

The Smithfield Town Council met in regular session on Tuesday, February 4, 2020 at 7:00 p.m. in the Council Chambers of the Smithfield Town Hall, Mayor M. Andy Moore presided.

Councilmen Present:

John A. Dunn, Mayor Pro-Tem  
David Stevens, District 2  
Travis Scott, District 3  
Dr. David Barbour, District 4  
Stephen Rabil, At-Large  
Roger A. Wood, At-Large

Councilmen Absent

Marlon Lee, District 1

Administrative Staff Present

Michael Scott, Town Manager  
John Blanton, Fire Chief  
Lenny Branch, Public Works Director  
Ted Credle, Public Utilities Director  
Gary Johnson, Parks & Rec Director  
Tim Kerigan, Human Resources/PIO  
Shannan Parrish, Town Clerk  
R. Keith Powell, Chief of Police  
Greg Siler, Finance Director  
Stephen Wensman, Planning Director

Present:

Bob Spence, Town Attorney  
Bill Dreitzler, Town Engineer

Administrative Staff Absent

**CALL TO ORDER**

Mayor Moore called the meeting to order at 7:00.

**INVOCATION**

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

**APPROVAL OF AGENDA:**

Mayor Moore asked that the All in Red Campaign be added to the Presentations  
Councilman Scott made a motion, seconded by Councilman Wood to add the All in Red Campaign to the agenda. Unanimously approved.

Councilman Scott made a motion, seconded by Councilman Stevens to approve the agenda as amended. Unanimously approved.

**PRESENTATIONS:**

**a) All in Red Campaign**

After two short videos were shown, Mayor Moore explained these were the produced by Marketing and Communications Specialist Brian Eaves. Mayor Moore reminded everyone the Town Council proclaimed February 7<sup>th</sup> – 14<sup>th</sup> as All in Red Week in the Town of Smithfield. He encouraged all Smithfield employees and citizens to wear red on February 7<sup>th</sup>.

Councilman Rabil made a motion, seconded by Councilman Wood, to make a \$500 donation to the Johnston Health Foundation All in Red Campaign. Unanimously approved.

**PUBLIC HEARINGS:**

1. **Noncontiguous Annexation Request- Johnston County (ANX-19-02):** Consideration and request for approval to Adopt Ordinance #502 extending the corporate limits of the Town of Smithfield pursuant to NCGS 160A-58.2

Councilman Barbour made a motion, seconded by Councilman Rabil, to open the public hearing. Unanimously approved.

Planning Director Stephen Wensman explained the Town of Smithfield received a petition to annex approximately 25.393 acres at the northwest, southwest, and to the north east of the intersection of US Highway 70 Business and Yelverton Grove Road, NC. The subject parcel is comprised of 3 detached sections, but only the 17.836-acre section was proposed for future development of a County Detention Center. The other sections are also included in the annexation.

At the January 7, 2020 meeting, the Town Council passed Resolution # 653 (02-2020), directing the Town Clerk to investigate the sufficiency of the petition should the Council wish to move forward with the annexation of the property into the corporate Town limits. The Town Clerk investigated the petition and has determined it to be valid.

At the January 15, 2020 meeting, the Town Council approved Resolution # 654 (03-2020) setting the date for the Public Hearing.

Pursuant to NCGS 160A-58.2, the Town Council will accept public comments and consider adopting Ordinance # 502 extending the Corporate Limits of the Town of Smithfield. The Ordinance may be adopted immediately or within six months.

The Town Council has three options:

1. Approve the noncontiguous annexation petition and adopt Ordinance #502
2. Table the decision for no longer than 6 months
3. Deny the annexation petition

Mr. Wensman explained Smithfield will provide sewer and water utilities which are already adjacent to the site. The Town Police Department has indicated they are able to service the area if annexed into the Town without much additional cost. The area is already within the Town's Fire District. Trash and yard pickup are not services provided to Institutional properties. Code Enforcement can provide enforcement without any additional cost.

Town Manager Michael Scott informed the Council that County Manager Rick Hester was in attendance. He stated that he, Mr. Hester and Sheriff Bizzell have discussed law enforcement services especially at the jail facility. Sheriff Bizzell has agreed to handle all law enforcement at this location so the Smithfield Police Department will not have any duties at this site should the Council choose to annex it into the Town limits.

Mayor Moore asked if there were any questions from Council. There were no questions by Council.

Mayor Moore asked if there was anyone in attendance that wished to speak on the matter. No one in attendance wished to speak on this matter.

Councilman Barbour made a motion, seconded by Councilman Stevens, to close the public hearing. Unanimously approved.

Councilman Barbour made a motion, seconded by Councilman Wood, to Adopt Ordinance #502 extending the corporate limits of the Town of Smithfield pursuant to NCGS 160A-58.2. Unanimously approved.

**ORDINANCE #502 TO EXTEND THE CORPORATE LIMITS OF THE**  
**TOWN OF SMITHFIELD, NORTH CAROLINA**

WHEREAS, the Town Council has been petitioned under G.S. 160A-58.1 to annex the area described below; and

WHEREAS, the Town Council has by resolution directed the Town Clerk to investigate the sufficiency of the petition; and

WHEREAS, the Town Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held in the Council Chambers of the Smithfield Town Hall at 7:00

pm on February 4, 2020 after due notice by publication in the Johnstonian News on January 22, 2020; and

WHEREAS, the Town Council finds that the area described therein meets the standards of G.S. 160A-58.1 (b), to wit:

- a. The nearest point on the proposed satellite corporate limits is not more than three (3) miles from the corporate limits of the Town;
- b. No point on the proposed satellite corporate limits is closer to another municipality than to the Town [or indicate that, although closer to another municipality, there is an annexation agreement in place that allows the annexation of the propose satellite];
- c. The area described is so situated that the Town will be able to provide the same services within the proposed satellite corporate limits that it provides within the primary corporate limits;
- d. No subdivision, as defined in G.S. 160A-376, will be fragmented by this proposed annexation;
- e. By virtue of an act of the General Assembly, The Town of Smithfield is exempt from exceeding ten percent (10%) of the area within the primary corporate limits of the Town, and

WHEREAS, the Town Council further finds that the petition has been signed by all the owners of the real property in the area who are required by law to sign; and

WHEREAS, the Town Council further finds that the petition is otherwise valid, and that the public health, safety and welfare of the Town and of the area proposed for annexation will be best served by annexing the area described;

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

Section 1. By virtue of the authority granted by G.S. 160A-58.2, the following described non-contiguous territory is hereby annexed and made part of the Town of Smithfield, as of February 5, 2020

Lying and being situated in Johnston County, North Carolina and being more particularly described as follows:

PROPERTY DESCRIPTION PARCEL 15L 11011, COUNTY OF JOHNSTON

17.045 ACRE PARCEL

BEGINNING AT A PK NAIL LOCATED IN THE CENTER OF YELVERTON GROVE CHURCH ROAD (SR 2301), AT THE SOUTHWESTERN CORNER OF THE PROPERTY OWNED BY RONNIE WAYNE GARDNER; THENCE SAID PK NAIL WITH THE SOUTHERN LINE OF RONNIE WAYNE GARDNER SOUTH 78 DEG. 41 MIN. 30 SEC. EAST 549.16 FEET TO AN EXISTING IRON STAKE; THE CORNER OF BEVERLY ALLEN SUTTON; THENCE WITH SAID PROPERTY LINE SOUTH 78 DEG. 40 MIN. 21 SEC. EAST 193.87 FEET TO AN EXISTING IRON STAKE; THENCE WITH THE WESTERN LINE OF LARRY COX SOUTH 01 DEG. 24 MIN. 14 SEC. WEST 1161.31 FEET TO AN EXISTING IRON STAKE IN THE NORTHERN RIGHT OF WAY OF U.S. HIGHWAY 70 BUSINESS; THENCE WITH SAID RIGHT OF WAY NORTH 69 DEG. 50 MIN. 28 SEC. WEST 760.39 FEET TO AN EXISTING IRON STAKE; THE SOUTHEASTERN CORNER OF MARJORIE LANGSTON TRUST; THENCE WITH LINES OF MARJORIE LANGSTON TRUST NORTH 18 DEG. 16 MIN. 45 SEC. EAST 684.94 FEET TO AN EXISTING IRON STAKE AND NORTH 69 DEG. 52 MIN. 43 SEC. WEST 330.09 FEET TO AN EXISTING RAILROAD SPIKE IN THE CENTER OF

YELVERTON GROVE CHURCH ROAD (SR 2301); THENCE WITH THE CENTER OF YELVERTON GROVE CHURCH ROAD NORTH 18 DEG. 16 MIN. 21 SEC. EAST 12.73 FEET TO A PK NAIL; THENCE NORTH 18 DEG. 54 MIN. 35 SEC. EAST 100.01 FEET TO A PK NAIL; THENCE NORTH 21 DEG. 14 IN. 15 SEC. EAST 99.99 FEET TO A PK NAIL; AND NORTH 24 DEG 06 IN. 40 SEC. EAST 88.56 FEET TO AN EXISTING PK NAIL, THE BEGINNING POINT, CONTAINING 17.045 ACRES, MORE OR LESS.

