

The Smithfield Town Council met in regular session on Tuesday, April 4, 2017 at 7:00 p.m. in the Council Chambers of the Smithfield Town Hall, Mayor M. Andy Moore presided.

Councilmen Present:

Marlon Lee, District 1  
J. Perry Harris, District 2  
Roger A. Wood, District 4  
John A. Dunn, At-Large  
Stephen Rabil, At-Large

Councilmen Absent

Emery Ashley, Mayor Pro-Tem  
Travis Scott, District 3

Administrative Staff Present

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

Present:

Bob Spence, Town Attorney

Administrative Staff Absent

Bill Dreitzler, Town Engineer

Mayor Moore informed the Public that Mayor Pro-Tem Ashley's father, Wallace Ashley, had passed away. He asked that everyone observe a moment of silence in remembrance of Mr. Ashley.

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

**APPROVAL OF AGENDA:**

Councilman Rabil made a motion, seconded by Councilman Dunn, to approve the agenda with the following amendments:

- o Add Consent Agenda Item 10: Special Events at Smith Collins Park Saturday and Sundays for community games from 4pm- 9pm with amplified sound.
- o Add Business Item 5: Inclusion Park and Miracle League Baseball Field Bid Award for Sitework/ Grading/Concrete
- o Remove from Business Item 2: Budget Amendment 3.

Unanimously approved.

**PRESENTATIONS:**

**1. Proclamation: Recognizing April 18<sup>th</sup> as Electrical Lineman Appreciation Day**

Mayor Moore presented the following proclamation to Electrical Lineman Davis Thieman and Public Utilities Director Ted Credle.

**PROCLAMATION  
ELECTRICAL LINEMEN APPRECIATION DAY  
APRIL 18, 2017**

Whereas, the Town of Smithfield honors the profession of linemen, as this profession is steeped in personal, family and professional tradition; and

Whereas, electrical linemen are often first responders during storms and other catastrophic events, working to repair broken lines to make the scene safe for the citizens of the Town of Smithfield; as well as, other public safety workers; and

Whereas, electrical linemen work on the Town of Smithfield power lines 24 hours a day, 365 days a year, to keep the electricity flowing; and

Whereas, due to the danger of their work with thousands of volts of electricity high atop power lines, these linemen put their lives at risk every day for the citizens of the Town of Smithfield; and

Whereas, the U.S. Senate in 2013 first recognized the efforts of electrical linemen in keeping the power on and protecting public safety, and has designated the celebration of a National Linemen Appreciation Day.

Now, Therefore, I, M. Andy Moore Mayor of the Town of Smithfield along with the members of the Town Council, do hereby proclaim April 18, 2017 as "Electrical Linemen Appreciation Day"; and we call upon the citizens of the Town of Smithfield to recognize and appreciate the hard work, innovation and dedication that these public servants make every day to our health, safety, comfort, and quality of life.

## **2. Administering Oath of Office to Police Patrol Captain James Grady**

Mayor Moore administered the Oath of Office to newly promoted Patrol Captain James Grady.

### **PUBLIC HEARINGS:**

Town Clerk Shannan Williams administered affirmations to those that wished to offer testimony during the Public Hearings.

#### **1. Conditional Use Permit Request by Linda Caulder (CUP-17-02)**

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

Planning Director Paul Embler addressed the Council on a request by Linda Caulder. The applicant was requesting a conditional use permit to allow for a private nightclub on a .46 acre tract of land located within a B-2 (Business) zoning district. The property considered for approval was located on the west side of the North Brightleaf Boulevard approximately 260 feet north of its intersection with East Market Street. The property was further identified as Johnston County Tax ID# 15022007.

Planning Director Paul Embler has incorporated his entire record and provided it to Council in written form in the April 4, 2017 agenda packet.

The Planning Board, at its March 2, 2017 meeting, unanimously voted to recommend approval of the request for a conditional use permit to allow for a private club on property located within a B-2 (Business) zoning district.

