

The Smithfield Town Council met in regular session on Tuesday, August 13, 2019 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 (Departed 9:37)
David Stevens, District 2
Dr. David Barbour, District 4
Emery Ashley, At-Large
John A. Dunn, At-Large
Stephen Rabil, At-Large

Councilmen Absent

Travis Scott, Mayor Pro-Tem

Administrative Staff Present

Michael Scott, Town Manager
John Blanton, Fire Chief
Lenny Branch, Public Works 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

Ted Credle, Public Utilities Director

CALL TO ORDER

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

INVOCATION

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

APPROVAL OF AGENDA:

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

- 1. Add to the Consent Agenda: Item #13- Promotion: Consideration and request for approval to promote the Accounts Payable Technician to the Payroll/Accounting Technician.*
- 2. Remove from the Business Items: Item # 3 Consideration and request for approval to authorize a construction project to extend sanitary sewer to serve parcels north of Booker Dairy Road.*

Unanimously approved.

New Library Director Renita Barksdale introduced herself to the Town Council

PRESENTATIONS:

1. Acceptance of the 2018 Area Wide Optimization Award from the North Carolina Department of Environmental Quality Division of Water Resources

Mayor Moore presented the award to Water Plant Operator Will Nicholson

2. Administering Oath of Office to New Police Officer Leslie Hufton

Mayor Moore administered the Oath of Office to new Police Officer Leslie Hufton and welcomed her to the Town of Smithfield.

3. Appearance Commission Annual Report

Town Manager Michael Scott submitted the Appearance Commission's Annual Report to the Town Council.

Town Clerk Shannan Parrish administered affirmations to those that wished to testify during the public hearing.

PUBLIC HEARINGS:

- 1. Special Use Permit Request – W. Frank Lee (SUP-19-08):** The applicant is requesting a special use permit to allow for a greenhouse for plant cultivation on property located within a B-3 (Business) zoning district. The property considered for approval is located on the east side of the intersection with South Brightleaf Boulevard and Holding Street. The property is further identified as Johnston County Tax ID# 15060025.

Councilman Ashley made a motion, seconded by Councilman Dunn, to open the public hearing. Unanimously approved.

Planning Director Stephen Wensman testified Frank Lee was requesting a special use permit to operate a greenhouse for growing hemp in a warehouse located at 1219 S. Brightleaf Boulevard. The 3.07-acre property was located on the east side of S. Brightleaf Boulevard near the intersection with Holding Street. The property consisted of two structures, a 2,250 sq. ft. restaurant (Las Brasas) and a 70,739 sq. ft. warehouse building, originally used for tobacco warehousing. The restaurant was located between the warehouse and Brightleaf Boulevard surrounded by a large undefined gravel parking/vehicle circulation area. The gravel parking circulation has cross circulation with the residential property to the north and the warehouse property to the south. There was no defined driveway access to the property. The gravel paving abuts South Brightleaf Boulevard access across nearly all of the 308.07 lineal feet of road frontage. For lack of better land use category, staff was considering the hemp growing facility a greenhouse and according to Table 6.5, Table of Uses and Activities, greenhouses require a special use in the B-3 zoning district.

The proposal was to use the existing warehouse for a hemp facility. The facility will be used as a high-tech indoor cultivation facility for growing, curing and handling hemp for industrial and medical purposes. The growing (cultivation) areas, 46,903 sq. ft. will hold about 250-400 hemp plants per cultivation room, a conditioned space with special artificial lighting to produce a more perfect growing environment. The remainder of the warehouse space will be used for curing (labelled processing), handling and storage. After growing and curing, the end product will be shipped from loading doors in the front of the warehouse. A small 400 sq. ft. office building is proposed in the warehouse building. Initially, the growing area will be around 10,080 sq. ft with an associated 5,670 curing area leaving the remainder for agricultural type warehousing. The hemp growing facility will be regulated by the NC Dept. of Agriculture which permits, inspects and regulates the growing of hemp. Mr. Lee currently has a three-year permit. The hemp growing facility has a parking requirement of 1 parking stall per employee. There are only a few employees involved in the operations at any one time and there is ample area for parking on site. The parking does not trigger full compliance with Article 10 Part II, which governs parking (paving & curbing), landscaping and buffering, and dumpster screening. The site plans identify full cut-off wallpack lighting on the building for security. The owner will also be installing a security system in the building.