5.721 ACRE PARCEL

BEGINNING AT AN EXISTING PK NAIL LOCATED IN THE CENTER OF YELVERTON GROVE CHURCH ROAD (SR 2301); SAID PK NAIL LOCATED AT THE INTERSECTION OF THE CENTER OF YELVERTON GROVE CHURCH ROAD (SR 2301) AND THE INTERSECTION OF THE NORTHERN RIGHT OF WAY OF US HIGHWAY 70 BUSINESS; THENCE FROM SAID BEGINNING POINT WITH THE NORTHERN RIGHT OF WAY OF US HIGHWAY 70 BUSINESS NORTH 69 DEG. 51 MIN. 48 SEC WEST 334.17 FEET TO AN EXISTING IRON STAKE; THENCE WITH THE EASTERN LINE OF ROBERT AND WELLONS INC. NORTH 02 DEG. 24 MIN. 23 SEC. EAST 620.91 FEET TO AN EXISTING IRON STAKE; THENCE SOUTH 70 DEG. 28 MIN. 35 SEC. EAST 503.83 FEET TO A PK NAIL LOCATED IN THE CENTER OF YELVERTON GROVE CHURCH ROAD (SR 2301); THENCE WITH SAID ROAD SOUTH 18 DEG. 16 MIN. 09 SEC. WEST 597.12 FEET TO AN EXISTING PK NAIL, THE BEGINNING POINT, AND CONTAINING 5.721 ACRES, MORE OR LESS.

2.627 ACRE PARCEL

BEGINNING AT A PK NAIL LOCATED IN THE CENTER OF YELVERTON GROVE CHURCH ROAD (SR 2301), SAID NAIL BEING LOCATED IN THE EXTENSION OF THE SOUTHERN RIGHT OF WAY OF THE US HIGHWAY 70 BUSINESS; THENCE FROM SAID BEGINNING POINT WITH THE CENTER OF YELVERTON GROVE CHURCH ROAD SOUTH 10 DEG. 36 MIN. 12 SEC. WEST 67.26 FEET TO A POINT; THENCE SOUTH 07 DEG. 32 MIN. 24 SEC. WEST 94.83 FEET TO A POINT; THENCE SOUTH 06 DEG. 55 MIN. 05 SEC. WEST 265.24 FEET TO A PK NAIL LOCATED IN THE CENTER OF YELVERTON GROVE CHURCH ROAD (SR 2301); THENCE LEAVING SAID ROAD NORTH 70 DEG. 02 MIN. 15 SEC. WEST 255.17 FEET TO AN EXISTING IRON STAKE; THENCE NORTH 02 DEG. 19 MIN. 34 SEC. EAST 439.01 FEET TO AN EXISTING IRON STAKE LOCATED IN THE SOUTHERN RIGHT OF WAY OF U.S. HIGHWAY 70 BUSINESS; THENCE WITH SAID RIGHT OF WAY SOUTH 69 DEG. 50 MIN. 33 SEC. EAST 296.97 FEET TO A PK NAIL, THE BEGINNING POINT, CONTAINING 2.627 ACRES MORE OR LESS

Section 2. Upon and after February 5, 2020 the above described territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the Town of Smithfield and shall be entitled to the same privileges and benefits as other parts of the Town of Smithfield. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the Town of Smithfield shall cause to be recorded in the office of the Register of Deeds of Johnston County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy this ordinance. Such a map shall also be delivered to the Town Board of Elections, as required by G.S. 163-288.1.

Section 4. Notice of adoption of this ordinance shall be published once, following the effective date of annexation, in a newspaper having general circulation in the Town of Smithfield.

- 2. Rezoning Request – Town of Smithfield (RZ-20-01):** The applicant was requesting to rezone 5 tracts of land totaling approximately 66.59 acres from the RMH-CUD (Residential Manufactured Home Conditional Use District) to the R-10 (Residential) zoning district. The properties considered for rezoning are located on the southwest side of Barbour Road approximately 1,100 feet northwest of its intersection with Bella Square. The properties

considered for rezoning are further identified as Johnston County Tax ID# 150781995, 15078199Q, 15078199I, 15078199T, 15078199V and 15078199W.

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

Planning Director Stephen Wensman explained staff was requesting to rezone several properties (Tax ID Nos.: 150781995, 15078199Q, 15078199I, 15078199T, R-1015078199V, and 15078199W) from RMH-CUD (Manufactured Home Residential Conditional Use District) to R-10 (Single-Family Residential District). In 1997 Town Council approved an annexation and the rezoning of several properties on Barbour Road from AR/R-40 (an old Johnston County zoning district designation) to RMH-CUD, for a mobile home park. The subject properties were rezoned to RMH-CUD with a site plan for a manufactured home park and a Special Use Permit for the manufactured home park was approved. Because the development was never constructed, the Special Use Permit expired and therefore, the Conditional Use District rezoning has also expired. The zoning map was never amended to reflect the expiration. Therefore, Staff is requesting an amendment to the Town's zoning map to reflect the expiration. Normally, the zoning should revert to the previous zoning district. In this case, the AR/R-40 zoning district does not exist. The new comprehensive growth management plan, "Town Plan", guides these properties for medium density residential, which corresponds with the R-6, R-8 and R-10 zoning districts. The prevailing medium density zoning in the area is R-10. The slightly lower density of the R-10 is in keeping with the density restrictions of the PA-IV Watershed, the overlay zoning district in which these properties are located. Therefore, Staff recommends the properties be rezoned to R-10. The Planning Board recommended approval of RZ-20-01 finding the rezoning consistent with applicable adopted plans, policies and ordinances

Planning Staff considers the action to be consistent and is reasonable:

Consistency with the Comprehensive Growth Management Plan -The draft Future Land Use Map guides these properties for medium density residential land uses. The R-10 zoning district is a medium residential district.

Consistency with the Unified Development Code - The rezoning will be consistent with the Town of Smithfield Unified Development Ordinance as all existing and future land uses will need to comply with the UDO.

Compatibility with Surrounding Land Uses - The property considered for a rezoning is compatible because many of the properties within the Town's corporate boundary in the immediate area are zoned R-10 and the area is in transition from rural to suburban.

Mayor Moore asked if there were any questions from Council.

Councilman Barbour questioned if this area was within the Town limit or in the Town's ETJ. Mr. Wensman responded the area was within the Town limits.

Mayor Moore asked if there was anyone in attendance that wished to speak on the matter. No one in attendance wished to speak on this matter.

Councilman Rabil made a motion, seconded by Councilman Barbour, to close the public hearing. Unanimously approved.

Mayor Pro-Tem Dunn made a motion, seconded by Councilman Dunn, to approve the rezoning request in accordance with NCGS 160A-383 stating the petition was consistent with the Comprehensive Growth Management Plan and other applicable adopted Town plans and that it was reasonable and in the public interest based on staff's findings outlined on page 20 of the agenda packet. Unanimously approved.