The Planning Department recommended approval of the request for a conditional use permit to allow for a private club providing the a site plan showing adequate on-site parking, landscaping and buffering are approved and constructed prior to operating as a private club.

Mayor Moore asked if the applicant was in agreement with the testimony provided by Mr. Embler. The applicant, Linda Caulder, responded she was in agreement with the testimony offered by Mr. Embler.

Mayor Moore asked if there were any comments/questions from those that had been duly affirmed to offer testimony. There was none.

Mayor Moore asked if there were any questions from Council.

Councilman Harris questioned if the driveway and parking would be paved. Mr. Embler responded that the driveway and parking lot would be paved.

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

### **The Written Finding of Facts**

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

Councilman Harris made a motion, seconded by Councilman Wood, to vote in the affirmative to all of the below Finding of Facts. Unanimously approved.

- **Finding One of Four : Agree**

**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.**

A private club at this location should not material endanger the public health, welfare and safety providing adequate on-site parking is made available behind the principle structure. Assembly and parking between the front of the building and the right-of-way will be eliminated and safety margins maintained through the reduction of impervious surfaces and the planting of a landscaped street yard adjacent to North Brightleaf Boulevard.

- **Finding Two of Four: Agree**

**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.**

A private club at this location is considered a change in use and requires the site to come into compliance with current development standards as much as practical. The site plan as proposed will meet current minimum parking standards and will provide transition and street yards as required by the Town of Smithfield Unified Development ordinance.

- **Finding Three of Four: Agree**

**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.**

A private club at this location will not substantially injure the value of adjacent properties providing the building and property is rehabilitated and brought to current development standards as much practical.

- **Finding Four of Four: Agree**

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

A private club at this location will not adversely affect any adopted plans or policies of the Town of Smithfield and a comprehensive rehabilitation of the site will bring additional needed improvements near the intersection of Brightleaf Boulevard and Market Street.

**Record of Decision: Approval of Conditional Use Permit Request (CUP-17-02)**

Councilman Harris made a motion, seconded by Councilman Rabil, based upon satisfactory compliance with the above four stated findings and fully contingent upon acceptance and compliance with all conditions as previously noted herein and with full incorporation of all statements and agreements entered into the record by the testimony of the applicant and applicant's representative moved to recommend approval of Conditional Use Permit Application # CUP-17-02. Unanimously approved.

**2. Zoning Text Amendment Request by Rob's Hydraulics (ZA-17-02)**

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

Planning Director Paul Emblar addressed the Council on a request by Rob's Hydraulics. The applicant was requesting an amendment to the Town of Smithfield Unified Development Ordinance, Article 10, Table of Permitted Uses to allow for contractors with equipment yards as an administratively approved use by right within the B-3 (Highway Entrance Business) and LI (Light Industrial) zoning districts.

Mr. Emblar explained the applicant has requested the expanded use of, and a streamlined process for, contractors with outdoor storage yards. Currently, contractors with outdoor storage yards are only permitted with the HI (Heavy Industrial) zoning district as a staff approved use by right. Expanding contractors with storage yards to the B-3 (Business) and LI (Light-Industrial) will create opportunity for additional businesses and jobs within and around the city. Contractors with outdoor storage within the B-3 (Business) and (LI) Light Industrial zoning district will be required to meet Article 17, Landscape and Buffer Requirements, Section 17-3: (E) Screening of Dumpsters, Junkyards and Outdoor Storage Areas.

Mayor Moore asked if there was anyone in the audience that wished to speak on the matter. There were none.

Mayor Moore asked if there were any questions or comments by Council. There were none

Councilman Rabil made a motion, seconded by Councilman Wood, to close the Public Hearing. Unanimously approved.

Councilman Harris made a motion, seconded by Councilman Wood, to approve Ordinance #490 amending the UDO Article 10. Unanimously approved.

