or in part; and

WHEREAS, the Municipality's Member's Share (as defined in the Debt Service Support Contract) is as set forth in Exhibit A to the Debt Service Support Contract; and

WHEREAS, Power Agency and DEP have entered into a Full Requirements Power Purchase Agreement (as supplemented and amended, the "Full Requirements Power Purchase Agreement") dated as of September 5, 2014, pursuant to which Power Agency will purchase from DEP and DEP will sell to Power Agency firm capacity and energy in the amounts required

by Power Agency to reliably serve the current and future electrical loads of each of its members, including the Municipality, throughout the term of the Full Requirements Power Purchase Agreement; and

WHEREAS, Power Agency proposes to enter into a Full Requirements Power Sales Agreement dated as of April 24, 2015, with each of its members, including the Municipality, in order to supply its members, including the Municipality, with its Full Requirements Bulk Power Supply (as defined in the Full Requirements Power Sales Agreement); and

WHEREAS, the Asset Purchase Agreement, among other things, requires the consent of the Municipality to, and approval of, the consummation of the transactions contemplated by the Asset Purchase Agreement and the Full Requirements Power Purchase Agreement and each of the Asset Purchase Agreement and the Full Requirements Power Purchase Agreement requires the termination of the Project Power Sales Agreement and the Supplemental Power Sales Agreement; and

WHEREAS, Power Agency proposes to enter into a Power Sales Agreements Termination Agreement dated as of April 24, 2015, with each of its members, including the Municipality, to terminate the Project Power Sales Agreement and the Supplemental Power Sales Agreement; and

WHEREAS, Power Agency has caused GDS Associates, Inc., Power Agency's Consulting Engineer, to prepare an economic analysis of the projected financial impact of the transaction contemplated by the APA on Power Agency's wholesale power costs and proposed full requirements wholesale rates (the "Economic Analysis"); and

WHEREAS, Power Agency has caused to be furnished to this governing body a copy of each of the following: (i) the Asset Purchase Agreement, (ii) the Full Requirements Power

Purchase Agreement, (iii) the Draft Bond Resolution, (iv) the Debt Service Support Contract, (v) the Full Requirements Power Sales Agreement, (vi) the Power Sales Agreements Termination Agreement, and (vii) the Economic Analysis.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Smithfield, North Carolina:

1. After due consideration to the contents of each of the preambles set forth above and each of the documents referred to in such preambles, it is hereby found and determined that it is in the best interests of the Municipality to consent to and approve the consummation of the transactions contemplated by the Asset Purchase Agreement and the Full Requirements Power Purchase Agreement, and such other documents as may be necessary to effect or implement either of the foregoing, and the same are hereby consented to and approved, and to enter into the Debt Service Support Contract, the Full Requirements Power Sales Agreement and the Power Sales Agreements Termination Agreement terminating the Project Power Sales Agreement and the Supplemental Power Sales Agreement effective upon APA Closing Date (as defined in the APA), which also is the effective date of the Full Requirements Power Sales Agreement.

2. The Municipality hereby approves the form, terms and provisions of the Debt Service Support Contract, the Full Requirements Power Sales Agreement and the Power Sales Agreements Termination Agreement between Power Agency and the Municipality, and the exhibits attached thereto, in the forms presented to the meeting at which this Ordinance is adopted, with such changes therein as shall be approved by the officials of the Municipality executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all such changes. The Mayor and the Clerk of the Municipality are hereby authorized and directed to execute, acknowledge and deliver the aforesaid Debt Service Support Contract,


Full Requirements Power Sales Agreement and the Power Sales Agreements Termination Agreement in the name of and on behalf of the Municipality and thereupon to cause the aforesaid Debt Service Support Contract, Full Requirements Power Sales Agreement and Power Sales Agreement Termination Agreement to be delivered to Power Agency.

3. The officers and officials of the Municipality are hereby authorized and directed to execute such further documents and to take any and all further action as, upon the advice of the Attorney of the Municipality, shall be deemed necessary or desirable in order to effectuate the execution and delivery of the aforesaid Debt Service Support Contract, Full Requirements Power Sales Agreement and Power Sales Agreements Termination Agreement and the transactions contemplated thereby and by the Asset Purchase Agreement and Full Requirements Power Purchase Agreement.


4. The Clerk of the Municipality is hereby directed to file with the minutes of the meeting at which this Ordinance is adopted each of the documents referred to in the last preamble of this Ordinance.

5. This Ordinance shall become effective from and after its adoption.

ADOPTED this 2nd day of June, 2015.


John H. Lampe II, Mayor

ATTEST:


Shannon Williams, Town Clerk