## **CITIZENS' COMMENTS:**

- Lucy Washington on 406 Birch Street asked if a stop light could be installed at the intersection of

Futrell Way and Market Street. Ms. Washington stated the intersection was dangerous and you could not see traffic coming under the railroad bridge underpass. Town Manager Michael Scott explained that road was controlled by NCDOT. The Town would be happy to look at the accident reports for that area and forward that information to NCDOT. NCDOT would need to conduct a traffic study to determine if a stop light was needed. Ms. Washington asked if the Town could at least cut the trees and bushes back so there wasn't anything obstructing the view of cars coming from under the underpass.

## **CONSENT AGENDA:**

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

1. The following minutes were approved
  - January 7, 2020 – Regular Meeting
2. Proclamation Supporting Arbor Day in the Town of Smithfield on Friday, March 20, 2020

Proclamation  
Celebrating Arbor Day in the  
Town of Smithfield on Friday, March 20, 2020

Whereas, in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and

Whereas, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska; and

Whereas, Arbor Day is now observed throughout the nation and the world; and

Whereas, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen, and provide habitat for wildlife; and

Whereas, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products; and

Whereas, trees in our town increase property values, enhance the economic vitality of business areas, and beautify our community; and

Whereas, trees, wherever they are planted, are a source of joy and spiritual renewal.

Now, Therefore, I, M. Andy Moore, Mayor of the Town of Smithfield, do hereby proclaim March 20, 2020, as Arbor Day in the Town of Smithfield, and I urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands, and

Further, I urge all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.

3. Approval of a Career Ladder in the Police Department. The Officer was promoted from the rank of Police Officer I to Police Officer II.
4. Approval was granted to appoint Colleen Roby to the Downtown Smithfield Development Corporation's Board of Directors.
5. Bid was awarded to Barr's Recreation in the amount of \$12,665.20 for the procurement and installation of a Shade Shelter at the Boat ramp on the Town Commons. Bids received are as follows:
6. Approval was granted to adopt the Comprehensive Growth Management Plan

*Attached by reference and made a part of these official minutes is a copy of the  
Town Plan which is on file in the Office of the Town Clerk*

**7. New Hire Report**

<u>Position</u>	<u>Department</u>	<u>Budget Line</u>	<u>Rate of Pay</u>
Admin Support Specialist	Fire	10-20-5300-5100-0200	\$14.88/hr. (\$30,950.40/yr.)
P/T Pool Staff	P&R – Aquatics	10-60-6220-5100-0220	\$7.50/hr.
P/T Recreation Staff	P&R – Recreation	10-60-6200-5100-0210	\$8.00/hr.
P/T Recreation Staff	P&R – Recreation	10-60-6200-5100-0210	\$9.00/hr.
P/T Recreation Staff	P&R – Recreation	10-60-6200-5100-0210	\$10.00/hr.
Police Officer I	Police	10-20-5100-5100-0200	\$17.71/hr. (\$39,600.00/yr.)
Police Officer I	Police	10-20-5100-5100-0200	\$17.71/hr. (\$39,600.00/yr.)
Police Officer I	Police	10-20-5100-5100-0200	\$17.71/hr. (\$39,600.00/yr.)
Police Officer II	Police	10-20-5100-5100-0200	\$18.59/hr. (\$41,567.24/yr.)

**Current Vacancies**

<u>Position</u>	<u>Department</u>	<u>Budget Line</u>
Assistant Finance Director	Finance	10-10-4200-5100-0200
Police Officer I (6 positions)	Police	10-20-5100-5100-0200
Utility Line Mechanic	PU – Water/Sewer	30-71-7220-5100-0200

Unanimously approved

**Business Items:**

**1. Consideration and Request for approval to purchase two parcels of land on 210 Highway for Parks**

Parks and Recreation Director Gary Johnson addressed the Council on a request to purchase two parcels of land for Parks. Mr. Johnson explained in November 2019, the Council agreed to permit the Town Manager to negotiate with representatives of Cornerstone Faith Fellowship to purchase two parcels of land totaling 20.08 acres located south of Highway 210 to create a park on the West Side of Smithfield. Currently the Town leases the land where Gertrude Johnson Park is located for the price of the property taxes for the land and improvements there. Additional park space located on Smithfield's West Side remains part of the Town's Land Use Plan and the Parks and Recreation Five Year Plan. During a due diligence period, an appraisal was conducted at the Town's expense. Eventually the appraised price for the land, \$80,000, was agreed to as a purchase price. Money is available by using the Town's restricted fund balance, using money previously acquired through the sale of Bingham Park. Over \$470,000 remains as restricted fund balance for the purchase of additional park land and park improvements. A budget amendment accompanies this request to move money from fund balance that can be used for the purchase of this land.

Councilman Barbour questioned if there were any plans to close Gertrude Johnson park when this park is completed. Mr. Johnson responded there were no plans to close Johnson Park. This land would be an additional park.

Mayor Moore reminded the Council the Town does not own the Gertrude Johnson Park property. Mr. Johnson explained there was a 5-year lease on the property and should either party wish to sever that agreement, either party must provide a 12 month notice.

Councilman Scott questioned how the unrestricted fund balance for park land purchase came about. Mayor Moore responded when Bingham Park property was sold to so the Hospice House could be built, the Council decided to keep the proceeds of the sale of that property for future park land purchase and continued development of Community Park.

Councilman Scott questioned if the design provided to the Council was a conceptual plan or if this would be the actual plan for the property. Mr. Johnson responded it was only a conceptual plan.

Councilman Barbour questioned the flooding risk. Planning Director Stephen Wensman responded the property was within the 100-year floodplain. If restrooms were built, they would have to be elevated. This site infrequently floods and since it is very sandy, it would drain very quickly.

Mayor Moore questioned if the easements were in place. Mr. Wensman responded there was a shared easement to enable the other property owners to access their parcels of land. Town Attorney Bob Spence stated it was a firm access.

Mayor Pro-Tem Dunn made a motion, seconded by Councilman Wood, to approve the purchase of the land on 210 Highway for a future park and the approval of budget amendment. Unanimously approved.

<u>GENERAL FUND</u>	<u>BEFORE</u>	<u>ADJ.</u>	<u>AFTER</u>
<b>Revenues</b>			
10-00-3900-3900-0000 Gen. Fund Balance Approp.	<u>\$ 1,593,056</u>	<u>\$ 80,000</u>	<u>\$ 1,673,056</u>
<b>Expenditures</b>			
10-60-6200-5700-7400 Recreation - Capital Outlay	<u>\$ 176,623</u>	<u>\$ 80,000</u>	<u>\$ 256,623</u>

To fund the purchase of approximately 20.08 acres of land for future parks and recreation

## 2. Consideration and request for approval to replace one of the bridges on the Buffalo Creek Greenway

Parks and Recreation Director Gary Johnson addressed the Council on a request to replace one of bridges on the greenway. He explained while performing routine maintenance on the greenway bridge, staff discovered the sub-flooring of the bridge was rapidly rotting and deteriorating. The condition of the bridge, while still passable for pedestrians and bicycles, has become unsafe for load bearing vehicles including Rescue and Fire. Bridges along the greenway should remain safe for the passage of Safety Vehicles in the event of an emergency. Contractors were contacted for repair estimates and all agreed the bridge should be rebuilt to ensure its integrity. Due to this unforeseen deterioration, the Parks and Recreation Department is requesting funds to replace one of the bridges on the Buffalo Creek Greenway. Funds were not appropriated in the FY 19/20 budget. Due to safety and the time sensitive nature of making repairs, we are requesting funds from the General Funds Contingency line item to make these repairs.

Four contractors visited the site with two submitting quotes. They are as follows:

Blueprint Construction:	\$ 14,000.00
JLP Carpentry, Inc	\$ 18,000.00

Town Manager Michael Scott explained staff is investigating a grant opportunity to pay for about \$10,000 for the repair, but it wouldn't be wise for us to wait for those funds. He asked the Council to approve the repair and the budget amendment.