**ORDINANCE #490  
TO AMEND THE TOWN OF SMITHFIELD UNIFIED DEVELOPMENT ORDINANCE,  
ARTICLE 10, TABLE OF PERMITTED/CONDITIONAL USE DISTRICTS,  
CONTRACTORS WITH STORAGE YARDS**

**BE IT ORDAINED** by the Town Council of the Town of Smithfield that Article 10, Section 10-1, Table of Permitted/Conditional Use Districts, is hereby amended to allow for the contractors with storage yards as a use by right within the B-3 (Highway Entrance Business) LI (Light Industrial) and HI (Heavy Industrial) zoning districts and shall read in its entirety as follows:

ARTICLE 10. TABLE OF PERMITTED / CONDITIONAL USE DISTRICTS																	
PERMITTED USES	ICS*	R-6	R-8	R-10	R-20A	R-MH	PUD**	RHO***	O/I	B-1	B-2	B-3	ECOD***	LI****	HI****	AD	O/S
CONTRACTORS, BUILDING (with storage yard)												P		P	P		
CONTRACTORS, EQUIPMENT, (with storage yard)												P		P	P		
CONTRACTORS, HEAVY CONSTRUCTION (with storage yard)												P		P	P		

**CITIZENS' COMMENTS:**

- Mayor Moore introduced William Gaskins of Boy Scout Troop 77. William explained that he was attending the meeting in order to receive his badge in communications.

**CONSENT AGENDA:**

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

1. Approved the following Minutes:

March 7, 2017 – Regular Meeting  
 March 7, 2017 – Closed Session

2. Special Event – Tent Revival: Approval was granted to allow Greater Vision Worship Center to conduct an annual tent revival to be held June 18<sup>th</sup> – 24<sup>th</sup> from 6:30 pm until 9:30 pm at the church located at 720 2<sup>nd</sup> Avenue.
3. Special Event – Tent Revival: Approval was granted to allow Blessed By God Ministries to conduct a tent revival to be held April 26<sup>th</sup> – 28<sup>th</sup> from 7:30 pm until 10:00 pm at the church located at 906 Blount Street.
4. Special Events – DSDC Sponsored Events: Approval was granted to allow the Downtown Smithfield Development Corporation to conduct the following events:
  - Downtown Smithfield Wine Walks to be held on April 21<sup>st</sup> and November 17<sup>th</sup> – These events do not require street closures and alcohol will be consumed in the buildings.
  - Ham and Yam Festival to be held on May 6<sup>th</sup> all streets will reopen no later than 11:59 pm on Saturday, May 6<sup>th</sup>.
    - Street Closure: Friday, May 5<sup>th</sup> 12:00 pm - Front Street from Johnston Street to Market Street
    - Street Closures: Friday, May 5<sup>th</sup> at 11:00 pm - Church Street from Second Street to Front Street, Second Street from Market Street to Church Street, Third Street from Market Street to Church Street and Johnston Street from Front Street to Third Street
  - Rhythm and Brews Concert Series to be held on June 16<sup>th</sup> and September 15<sup>th</sup> from 5:00 pm until 11:00 pm located in the 100 block of South Third Street. DSDC requested that the sale and consumption of alcohol be permitted in the event area and the street closure of the 100 block of South Third Street.
  - Annual Independence Day Celebration to be held on July 2<sup>nd</sup>

- Street Closure: Sunday, July 2<sup>nd</sup> 12:00 pm - Third Street from Market Street to Johnston Street.
  - Street Closure: Sunday, July 2<sup>nd</sup> 5:00 pm - Johnston Street from Second to Fourth Street and Third Street from Johnston Street to Church Street.
  - Christmas Tree Lighting to be held on December 7<sup>th</sup> from 5:00 p.m. until 10:00 p.m. Street closure of the 100 block of North Third Street.
5. Approved the 5% promotion increase for a new Captain in the Fire Department.
  6. Approved the 5% promotion increase for the new Engineer in the Fire Department.
  7. Approved the North Carolina Eastern Municipal Power Agency (NCEMPA) Renewable Energy and Energy Efficiency Portfolio Standards (REPS) set forth in Senate Bill 3.
  8. Advisory Board Appointments
    - Carter Rabil was appointed to serve a first term on the Historic Properties Commission.
    - Carter Rabil was appointed to serve a first term on the Appearance Commission
    - David Johnson was appointed to serve a first term in the Board of Adjustment as an in town resident.
  9. New Hire Report

<u>Filled Position</u>	<u>Department</u>	<u>Budget Line</u>	<u>Rate of Pay</u>
Sanitation Worker	PW – Sanitation	10-5800-0200	\$10.75/hr (\$22,360.00/yr.)
Facility Maintenance Spec.	PW – Appearance	10-5500-0200	\$10.75/hr (\$22,360.00/yr.)