The Planning Department agrees with the Findings of Fact submitted by the applicant and recommends approval of Special Use Permit, SUP19-09, with the following condition:

1. That the use of the property shall be limited to uses as identified on the special use permit application and site plans.
2. That the applicant maintain a current license with the NC Department of Agriculture for the hemp facility.

Planning Director Stephen Wensman has incorporated his entire record and provided it to Council in written form in the August 13, 2019 agenda packet.

Mayor Moore asked if there were any questions from the Council.

Councilman Lee questioned what would happen if the NC Department of Agriculture's permit expired. Mr. Wensman responded the applicant would be in violation of his special use permit and would have to cease all operations.

Councilman Barbour questioned if the restaurant on the property would remain a restaurant. Mr. Wensman responded there were no proposed changes to the restaurant.

Mayor Moore asked the applicant if he was in agreement with the testimony provided by Mr. Wensman. The applicant, Frank Lee, stated he was in agreement with the testimony provided by Mr. Wensman.

Alan "Chip" Hewett, Attorney for the applicant asked Mr. Wensman if he testified that staff was in agreement with the eight stated findings of fact as outline in the ordinance and provided by the applicant. Mr. Wensman responded he was in agreement.

Mr. Hewett asked Mr. Wensman if prior to the hearing, a statement of justification was given to him by the applicant and if Mr. Wensman agreed with the statement. Mr. Wensman stated he was in agreement.

Mr. Hewett asked Mr. Wensman if he found any concerns with the details provided by the application. Mr. Wensman responded he was satisfied with the information provided by the applicant.

Mr. Hewett stated as part of the process, adjoining property owners were to be notified about the Special Use Permit request by the applicant. He asked if any of the adjoining property owners had contacted Town Staff stating their opposition to the project. Mr. Wensman responded no one had contacted the Planning Staff to voice their opposition.

Mr. Hewett introduced Exhibit 3 to the Council. This was a deed for the property owned by Frank Lee since August 1995. Exhibit 3 was admitted into the record.

Councilman Rabil questioned the number of people that would be employed at the facility. Mr. Frank Lee testified there would be approximately three people working at the facility.

Mr. Hewett called Joshua Brady Mays to testify. Mr. Hewett introduced Exhibit 1 Mr. May's resume. It was admitted into the record.

Mr. Hewett questioned Mr. Mays' resume and asked how he qualified as an expert. Mr. Mays responded he was an expert in hemp production and agriculture production as a whole in North Carolina. Education and work experience qualified him as an expert. Also, he testified before he North Carolina Senate Agriculture Commission and the North Carolina House Agriculture Commission on hemp production in North Carolina.

Mr. Hewett asked that based on Mr. Mays' resume and testimony that he be tendered as an expert witness on hemp production and cultivation. There was no objection and Mr. Mays was tendered as an expert witness in hemp production and cultivation.

Mr. Mays provided the Council with a presentation "Introduction to Hemp" (Which is on file in the Office of the Town Clerk and made a part of these official minutes).

Mr. Hewett introduced Exhibit 2 to the Council: North Carolina General Statute Chapter 62- Industrial Hemp Commission. It was admitted into the record.

Mr. Hewett asked Mr. Mays to explain this exhibit. Mr. Mays testified this was the regulatory framework for the hemp program in North Carolina. All hemp varieties or plant material must be registered with the NCDA by confirming .3% THC or less. All growers must obtain a license through NCDA with specific requirements (no criminal background and bonafide farmer policy). All licensed hemp is tracked by GPS location from the beginning of the process until the end of the process. All licensed hemp is tested by NCDA for THC compliance before the crop can be commercialized.

Mr. Hewett asked Mr. Mays what would happen to the crop if its THC content was higher than .3%. Mr. Mays responded NCD staff would destroy it on site by fire.

Mr. Mays testified there was a lot of uses for industrial hemp. Specifically speaking about the flower part of the plant, is a chemical compound known as CBD. Industrial hemp is high in CBD and low in THC. A lot of research has been done and continues to be done on the health and wellness benefits of CBD. Mr. Mays stated there was a huge commitment by North Carolina farmers to grown industrial hemp.

Mr. Hewett asked Mr. Mays where he believed the industrial hemp industry would be in 5 to 10 years. Mr. Mays responded more major retailers are carrying CBD oil and products. Currently, it's awaiting FDA approval as a dietary supplement. Mr. Mays also stated a lot of herbal remedies and vitamins on the market were not FDA approved. Mr. Mays stated CBD was a health and wellness product that Mr. Lee wanted to produce.