Councilman Barbour made a motion, seconded by Councilman Rabil, to approve the repairs and the budget amendment needed for the repair. Unanimously approved

### GENERAL FUND

<b>Expenditures</b>			
10-60-6200-5700-7400 Recreation - Capital Outlay	\$ 256,623	\$ 14,000	\$ 270,623
10-00-9990-5300-0000 General Fund Contingency	<u>261,038</u>	<u>(14,000)</u>	<u>247,038</u>
	<u>\$ 517,661</u>	<u>\$ -</u>	<u>\$ 517,661</u>

To fund bridge replacement on Buffalo Creek Greenway



**3. Consideration and request for approval for a budget amendment in the Electric Department**

Public Utilities Director Ted Credle addressed the Council on a budget amendment for the Electric Department. Mr. Credle explained that due to unexpected increased spending related to Town growth and equipment breakage, the Electric Fund “supplies” line (31-72-7230-5300-3300) has been depleted. In order to continue to respond to service issues and maintain pace with continuing Town growth, the Public Utilities Department is requesting a transfer of funds from the Contingency Line Item (31-00-9990-5300-0000) to the Supplies Line item (31-72-7230-5300-3300) of \$147,000.00. The Electric Department considers network maintenance service calls and Town growth every year as part of budgetary preparations. This year the Town has seen more growth than usual, spearheaded by the construction on the north side of Town. New houses and new offices along Booker Dairy Road have put a strain on the budget, as the Electric Department has stretched to expand the existing circuit, to serve this new growth. This growth has also seen the NCDOT require the Town to relocate and existing pole line along Buffalo Road, which was also unanticipated this fiscal year. Lastly, the Town had a breaker in Delivery Point #1 fail, causing a significant Town outage. Although replacement parts were available, the replacement parts were used and now there is no existing gear on the yard, should another instance occur. The Electric Department needs to order this equipment, as the lead time on such gear is 12-16 weeks. Staff is asking the Council to approve the Budget Amendment, as proposed. Future overruns will be avoided as an enlarged “supplies” line will be requested during the upcoming budget preparations for the coming fiscal year(s).

Mayor Pro-Tem Dunn questioned if this budget amendment was enough to get you through till the end of the fiscal year. Mr. Credle responded it will be enough for the remainder of the year and there will be some funds in the contingency line.

Councilman Barbour questioned if it was the Town’s responsibility to relocate the power poles on Buffalo Road. Mr. Credle explained with the widening of Buffalo Road, NCDOT requires the Town to relocate its poles for their project.

Mayor Moore questioned the timeline for the widening of Buffalo Road. Mr. Credle responded staff anticipated this project to be budgeted in the upcoming fiscal year, but NCDOT began the project this fiscal year.

Councilman Scott questioned if funds would come from the electric contingency fund or the general fund contingency fund. Mr. Credle responded electric fund contingency funds would be used,

Councilman Scott suggested creating a line item for supplies needed for growth instead of including all supplies in one-line item.

Councilman Scott made a motion, seconded by Councilman Rabil, to approve the budget amendment for the electric department. Unanimously approved.

**ELECTRIC FUND**

**1. Expenditures**

31-72-7230-5300-3300 Electric - Supplies	\$ 185,000	\$ 147,000	\$ 332,000
31-00-9990-5300-0000 Electric - Contingency	<u>332,481</u>	<u>(147,000)</u>	<u>185,481</u>
	<u>\$ 517,481</u>	<u>\$ -</u>	<u>\$ 517,481</u>

To increase budget by \$147,000 for additional expenditures related to equipment breakage and town growth

**4. Bid Award to the Wooten Company for Design Services for the Durwood Stephenson Water line – Phase II**

Public Utilities Director Ted Credle addressed the Council on a request to award the bid for design services for Phase II of the Durwood Stephenson water line to the Wooten Company. Mr. Credle explained that for the past 2-3 years, the Public Utilities Department has been working to establish a secondary crossing of water across the Neuse River into West Smithfield. The work has been done in phases and the final phase will connect the water line along Durwood Stephenson Highway from one end of the bridge to the other (approximately 3,500 linear feet). This connection was approved in

the current fiscal budget year. Such a connection will be accomplished through a swampy area and must cross a high-powered Duke Energy transmission line, cross the Town sewer outfall; as well as, cross the Neuse River. Being that such an undertaking will need multiple jurisdictional permits, Town staff felt it would be better to employ a professional design firm to assist in this project. To that end, a public notice was put forth on November 25, 2019. A pre-proposal meeting was held on December 12, 2019. At this meeting, the project was further detailed and each contractor in attendance was given the opportunity to question or comment, as they deemed appropriate. Proposals were accepted on January 9, 2020. A total of four (4) firms submitted proposals. These firms were judged by a three-person independent panel. The Wooten company received the highest score. Since staff felt the design service would be more than \$30,000, North Carolina law does not allow for price quotes. Staff will negotiate a contract price with the most qualified firm. If an agreement cannot be reached, staff will negotiate with the next qualified firm. Staff is asking the Council to approve the selected firm, provided the financial agreement fits into the project budget. Should no arrangement be reached with the first proposed firm, staff is asking the Council to allow staff to pursue negotiations with the second-highest rated firm, and so forth, until an agreement is reached.

Mayor Pro-Tem Dunn questioned if there was a negotiated price. Mr. Credle responded the price for services will be negotiated.

Mayor Moore asked why the Town could not ask the firm to provide an estimate of their fees. Mr. Credle responded if the request for design services is more than \$30,000, then the Town cannot request a quote for fees. It can only request qualifications. To request an estimate for fees is against the law in North Carolina.

Town Manager Michael Scott stated the bidding laws in North Carolina only allows us to request for qualifications in the beginning. You must only seek the firm based on their qualifications. Once you have selected a firm, then you can negotiate a price. If you are not satisfied with that price, then you can go to the next qualified firm.

Councilman Scott questioned who established the qualifications. Town Manager Michael Scott responded the three-person team set those qualifications.

Mayor Moore questioned if all the vendors were qualified. Mr. Credle responded all the firms were qualified firms. Mayor Moore further stated the Council would be hesitant about entering into an agreement without knowing the overall cost. Town Manager Michael Scott responded staff could negotiate a price, but before entering into an agreement with the firm, staff can bring it back to the Council for final approval.

Councilman Stevens made a motion, seconded by Councilman Scott, to allow staff to negotiate a price with the Wooten Company for design services for Phase II of the Durwood Stephenson Water line project. Once a negotiated price is agreed upon, it is to be brought back to Council for approval prior to executing any contract. Unanimously approved.

## **5. Discussion concerning Dilapidated Building Ordinance #501**

Planning Director Stephen Wensman addressed the Council on consideration to adopt Ordinance #501. Mr. Wensman explained this was a Commercial Building Maintenance and Appearance Ordinance to aid the Town in addressing vacant property issues and to protect the health, safety and welfare of the community, and to protect property values. The Ordinance would also establish a vacant property registry to track vacant properties. The fee schedule would be amended for a vacant property registration fee. The Ordinance was drafted to provide Town Staff tools to address dilapidated commercial properties. This ordinance would require commercial buildings in the commercial and industrial zoning districts to be in good repair in order to preserve the character and integrity of the commercial business districts of the Town and to protect property values, promote tourism, and to contribute to the general welfare of all the Town's residents and property owners. It would establish minimum standards and require the exterior building and site improvements of all commercial buildings adjacent to a public street or parking area to be of good repair, including structures, parking areas, or buildings, or any lot upon which there were formerly located such improvements, structures, parking areas or buildings. The Ordinance would also establish a vacant property registry to be maintained by the Planning Department in order to track vacant properties throughout the commercial districts.