  

<u>Current Vacancies</u>	<u>Department</u>	<u>Budget Line</u>
Police Officer	Police	10-5100-0200
Water Plant Operator I	PU – Water Plant	30-7200-0200

10. Special Event – Marlon Lee: Approval was granted to allow community games to be held at Smith Collins Park on Saturdays and Sundays from 4:00 pm until 9:00 pm from April – September. There will be amplified sound.

Unanimously approved.

**BUSINESS ITEMS:**

**1. Bid Award and Contract Approval to Garris Grading & Paving in the amount of \$300,000.00 for the FY 2016 – 2017 Street Resurfacing Project**

Public Works Director Lenny Branch addressed the Council on the FY 2016-2017 street resurfacing project. Mr. Branch explained the project consists of 17 streets that will receive a 1" ½ overlay. Three of the streets will require to be milled down a 1" ½ below the gutter line before paving can be done. Approximately 1.53 mile of city streets will be paved. The Powell Bill fund has \$300,000 in the FY16/17 budget for street resurfacing. Fourteen (14) BID packets for the project were sent out to area contractors. Proposals were received from the following four companies:

- Garris Grading & Paving \$334,727.82
- Turner Asphalt \$335,656.17
- James Paul Edwards \$372,995.54
- Barnhill Contracting \$473,042.53

The contract allows the Town the right to increase or decrease the various amounts of work up to 25% with no increase in unit pricing. The Public Works Department request to remove two streets from the

2016 – 2017 Resurfacing Project in order to stay within budget. Staff recommends awarding the 2016 – 2017 Resurfacing Project to the lowest bidder Garris Grading and Paving. Staff also recommends removing two streets from the 2016 – 2017 Resurfacing Project to allow the Public Works Department to stay within the budget amount of 300,000.00 in the Powell Bill fund. The fifteen streets to be resurfaced are as follows:

- S Second ST E Davis Street E Rose Street
- Caswell ST N 5th Street N 4th Street
- Bridge ST N 4th Street N 5th Street t
- N 5th ST Caswell Street Hancock Street
- S 5th ST Johnston Street Market Street
- Front ST Johnston Street Market Street
- E Holt ST S 5th Street South Bright Leaf
- S Second ST Sanders Street Wellons Street
- S Crescent Bingham Street Sanders Street
- W Holding ST Crescent Street Walnut Drive
- E Holt S 4th Street S 5th Street
- Broadway Ward Street Martin Street
- Martin Luther King Dr. Collier Street Lemay Street
- Martin Luther King Lemay Street Fuller Street
- Martin Luther King Dr. Fuller Street Harris Street

Councilman Harris stated that the Town has an ongoing program for street paving. Staff recently reevaluated it. Mr. Branch explained that he and the contract engineer looked at the current street report and compared it to the actual condition of the streets. Those streets were then prioritized based on the current condition and appropriate changes were made. Mr. Branch informed the Council that he will be making a request in the upcoming budget for a new street resurfacing study.

Councilman Harris made a motion, seconded by Councilman Rabil, to award the bid to Garris Grading and Paving in the amount \$300,000.00 and to approve the fifteen streets recommended by staff. Unanimously approved.

## 2. Approval of Budget Amendments

Finance Director Greg Siler addressed the Council on two budget amendments. Mr. Siler explained that the first budget amendment was to move \$13,000 from the streets line item 10-5600-3500 to the Powell Bill line item 10- 5700-3501 for proper accounting of beaver relocation costs. The second budget amendment was to adjust the revenue line item 10-3420-0002 Motor Vehicle Accident (MVA) Cost Recovery to account for \$54,385 recently received for the Town’s response to the HAZ-Mat incident on I-95 on October 19, 2016.

Councilman Harris made a motion, seconded by Councilman Rabil, to approve the budget amendments. Unanimously approved.

	<u>BEFORE</u>	<u>ADJ.</u>	<u>AFTER</u>
<b><u>GENERAL FUND</u></b>			
<b>1. Expenditure</b>			
10-5600-3500 Streets - Drainage	\$ 37,000	\$ (13,000)	\$ 24,000
10-5700-3501 Powell Bill - Contract Serv./Right-A-Way	<u>\$ 3,225</u>	<u>\$ 13,000</u>	<u>\$ 16,225</u>
	<u>\$ 40,225</u>	<u>\$ -</u>	<u>\$ 40,225</u>
To move beaver relocation cost to right department and expense line			
<b>2. Revenue</b>			
10-3420-0002 MVA Cost Recovery	<u>\$ 4,000</u>	<u>\$ 54,385</u>	<u>\$ 58,385</u>

**Expenditure**

10-5300-0250 Fire - Overtime	\$ 6,200	\$ 25,000	\$ 31,200
10-5300-3100 Fire - Vehicle Supplies	\$ 29,000	\$ 9,542	\$ 38,542
10-5300-3502 Fire - C.S./Agency Hazmat	\$ -	\$ 19,843	\$ 19,843
	<u>\$ 35,200</u>	<u>\$ 54,385</u>	<u>\$ 89,585</u>

To fund I95 accident on 10/19/2017 with Insurance reimbursement proceeds

**3. Discussion Concerning Lake Park Circle**

Town Manager Michael Scott addressed the Council on a request from the Home Owners Association of Lake Park Circle. The Town Manager explained the Home Owners Association of Lake Park Circle approached the Town of Smithfield and requested the Town assume ownership of the road that travels through the subdivision. The street, Lake Park Circle, is a two lane street that culminates in a cul-de-sac at the end. The street is approximately fourteen years old and is currently the responsibility of the Home Owners Association. The subdivision and street are within the Town limits of Smithfield within District 1, and the properties located on Lake Park Circle pay Smithfield Property taxes. During the construction of Lake Park Circle, the developer chose not to conform to the Town of Smithfield's set back requirements for assuming the road, thus requesting subdivision approval with the understanding the street would be privately maintained. GeoTechnologies completed a series of borings to identify the condition of Lake Park Circle, as well as, made a recommendation as to the Town's feasibility of assuming responsibility and ownership of the road. Several areas were identified as needing repairs prior to the Town assuming any liability over the street. The Home Owners Association agreed to make these repairs, consistent with the recommendation of GeoTechnologies, prior to the Town assuming responsibility for the street. Because of the decreased setbacks, the Town of Smithfield does not want to be placed into a position where it is becoming responsible for areas adjacent to the street that is currently the responsibility of the home owners association, or the adjacent property owner. Should the Town elect to assume control and ownership over the roadway following the required repairs made by the Home Owners Association, the Town should require an agreement with the Home Owners Association explaining the Town's responsibility does not extend into the areas outside of the street surfaces and curb and gutter.

Councilman Harris inquired if the Town had a policy in place to address this issue. The Town Manager responded that there was no policy in place, but staff did the research to conclude if taking over the road was feasible. The Town does not want to take over a road that is in need of immediate repairs.

The Town Manager also informed the Council that there is a stormwater pond on site that the Town will not be assuming any of the responsibility.

Councilman Wood questioned the advantages for the Town to assume this road. The Town Manager responded that there are no economic advantages to taking over the road. It is a just a manner if the Town feels they have a responsibility to take it over as a service to the tax payers that reside on Lake Park Circle.

Councilman Harris stated that Clayton has a policy whereby they take control of a road after five years. He suggested the Town consider a policy such as the one Clayton has in place.