The Ordinance will establish the following minimum standards:

- a) The exteriors of building(s)/structure(s) on the Property shall be painted and maintained in a way that does not exhibit any Evidence of Vacancy.
- b) The yard(s) of the Property shall be maintained in a way that does not exhibit Evidence of Vacancy.
- c) The deck(s) and porch(s) located on the Property shall be maintained in a way that does not exhibit Evidence of Vacancy.
- d) The window(s) and door(s) of building(s)/structure(s) of the property shall be intact and operable and shall be maintained in a way that does not exhibit Evidence of Vacancy.
- e) Instances of visible rotting of building(s)/structure(s) located on the Property or portion thereof shall be corrected in order to eliminate Evidence of Vacancy, with the exterior painted and kept in good aesthetic condition.
- f) The Property shall be maintained so as to exhibit no Evidence of Vacancy.
- g) The storefronts and facades of buildings shall be maintained in a way that does not exhibit Evidence of Vacancy.
- h) The interiors, when visible to passersby through storefront windows, shall be maintained in a way that does not exhibit Evidence of Vacancy.
- i) Cleared Lots will be maintained with the grass cut, shrubs trimmed, and any landscaping neatly maintained.
- j) The Property shall be maintained in a secure manner so as not to be accessible to unauthorized persons. This includes, without limitation, the closure and locking of windows, doors (including but not limited to walk-through, sliding, and garage), gates, pet doors, and any other such opening of such size that it may allow a child to access the interior of the Property or structure(s).
- k) Broken windows shall be replaced and/or re-glazed; windows at the basement (the floor for that level being below or partially below ground level), street level and the second story level shall not be boarded up.

The Ordinance allows for inspection of vacant properties and provides enforcement penalties. The Ordinance establishes an appeals process using the Board of Adjustments

Councilman Scott stated that while he understood the intent of the ordinance, he did not want a commercial property owner to have any unnecessary burden. He suggested further defining the word "vacant".

Councilman Scott asked Planning Board member and commercial real estate agent, Teresa Daughtry, her opinion of the proposed ordinance. Mrs. Daughtry responded a vacant building without utilities is typically in bad shape. Typically, in order to have the utilities restored some maintenance must need to be conducted on the building. Most people who want to sell their building will not disconnect the utilities, but there are some cases where the utilities are disconnected because of the cost to heat/cool a large building. 90% of the commercial structures that have disconnected their utilities would be considered dilapidated properties.

Councilman Scott further questioned if an amendment could be put in the ordinance for properties that still have utilities because they wouldn't be considered vacant.

Councilman Barbour stated there were some vacant properties still with utility connections that were not maintaining the outward appearance of the building, such as landscaping.

Councilman Rabil questioned the number of buildings in Town this ordinance would pertain to. Town Manager Michael Scott responded he estimated there were about twenty buildings.

The Town Manager asked for clarification from Councilman Scott on his concern about a commercial property owner registering their property as vacant. Councilman Scott responded he felt it was another hurdle for a commercial property owner to deal with.

Town Attorney Bob Spence stated that without an ordinance you can only regulate for public health and safety. What you cannot control is the steady of deterioration of a property which causes blight. The design of the ordinance is to try to keep the building from deteriorating so as to not cause damage

to adjoining properties.

Town Manager Michael Scott stated the definition of "vacant" can be changed from 30 days to 90 days. After that 90-day period, they would still have 90 days to register the property. Councilman Scott stated he was more comfortable with that.

Councilman Scott questioned the procedure if the property owner did not comply with the ordinance. The Town Manager responded they would be assessed a civil penalty of up to \$50 per day of noncompliance.

Councilman Barbour stated most properties do not become dilapidated in thirty or ninety days. The Council does not want to put any unnecessary burden on the property owner.

Mr. Wensman responded the purpose of the registry is so staff will know when the property becomes vacant and they will be able to monitor the property. Sometimes staff does not know when a property becomes vacant unless they observe it.

Town Manager Michael Scott stated from a legal point of view, there are certain things the Town can regulate and certain things we cannot. This ordinance was coined after an ordinance in Goldsboro that was defensible. If you take out the vacancy issue you are tearing down the ordinance and it would not be defensible. Councilman Barbour responded he was not in favor of removing the definition only extending it from thirty to ninety days.

Mr. Wensman stated if a property owner does not register their property and it is observed by the Code Enforcement Officer, he can send a warning letter to the property owner letting them know they must comply with the ordinance. The ordinance allows for 90 days to register the property, but it could be longer depending on when it is discovered by staff. If the property is vacant, it needs to be registered.

Town Attorney Bob Spence stated he felt Sec. 5 -180. Enforcement; Violations; and Penalties (d) was harsh. Mr. Wensman stated staff will work with the property owner if we know they are trying to come to some resolution. Staff stops being flexible when the owners will no longer work with the Town.

Councilman Barbour questioned the \$15.00 fee. Mr. Wensman responded it was placed in there to cover the cost of staff's time, but it can be removed. Mayor Moore stated the fee should be removed. Councilman Barbour stated the Town could use this as a positive to help market vacant properties in Town.

Mrs. Daughtry informed the Council that owners would not register their properties because there are owners who do not reside in North Carolina. She suggested using utility records to determine when the utilities were disconnected. Mr. Wensman responded that would be beneficial but not all commercial properties are serviced by the Town.

Town Manager Michael Scott informed the Council that considering this type of ordinance, should you pass it at some point, you can make it effective for some point in the future. If we did that, it would help us to be able to determine the buildings that would be in violation. Staff could contact those owners and they would have six months to prepare for it.

Councilman Barbour recommended changing the 30 days to 90 days in the definition of vacant, removing the fee and make it effective in 90 days.

Mr. Spence questioned the Council's recommendation on windows stating this could be very costly and a hardship for some property owners. He further questioned at what story the Council felt comfortable allowing the windows to be boarded up. The Town Manager responded windows should not be boarded up on the ground level because the Police have no idea who is trespassing. This is a safety concern.

Councilman Stevens stated the whole point of the ordinance was to make sure buildings don't become dilapidated in the future. We have properties that are currently dilapidated. If we had implemented this 15 years ago, we wouldn't be in the position we are now with some of these buildings. The ordinance will keep the responsibility on the property owner to keep their buildings

maintained. The reason they are dilapidated is because they haven't done anything with their building in 90 days. You have the ordinance to stop it from reoccurring and to fix the problems we already have.

Councilman Barbour made a motion, seconded by Councilman Wood, to Adopt ordinance 501 with the following amendments.

Section 5-174: Definitions – *“Vacant” means a Property that has not been legally occupied for thirty days.* Change from thirty days to ninety days.

Sec. 5-176. Fees remove the entire section as a fee will not be charged for registration.

Make it effective June 1<sup>st</sup>.

Unanimously approved.

**TOWN OF SMITHFIELD**  
**North Carolina**  
**ORDINANCE # 501**

**AN ORDINANCE TO AMEND THE TOWN OF SMITHFIELD CODE OF ORDINANCES**  
**CHAPTER 5- BUILDINGS AND BUILDING REGULATIONS**

**WHEREAS**, Chapter 5 of the Town of Smithfield's Code of Ordinances outlines the regulations concerning buildings and building regulations within the Town; and

**WHEREAS**, the Planning Director Stephen Wensman, is requesting the Ordinance be amended to add Article V. Commercial Building Maintenance and Appearance Regulations.

**NOW THEREFORE BE IT ORDAINED** by the Town Council of the Town of Smithfield that Chapter 5 Building and Building Regulations; Article V. Commercial Building Maintenance and Appearance Regulations:

**ARTICLE V. Commercial Building Maintenance and Appearance**  
**Regulations**

**Sec. 5-171. Intent and Scope.**

Appearance and good repair regulations for commercial buildings in the Commercial Zoning Districts of the Town of Smithfield (defined as zoning Districts, B-1, B-1 CUD, B-2, B-2 CUD, B-3, B-3 CUD, O/I, O/I CUD, L1 and L2 hereinafter referenced jointly as the “Commercial Zoning Districts”) will preserve the character and integrity of the commercial business districts of the Town. It will provide corollary benefits such as protection of property values, promotion of tourism, preservation of the character and integrity of the downtown, and contribute to the comfort, happiness, and emotional stability of downtown residents and the greater Smithfield community. It is the further purpose of this Code to minimize discordant, unsightly and offensive surroundings while preserving beauty as well as the usefulness of the environment.