Public Works Director Lenny Branch informed the Council that staff's normal procedure is to ensure that the road is constructed to Town standards which the minimum requirements are eight inches of base and two inches of asphalt. Mr. Branch explained that the home owners association is willing to make the recommended repairs if the Town agrees to accept the road.

Town Attorney Bob Spence stated that the issue of the setback is really not an issue. Mayor Moore responded that the only reason why the road was not accepted was because of the setback.



Councilman Harris asked that he be recused from the vote due to a family member being the developer of the subdivision.

Councilman Wood made a motion, seconded by Councilman Dunn, to recuse Councilman Harris from voting on the matter due to a potential conflict of interest. Unanimously approved.

Dr. Dennis Coffey of 205 Lake Park Circle addressed the Council on this request. Dr. Coffey explained that five additional houses have been built and grading has been completed for four more houses on Lake Park Circle. He explained that the street would have thirty-two houses each worth over \$200,000 which equates to \$6.4 million in tax base. The homeowners on this street pay \$36,000 in taxes to the Town of Smithfield each year. Dr. Coffey further explained that while the Town will not make money taking in the street, it will not cost the Town any money for quite some time because they homeowners association will be repairing the street. Dr. Coffey asked the Council how many other streets in Smithfield are there with thirty-two owner occupied houses that are not sending children to school and do not call the Police. Dr. Coffey stated that the Council would not be doing something to invest their money for a return, but they would be doing something because it was the right this to do for Smithfield citizens. He explained the taxes paid by the residents covered the cost of any road repairs.

Councilman Rabil made a motion, seconded by Councilman Dunn, to accept Lake Park Circle as a Town Maintained street once the road has been repaired and an agreement between the Town and the Homeowners Association has been executed. Unanimously approved.

#### **4. Discussion Concerning Property Code Violations**

Town Manager Michael Scott addressed the Council on property code violations in the Town. The Town Manager explained that at the March Town Council meeting, Councilman Lee and Tony Nixon brought to everyone's attention code violations in the East Smithfield District. A meeting was scheduled and was attended by the Planning Department, Code Enforcement Officer, Town Manager, Town Attorney, and Councilmen, Rabil, Harris and Lee to discuss an action plan to evaluate and bring into compliance several properties throughout Smithfield that have major code violations. The Town had already identified two car lots in town that had major code violations. These car lots are coming into compliance. If compliance is not attained, further violations and fines will be issued, followed by recommended court orders to force the organizations into compliance. The Town's Code Enforcement Officer located 26 properties in District One that were in some form of unsafe condition. Of these properties approximately 33% are rental, while 66% are privately owned. Several of the property owners do not reside in state. Ten of these properties have been identified as requiring immediate attention. Code Violation letters have sent to the property owners. A series of three code violation letters will be sent with ten days observed between each letter. If the property owner does not take appropriate action, the Town Attorney will begin issuing fines through the Town's Code Enforcement Officer. If fines do not create compliance, the Town Attorney recommends the Town seek a judgement for the fines in court. If resistance remains, the Town Attorney will seek a condemnation order on the property, at which time the Town will have to demolish the building and place a lien on the property for the cost of the demolition. The Town Manager further explained that currently there is \$25,000 in the budget for condemnations and each condemnation costs between \$5,000 and \$10,000. The Town Manager informed the Council that there will be complaints and the Council would be the recipient of most of these complaints.

Councilman Harris explained that he and Councilman Lee traveled through District 1. There were a lot of properties that were not in compliance, but there are properties in all districts that are not in compliance. These properties detract from the overall appearance of Smithfield. A lot of the properties are owner occupied or owner inherited. Councilman Harris stated that these properties need to be cleaned up. He explained that his concern was if the owners of the properties were unable to bring the property into compliance due to possible financial hardships. Mr. Harris informed the Council that he had some conversations with people privately to help homeowners that are in need of assistance with their property. He will update the council at a later date on this matter. Mr. Harris stated that these properties should be categorized as those in need of demolition, those in need of repair and those that simply just need to be cleaned up. He explained that during the budget discussions the Council should consider increasing the budget amount so they can move forward and deal with the issues.