**Sec. 5-172. Scope and applicability.**

The provisions of these Commercial Building Maintenance and Appearance Regulations shall apply to the exterior of all premises and improvements thereupon within the Commercial Zoning Districts and adjacent to a public street or parking area including

but not limited to improvements, structures, parking areas, or buildings, or any lot upon which there were formerly located such improvements, structures, parking areas or buildings. It shall further apply to any lot that had in the past had located upon it a commercial structure or parking area. Exterior walls adjacent to alleys are exempt from these regulations. These regulations establish minimum standards, and do not replace or modify standards otherwise established for the construction, repair, alteration, or use of the building, equipment or facilities contained therein, except as provided herein.

It is also the purpose and intent of the Smithfield Town Council, through the adoption of this Article, to establish a vacant property registration as a mechanism to preserve and to protect the Town's commercial districts from becoming blighted through the lack of adequate maintenance and security for abandoned and vacant properties. Additionally, the Town desires to deter crime and theft of materials, to minimize loss of property value to vacant properties and surrounding occupied properties, to reduce the risk of damage from fire, flooding or other hazards, and to promote the comfort, happiness and emotional stability of area residents. The Town finds that the presence of properties exhibiting evidence of vacancy pose special risks to the health, safety, and welfare of the community, hurt the appearance and fair market value of commercial areas, and therefore require heightened regulatory attention. The provisions of this Article shall apply to all properties in the Commercial Zoning Districts of the Town of Smithfield.

#### **Sec. 5-173. Conflicting Provisions.**

In any case where the provisions of this Code impose a standard other than that set forth in any other ordinance of the Town or under the laws of the State of North Carolina, then the more restrictive standard shall prevail.

#### **Sec. 5-174. Definitions.**

For the purposes of this Article, certain words and phrases used in this Article are defined as follows:

“Citations”. Written notices from an agent of the town as to an enforcement action or penalty.

“Cleared Lots” means lots whereupon there were in the past located improvements, structures, parking areas or buildings but the same have been removed for whatever reason and there are now no improvements on the lot.

“Commercial” means not just commercial but all commercial, business, institutional, industrial, warehouse or storage uses.

“Days” means consecutive calendar days.

“Evidence of Vacancy” means any aesthetic condition that on its own or combined with other conditions present would lead a reasonable person to believe that the Property is vacant. Such conditions include, but are not limited to, overgrown or dead vegetation, extensively chipped or peeling exterior paint, exterior walls in poor condition, porches and steps in poor condition, roof in poor condition, broken windows and other signs of general disrepair, accumulation of newspapers, circulars, flyers or mail, past due utility notices or disconnected utilities, accumulation of trash, junk or debris, the absence of window coverings such as curtains, blinds, or shutters, the absence of

furnishings or personal items consistent with commercial habitation, statements by neighbors, passersby, delivery agents, government employees that the Property is vacant.

"Government Agency" means any public body having authority over the Property and residents of the Town, including but not limited to the Town of Smithfield, Johnston County, Smithfield Police Department, Smithfield Fire Department, and Johnston County Sheriff's Office.

"Government Official" means any public official representing a public body which has authority over the Property and residents of the Town, including but not limited to the Town Manager, County Building Inspector, Town Police Chief, County Fire Marshall, and Mayor. In some capacities agents of other governmental entities act for the Town under interlocal agreement and as such have authority to enforce the provisions of the Article in accord with town policy. For example, the Town does not have a building inspection office and the County performs those functions under an interlocal agreement.

"Local" means located within forty (40) road or driving miles distance of the subject Property.

"Non-residential Property" means any real property used or intended to be used for anything other than residential property as defined herein.

"Out of Area" means located in excess of forty (40) road or driving miles distance away from the subject Property.

"Owner" means any person, partnership, association, corporation or fiduciary having a legal or equitable title or any interest in any real property. No trustee in any Deed of Trust shall be considered an owner.

"Owner of Record" is the person or entity listed on recorded deed, probated will or heir by intestacy.

"Property" means any unimproved or improved real property or portion thereof, situated in the Commercial Zoning Districts of the Town and includes the buildings or structures located on the Property regardless of condition.

"Residential Property" means a building, or portion thereof, designed exclusively for residential occupancy, including one-family, two-family, multiple dwellings, mobile homes, house trailers, counseling and lodging houses, apartment houses, and apartment hotels.

"Town" means the Town of Smithfield corporate limits.

"Utilities" means water, sewer, telephone, natural and propane gas, and electric town services.

"Vacant" means a Property that has not been legally occupied for ninety (90) days. Legally occupied means occupancy by the owner or any business or individual whose presence therein is with the consent of the owner. A Property that has utilities that are not operational is Vacant as herein defined or any other Evidence of Vacancy as defined herein above.

### **Sect. 5-175. Registration.**

- (a) Any vacant commercial property located within the Town's Commercial Zoning Districts must be registered by the Owner with the Town Manager, either (1) of the Owner of a Vacant Property's own accord before receiving a Notice of Registration Requirement, or (2) within 90 days of receiving a Notice of Registration Requirement from the Town.
- (b) The Town will send a Notice of Registration Requirement to the Owner of Record of Properties that exhibit Evidence of Vacancy. The Owner shall register Property within the time period set forth in Section (a) of this Section unless the Owner can provide clear and convincing evidence to the Town Manager, within such time period, that the Property is not Vacant.
- (c) The Registration shall contain:
  - (i) the name of the Owner (corporation or individual),
  - (ii) the direct street/office mailing address of the Owner and P.O. Box if applicable,
  - (iii) a direct contact name and phone number
  - (iv) the name, address and telephone number of any local property management company hired by the Owner to meet the maintenance requirements of this Article if Owner's principal residence is not local.
- (d) Any changes in the information in (b)(i) - (b)(iv) of this Section shall be reported to the Town within ninety (90) days of such changes.
- (e) Registration must be renewed annually.
- (f) Vacant properties shall remain subject to the annual registration, maintenance, and security requirements of this Article as long as they remain Vacant.
- (g) Once the Property is no longer Vacant or is sold, the owner must provide written proof of occupancy or sale to the Town Manager.
- (h) A Cleared Lot does not have to be registered.

### **Sec. 5-176. Maintenance Requirements.**

Properties subject to this Article shall be kept in compliance with the following maintenance requirements:

- (a) The exteriors of building(s)/structure(s) on the Property shall be painted and maintained in a way that does not exhibit any Evidence of Vacancy.
- (b) The yard(s) of the Property shall be maintained in a way that does not exhibit Evidence of Vacancy.
- (c) The deck(s) and porch(s) located on the Property shall be maintained in a way that does not exhibit Evidence of Vacancy.
- (d) The window(s) and door(s) of building(s)/structure(s) of the property shall be intact and operable and shall be maintained in a way that does not exhibit Evidence of Vacancy.
- (e) Instances of visible rotting of building(s)/structure(s) located on the Property or portion thereof shall be corrected in order to eliminate Evidence of Vacancy, with the exterior painted and kept in good aesthetic condition.
- (f) The Property shall be maintained so as to exhibit no Evidence of Vacancy.
- (g) The storefronts and facades of buildings shall be maintained in a way that does not exhibit Evidence of Vacancy.
- (h) The interiors, when visible to passersby through storefront windows, shall be maintained in a way that does not exhibit Evidence of Vacancy.
- (i) Cleared Lots will be maintained with the grass cut, shrubs trimmed, and any landscaping neatly maintained.

### **Sec. 5-177. Security Requirements.**



Vacant properties subject to this Article shall comply with the following security requirements:

- (a) The Property shall be maintained in a secure manner so as not to be accessible to unauthorized persons. This includes, without limitation, the closure and locking of windows, doors (including but not limited to walk-through, sliding, and garage), gates, pet doors, and any other such opening of such size that it may allow a child to access the interior of the Property or structure(s).
- (b) Broken windows shall be replaced and/or re-glazed; windows at the basement (the floor for that level being below or partially below ground level), street level and the second story level shall not be boarded up.

**Sec. 5-178. Requirement to Hire Local Property Management Company for Out of Area Owners.**

- (a) If the Property Owner's principal residence is not local, then a locally present property management company, business, or resident shall be contracted to fulfill the maintenance and security requirements of this Article, set forth in Sections 5 and 6, and any other applicable laws for all Properties that are registered hereunder or subject to registration.
- (b) The Property shall be posted with the name and 24-hour contact phone number of the local property management company. The posting shall be 18 inches by 24 inches and shall be of a font that is legible from a distance of 45 feet and shall contain along with the name and 24-hour contact number the words "THIS PROPERTY MANAGED BY" and "TO REPORT PROBLEMS OR CONCERNS CALL." The posting shall be placed in the interior of a window facing the street to the front of the Property so it is visible from the street, or secured to the exterior of the building/structure facing the street to the front of the Property so it is visible from the street or, if no such area exists, on a stake of sufficient size to support the posting in a location that is visible from the street to the front of the Property but not readily accessible to vandals. The exterior posting must be constructed of and printed with weather resistant materials.
- (c) The requirement set forth in part (a) of this section may be waived by the Town Manager for owners who (1) reliably demonstrate an ability to maintain the property and (2) have not received any citations for maintenance violations in the previous quarter.

**Sec. 5-179. Inspections.**

The Town shall have the authority and the duty to inspect properties subject to this Article for compliance and to issue citations for any violations. The Town shall have the discretion to determine when and how such inspections are to be made, provided that their policies are reasonably calculated to ensure that this Article is enforced. The County Building Inspection Department or other entities acting for the Town may perform these inspections under Sec. 5-180 or enforcements under Sec. 5-181 under an interlocal agreement.

**Sec. 5 -180. Enforcement; Violations; and Penalties.**

- (a) It shall be unlawful for any Owner to be in violation of any of the provisions of this Article.
- (b) Any person who violates a provision of this Article or fails to comply with any order made thereunder and from which no appeal has been taken, or who shall fail to comply with such order as affirmed or modified by appeal, or by a court of competent

- jurisdiction, within the time fixed herein, shall severally, for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided in this Article.
- (c) The imposition of one penalty for any violation shall not excuse the violation, or authorize its continuance.
  - (d) All such persons shall be required to submit an acceptable plan of action to the Town Manager within 10 business days of notification. This plan of action must include, but is not limited to, a description of the work to be done, by whom and a specific schedule. Plans shall be reviewed by the Town Manager and work is to commence within 15 days of Manager's approval. When not otherwise specified, failure to meet any stated condition within 10 days of required action shall constitute a separate offense.
  - (e) Penalties for failure to comply:
    - 1) Initial Registration. Failure to initially register with the Town within the time frame required is punishable by a civil penalty of \$50.
    - 2) Changes to Registration. Failure to report changes to registration information within time frame required is punishable by a civil penalty of \$50.
    - 3) Annual Registration. Failure to register annually is punishable by a civil penalty of \$50.
    - 4) Maintenance and Security Requirements. Failure to meet the maintenance and security requirements is punishable by a civil penalty per day of \$50 per day or up to the maximum allowed by Section 1-12 in the discretion of the Town.
    - 5) Failure to submit plan. Failure to submit plan of corrective action is a violation punishable by a civil penalty of \$50 per day or up to the maximum allowed by Section 1-12 in the discretion of the Town.
    - 6) Failure to implement plan. Failure to implement the plan within 15 days of approval or complete it in a timely manner is a violation punishable by a civil penalty of \$50 per day or up to the maximum allowed by Section 1-12 in the discretion of the Town.
    - 7) Concurrent Penalties. Civil Penalties for the violations enumerated above are separate so that an Owner could be subject to concurrent civil penalties under more than one of these subparagraphs. For instance, a person could be subject to civil penalties for failure to implement a plan, or failure to meet the maintenance and security requirements or other subparagraphs simultaneously.

#### **Sec. 5-181. Appeals.**

Any person aggrieved by any of the requirements of this Article may present an appeal in writing to the Town Manager and then, if not satisfied, to the Town Board of Adjustment.

#### **Sec. 5-182. Severability.**

Should any provision, section, paragraph, sentence or word of this Article be determined or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Article shall remain in full force and effect.

#### **Sec. 5-183. Preemption.**

Except as specifically preempted by N.C.G.S. § 160A-441, et. seq. 160A-439 or town ordinances promulgated pursuant to N.C.G.S. § 160A-439, et. seq., or G.S. 160A-174, this Article shall apply to all Vacant Properties in the Commercial Zoning Districts in the Town of Smithfield.

## 6. Discussion concerning the Tire Storage Ordinance #503

Planning Director Stephen Wensman addressed the Council on a proposed amendment to the administrative code ordinance. Mr. Wensman explained scrap tire storage has been identified as a nuisance issue throughout the Town's business districts affecting health, safety and welfare of the Town's residents. There are numerous tire changing businesses along the Town's primary gateways (Market Street and Brightleaf Boulevard) where scrap tire storage has been unsightly and frequently subject to Zoning Code Enforcement.

The proposed amendment to Section 8 would establish outdoor storage of used and scrap tires as a nuisance when not in conformance with standards. The amendment creates a new Article III within Section 8, that outlines specific standards for outdoor storage of used and scrap tires:

- be screened from public view.
- Requires used or scrap tires stored outside to be either:
  - a. stored on racks or neatly stacked not in excess of 10 feet in height; or
  - b. in a roll-off front-load dumpster, or other metal storage container, including a trailer not exceeding 45 ft x 8 ft x 13 ft if covered and if the stacked tires do not exceed height of 13 feet and used,
  - c. and scrap tires shall be shielded from rainwater.
- There shall be no more than one roll-off front-load dumpster, metal storage container or tire storage trailer per business. Such dumpster, container or trailer shall not occupy required parking areas. Tire storage trailers shall only be stored on approved paved surface areas and shall be removed from the site on a regular basis.
- Outdoor storage areas for tires shall be screened by a 6-8 ft high opaque durable fence or wall. Tire storage dumpsters and containers shall be screened on three (3) sides by means of a durable opaque fence, opaque wall or solid vegetative buffer.

Mr. Wensman further explained this amendment is to the administrative code of ordinances and will require all businesses with tire storage to come into compliance regardless of when they were approved. No business will be "grandfathered in" as required with Zoning Code Amendments.

Town Attorney Bob Spence stated this ordinance was brought before the Council so that the Town had a standard.

Mayor Pro-Tem Dunn stated he was concerned about tires being kept in a utility trailer because those tires will still collect water and be a breeding ground for mosquitos. Mr. Wensman responded all tires must be covered. Mayor Pro-Tem Dunn questioned if there was a set frequency of when the tires must be removed. Mr. Wensman responded it was unclear how staff could enforce that. Mayor Moore stated the business should have some record of removal.

Councilman Barbour stated the Council recently approved a Special Use Permit for a tire operation business and the Council placed a requirement on the frequency of tire removal. He felt all similar businesses should have to abide by the same rules. Town Manager Michael Scott explained the Special Use Permit was a zoning issue and this was an administrative code issue which were different. This ordinance will see to it that all tire businesses are following the new rule.

Councilman Barbour made a motion, Councilman Stevens, approve Ordinance #503 as written and it is effective immediately. Unanimously approved.

**ORDINANCE # 503**

**AN ORDINANCE TO AMEND THE TOWN OF SMITHFIELD CODE OF ORDINANCES CHAPTER 8 –  
GARBAGE, TRASH AND REFUSE**

**WHEREAS**, Chapter 8 of the Town of Smithfield’s Code of Ordinances outlines the regulations concerning garbage, trash and refuse regulations within the Town; and

**WHEREAS**, the Planning Director Stephen Wensman, is requesting the Ordinance be amended to add to Section 8-27 subsection (16) and Article III. – Outdoor Storage of Used and Scrap Tires.

**NOW THEREFORE BE IT ORDAINED** by the Town Council of the Town of Smithfield that Chapter 8 Garbage, Trash and Refuse; Section 8-27 subsection (16) and Article III – Outdoor Storage of Used and Scrap Tires as follows:

**Sec. 8-27. – Nuisances declared.**

- (16) The outdoor storage of any tire upon any premises with the Town in such a manner that it does not conform to the approved storage methods defined in Article III, Section 8-51.