Town Manager Michael Scott responded that it is staff's goal to bring people into compliance and not to tear down homes or take possession of these homes. Staff is going to put property owners on notice that the Town is serious about properties being in compliance with the Town's standards.

Councilman Lee expressed his appreciation to Councilmen Harris and Rabil. He informed the Council that Ms. Alice King of the East Smithfield Improvement Organization was also present at the meeting. He explained that he had received some calls from the property owners. One such call was from Mack McDonald whereby he complained about the Town Attorney

Town Attorney Bob Spence responded that Mr. McDonald was contact regarding a condemned house and a mobile home on his property. He explained that in no way was he inappropriate or rude. He further explained that when letters are sent asking people to clean up their property, there will be complaints. We asked Mr. McDonald to remove the trailer from the property because it is his responsibility and should not be the responsibility of the Town. Mr. McDonald agreed to bring his property into compliance when everyone else brings their properties into compliance.

Councilman Harris stated that this was going to be very controversial and would make some people angry. He asked that everyone be treated professionally and with respect. Mr. Harris stated that the Town has not done its job in ensuring that residents are in compliance with the Town's code

Mayor Moore asked the Town Manager to put together a plan to determine how for the \$25,000 in the budget will go towards condemnation efforts. He also asked that as the Council discusses the budget, determine how the Town will deal with the properties.

Councilman Harris made a motion, seconded by Councilman Rabil, move forward with staff's plan of action with the guidance given by Council. Unanimously approved.

## **5. Bid Award and Contract approval to JP Edwards, Inc. for Sitework, Grading and Concrete at the Inclusion Park and Miracle League Baseball Field Bid**

Town Manager Michael Scott addressed the Council on a bid award for sitework grading and concrete at the Inclusion Park and Miracle League baseball field. He explained in December, 2016, the Town received bids for the sitework, grading and concrete phase of construction for the Inclusion Park and Miracle League Baseball Field. Two bids were received:

- Professional Services Group, LLS \$399,999.99
- JP Edward, Inc. \$485,104.00

During the January 2017 Council Meeting, the Town Council awarded the contract to the low bidder, Professional Services Group, LLC. Subsequent to signing the contract, Professional Services Group, LLC asked to amend certain parts of the contract. These requested revisions were reviewed with the Town Attorney and the Town Engineer who determined the revisions were not in the best interest of the Town of Smithfield. Professional Services, LLC has since stated they are unable to enter into the contract in its present form. Due to this, the Town contacted the next lowest, responsible bidder, JP Edwards, who has stated they will honor their original bid. The Town Manager explained that although the bid from JP Edwards was higher, it was a more realistic bid and still within budget. He further explained that if he didn't bring this before the Council at this meeting, he was concerned that JP Edwards would be bidding other contracts and would be unable to perform any work for the Town. An estimated \$40,000 may be needed for undercut, but that can be absorbed in the Inclusion Park Miracle League baseball field budget.

Mayor Moore stated that with this bid, the project is within budget and most of the funds are in the form of grants or funds raised by the Partnership for Children and the Miracle League

Town Attorney Bob Spence stated that Professional Services, LLC made numerous and substantial changes to the contract that could cause the Town trouble later.

Councilman Harris made a motion, seconded by Councilman Rabil, to award the bid for sitework, grading and concrete to JP Edwards Inc. in the amount of \$485,104.00 with an additional \$40,000 for undercut. Unanimously approved.