**\*\*\*Secs. 8-35—8-50. - Reserved.**

**ARTICLE III. – Outdoor Storage of Used and Scrap Tires.**

**Sec. 8-51. – Outdoor Storage.**

All used tires for sale and scrap tires stored in the Town of Smithfield shall be kept in a manner which prevents their exposure to and collection of the elements of nature. Tires must not be allowed to hold water, dirt, rubbish or other foreign materials to prevent mosquito breeding and rodent harborage.

- (a) Used or scrap tires stored outside shall be screened from public view.
- (b) Used or scrap tires stored outside shall be stored on racks or neatly stacked not in excess of 10 feet in height; or in a roll-off front-load dumpster, or other metal storage container, including a trailer not exceeding 45 ft x 8 ft x 13 ft if covered and if the stacked tires do not exceed height of 13 feet and used and scrap tires shall be shielded from rainwater.
- (c) There shall be no more than one roll-off front-load dumpster, metal storage container or tire storage trailer per business. Such dumpster, container or trailer shall not occupy required parking areas. Tire storage trailers shall only be stored on approved paved surface areas and used and scrap tires shall be removed from the site on a regular basis.

- (d) Outdoor storage areas for tires shall be screened by a 6-8 ft high opaque durable fence or wall. Tire storage dumpsters and containers shall be screened on three (3) sides by means of a durable opaque fence, opaque wall or solid vegetative buffer.

## **7. Consideration and request for approval to remove various signs throughout the Town as a part of the wayfinding project**

Planning Director Stephen Wensman address the Council on a request to remove various signs throughout Town. Mr. Wensman explained with the wayfinding project, part of it was to help remove sign clutter. Staff was seeking Council input on which signs could be removed.

Councilman Wood stated he was not in favor of removing the “Home of Barry Foote” signs. He was agreeable to allowing those signs to be displayed at another location.

Councilman Barbour stated the Council discussed displaying civic organization signs in one location. The Town Manager responded staff will find a place to put all the civic organization signs. Councilman Barbour suggested sending this item back to staff for them to provide a list to Council on the signs that should be removed.

Mr. Wensman stated some the Town would have to get permission from NCDOT to remove some of the signs. Staff would also consult the County to determine if they would be agreeable to allowing the Town to remove some of their signs. Town Manager Michael Scott stated since most of the signs staff would like to remove are on state roads, NCDOT will not allow the removal of the signs unless they know the Council’s wishes. Mr. Wensman stated the Johnston County Airport could be added to Phase 3 of the Wayfinding project if the Council so desired.

It was the consensus of the Council to remove the following signs:

- Eastbound side of Highway 70 West: City wide speed limit sign, welcome sign, fire district sign, city limit sign and bird sanctuary sign.
- Westbound side of US Highway 70 East near Johnston Community College: First Christian church sign in the right of way. Before this is removed, Town staff will speak with members of the Church
- Southbound side of North Brightleaf Boulevard near the new Wash House: Town Planning and Zoning limit sign.
- Corner of Brightleaf Boulevard and Booker Dairy Road: The old Welcome to Smithfield sign
- Southbound side of North Brightleaf Boulevard near Walmart: Methodist church sign in the right of way. This will not be removed until staff can speak with the church.
- US Highway 70 West at the intersection with NC Highway 210: County landfill and livestock arena signs. Staff will discuss removing these signs with County officials.
- Corner of South Brightleaf Boulevard and Brogden Road: Smithfield Business District Sign
- Northbound and Southbound sides of Highway 301 South near the intersection of Packing Plant Road: County landfill and livestock arena signs. Staff will discuss removing these signs with County officials.
- Southbound side of Highway 301 South: Highway Patrol Station sign. Staff will contact the Highway Patrol to determine if this sign can be removed
- Outlet Center Drive near the Smithfield Business Park: Town Planning and Zoning limit sign.

- North Brightleaf Boulevard near the intersection of Market Street: Trailways Bus station sign.
- Northbound side of Highway 301 South near Holt Lake: Town signs and superior landscaping sign in the right of way.

It was the consensus of the Council to not remove the following signs:

- Outlet Center Drive: "To Smithfield Crossing Drive Use Left Lane" – keep this sign until the roundabout is reconfigured.
- South Brightleaf Boulevard: South Smithfield Elementary School sign
- North Brightleaf Boulevard at the intersection of Hospital Road: The National Guard Armory sign.

It was the consensus of Council to relocate the following signs:

- Eastbound side of Highway 70 West: "Hometown of Barry Foote, Major League Baseball Player and Coach
- Corner of North Brightleaf Boulevard and Booker Dairy Road: Smithfield Selma Senior High School and Smithfield Middle School should be relocated to the intersection of Booker Dairy Road and Booker Dairy Extension.
- Highway 301 South near Holt Lake: 45 mph sign

## **8. Discussion concerning the installation of the G1 Monumental Gateway Sign on Outlet Center Drive**

Planning Director Stephen Wensman informed the Council that all the signs are installed except for a few trailblazer signs. The large G1 monument sign was supposed to be installed on Brightleaf Boulevard near the intersection of the new Booker Dairy Road Extension. NCDOT will not allow the Town to put the sign there because of the sight lines. Another option would be to install it on Outlet Center Drive close to the Smithfield Business Park. Mr. Wensman explained the property owner has given the Town permission to install the G1 monument sign on her property, but she would like the same agreement as the other property owners have been given.

Councilman Scott suggested installing the monumental sign on Buffalo Road. Mr. Wensman stated G2 signs could be installed on Brightleaf Boulevard and on Outlet Center Drive. The G1 large monument sign could be installed in the future.

Councilman Scott made a motion, seconded by Councilman Wood, to install a G2 gateway signs on Outlet Center Drive and North Brightleaf Blvd and the others will be taken under advisement at a later date. Unanimously approved.

### **Councilmembers Comments:**

- Mayor Moore stated the census is very critical for the Town of Smithfield. He asked the Council to make sure they spoke with their constituents about the importance of the census and completing the survey
- Councilman Scott informed the Council that long-term employee Cedric Raynor recently passed away. He asked everyone to keep the family in their thoughts and prayers. He also informed the Council that the employee benefits committee met and one of the things discussed was employee recognition. There are a lot of inexpensive things the Town can do to recognize employees. There is a lot of opportunity to make a difference.
- Councilman Barbour stated that even though the police office pay issue was not on the agenda,

the Council continues to discuss it. The Council is discussing how to handle the situation and how it relates to all other employees. The Council appreciates all Town employees and the jobs they perform.

### **Town Manager's Report:**

Town Manager Michael Scott gave a brief update to the Council on the following items:

- Census: This is going to be the most important thing the Town does all year. We need to make sure all citizens are counted. Staff will be doing everything to get the information to all citizens.
- The PEG channel is currently down and has been down since the power outage. Staff is trying to get the software company to make the necessary repairs. We are working diligently, but we must wait for the contract to do the necessary repairs.
- Phase 2 of East River has been submitted to the Planning Department for approval. 32 additional homes comprise Phase 2. Currently there are 18 homes with roof tops under construction.
- The annual Daddy-Daughter Dance is scheduled for February 22nd at 7:00 pm at the SRAC.
- Road Resurfacing: Bid openings are set for Thursday, February 6th at 9:00 am

### **Equity Drive Update**

Councilman Barbour asked for an update on the Equity Drive Project. Town Manager Michael Scott responded the Council set aside \$1 million to resurface Equity Drive. Sidewalks would be constructed on one side and curb and gutter would be installed. After negotiating a price for engineering services, staff felt the price was too high. Staff began the process again to determine what could be done in house to bring the cost within budget. Staff did receive a quote from a company that is not an engineering firm but does has the expertise to write an RFP for the construction project. The major issue is making sure there will be proper drainage. The Town Engineer and staff is working with the company which will cost about \$12,000 and is well within budget and not like the \$250,000 bid we received from an engineering firm. We'll send out RFP and then bring it Council for approval so we can begin construction. This project is a matter of keeping it within budget.

### **Adjourn**

Being no further business, Councilman Scott made a motion, seconded by Mayor Pro-Tem Dunn, to adjourn the meeting. The meeting adjourned at approximately 9:38 pm

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M. Andy Moore, Mayor

ATTEST:

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Shannan L. Parrish, Town Clerk