### **Councilmembers Comments:**

- Councilman Lee welcomed Mr. Rick High and explained that he was his basketball coach at Saint Augustine. He further explained that Mr. High is now in town doing work with Ida Morgan.
- Councilman Harris explained that when he got elected to the Town Council, someone suggested that he visit the “Amen Corner” at the McDonalds in West Smithfield and he did. There Councilman Harris recalled is where he became acquainted with Mr. Wallace Ashley. He stated that Mr. Ashley was a fine man and he was glad he got to know him. Councilman Harris further stated that Mr. Ashley and others like him was what has made Smithfield a wonderful place to live.
- Councilman Wood stated that Mr. Wallace Ashley was a really good man and a really good man to Councilman Wood’s family. Councilman Wood informed the Council that a former employee recently had a heart attack at the SRAC. He commended Lenny Branch, the SRAC staff and the first responders for saving Lynn Corbin’s life.
- Mayor Moore shared his memories of Mr. Wallace Ashley. He attributed his love for politics because he recalled Mr. Ashley and Mr. Lamm broadcasting live during the elections. He stated that Mr. Ashley was a great man that would be missed. Mayor Moore expresses his appreciation to Lenny Branch, the SRAC staff and first responders for their life saving efforts of Lynn Corbin. Mayor Moore reminded everyone of the ham and Yam Festival to be held on May 6<sup>th</sup>. Sara Edwards Executive Director of the DSDC informed the public that the 33<sup>rd</sup> annual Ham and Yam Festival would be held on May 6<sup>th</sup> from 9am -9pm. There will be more ham and yam food items, entertainment by local bands and the ultimate Eagle’s tribute band from 7 pm – 9pm. Mayor Moore questioned if Ms. Edwards had any information on the \$20,000 online parks and recreation grant. Ms. Edwards responded that it was an online grant where people could nominate their towns once day. The town with the most nominations would receive the \$20,000 grant. Councilman Harris questioned if the Ham and Yam Festival could revitalize the historic country ham contest or maybe include a BBQ cook off. Ms. Edwards responded that the DSDC would be happy to assist another agency that would like to undertake either one of those projects for the festival. Mayor Moore expressed his appreciation to the Council and staff that attended the Chick-Fil-A leadership basketball game held at SSS High School.

### **Town Manager’s Report:**

Town Manager Michael Scott gave a brief update to the Council on the following items: He expressed his appreciation to all the volunteers of the Town.

- Johnson Park – New playground equipment installed with the remaining to be installed by the end of next week. He invited everyone to go and enjoy Johnson Park.
- Venture Drive – Staff believes that construction will begin my midweek next week, Public Works staff is contacting property owners on Venture Drive as to the schedule. The Town and the contractor will minimize the disruption to the property owners as best we can.
- Booker Dairy Road Project and Kelly Drive – Planning Director Paul Embler has been working hard with property owners and NCDOT to create an acceptable plan to complete Kelly Drive to Buffalo Road. The project will run parallel with the Booker Dairy Road Project.

Councilman Lee requested an update on the Family Life Center. Town Manager Michael Scott responded that the lien has been purchased by LS Financial out of Los Angeles and believes the Town and the LS Financial can agree to some type of an arrangement. Chief Powel and his staff has been cleaning the building.

Mayor Moore questioned the electric fund revenues because they are lower this year than last. Finance Director Greg Siler responded that while he does have some concerns, he feels that the revenue goal will be met. He attributed lower revenues to the rate reduction and the

unseasonably warm winter. Public Utilities Director Ted Credle responded that the Town fronted the cost for the Duke Energy charging stations which will be reimbursed. Also, there will be reimbursements from FEMA for damages caused by Hurricane Matthew.

- **Department Reports**

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

**Closed Session: Pursuant to NCGS 143-318.11 (a)(5) to discuss potential property acquisition**

Councilman Harris made a motion, seconded by Councilman Wood, to go into closed session pursuant to NCGS 143-318.11 (a) (5). Unanimously approved at 8:35 pm.

**Reconvene in Open Session:**

Councilman Harris made a motion, seconded by Councilman Rabil, to reconvene in open session. Unanimously approved at 9:10 pm.

**Recess**

Councilman Harris made a motion, seconded by Councilman Wood, to recess the meeting until April 20, 2017 at 6:30. The meeting will be held at the Offices of Electricities located at 1427 Meadow Wood Blvd, Raleigh, NC 27604. Unanimously approved.

The meeting recessed at approximately 9:11 pm.

ATTEST:

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M. Andy Moore, Mayor

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Shannan L. Williams, Town Clerk