Town Attorney Bob Spence questioned why the product could not be grown outdoors. Mr. Mays responded it could be grown outdoors, but it was a young crop and by growing it indoors, it gave the grower more control.

Mr. Hewett asked Mr. Mays to compare crops grown indoor to those grown outdoors. Mr. May responded the crop was photo period sensitive. By growing indoors, it allows the farmer to control the crop and grow year around with any other crop outdoor growth was vulnerable to the elements.

Councilman Ashley questioned the process of getting the hemp plant to the end product. Mr. Mays responded there are typically two methods, selling the flower material in raw form or extracting the oil.

Councilman Ashley further questioned some of the other possible hemp products. Mr. Mays responded CBD oil, raw flower in a capsule form, vape products, smokable products and dip products.

Mr. Hewett asked Mr. Mays if there were any businesses in Smithfield that sold Hemp. Mr. Mays responded Eutopia was selling it and there were many famers in Johnston County that were growing industrial hemp.

Mr. Hewett stated he had no further questions for the witness. Mr. Mays was excused.

Mr. Hewett stated for the record that staff recommended 2 conditions which the applicant agreed to: 1) That the use of the property shall be limited to uses as identified on the special use permit application and site plans. And 2) That the applicant maintains a current license with the NC Department of Agriculture for the hemp facility.

Councilman Stevens asked if industrial hemp was regulated by the NCD staff or the USDA. Mr. Hewett responded it was regulated by both, but locally the NCD staff regulated North Carolina farmers.

Councilman Stevens questioned if the plants would be from a certain strain of plants. Mr. Frank Lee responded the plants used are only female plants which will not germinate seed and essentially, they are cut from clones. No male plants can be introduced to the female plants because that would produce marijuana

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

The Written Finding

Councilman Ashley made a motion, seconded by Councilman Dunn to vote in the affirmative to all of the eight stated Finding of Fact. Unanimously approved.

The Town Council shall issue a special use permit if it has evaluated an application through a quasi-judicial process and determined that:

1. The establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, or general welfare.
2. The special use will be in harmony with the existing development and uses within the area in which it is to be located.
3. The establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage, parking, or necessary facilities have been or are being provided.
5. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to all the applicable regulations of the district in which it is located.
7. Public access shall be provided in accordance with the recommendations of the Town's land use plan and access plan or the present amount of public access and public parking as exists within the Town now. If any recommendations are found to conflict, the system requiring the greatest quantity and quality of public access, including parking, shall govern.
8. The proposed use will be in conformity with the land use plan, thoroughfare plan, or other plan officially adopted by the Town Council.

Record of Decision: Approval of Conditional Use Permit Application Number SUP-19-08

Councilman Ashley made a motion, seconded by Councilman Stevens, based upon satisfactory compliance with the above eight 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, I move to recommend approval of Special Use Permit Application #SUP-19-08 with the following conditions which were stipulated to by the applicant's attorney

1. That the use of the property shall be limited to uses as identified on the special use permit application and site plans.
2. That the applicant maintain a current license with the NC Department of Agriculture for the hemp facility.

Unanimously approved.

2. **Zoning Text Amendment Request – Town of Smithfield (ZA-19-03)** The applicant was requesting an amendment to the Town of Smithfield Unified Development Ordinance, Article 10.15.4 that will remove exemptions and conflicts with other sections of the Unified Development Ordinance.

Councilman Ashley made a motion, seconded by Councilman Dunn, to open the public hearing. Unanimously approved.

Planning Director Stephen Wensman addressed the Council on a request by staff to amend the UDO to Article 10, Section 10.15.4 (Encroachment into Setbacks), striking the exemption from the UDO. Mr. Wensman explained recently, Staff reviewed a proposed redevelopment in which the

existing structure was demolished and a new building was proposed to be constructed. The demolition and reconstruction triggered full compliance with Article 10, Part I in accordance with Section 10.8.2.5: *Reconstruction of Structure. When there is damage or destruction to an existing structure beyond 50% of its assessed value, the reconstruction must conform to the new construction standards of this section.*

The applicant proposed to reuse the existing site stormwater infrastructure, parking lot, curbs and driveways which did not conform to the new construction standards. The applicant justified the reuse of the infrastructure based on the definition of structure and Section 10.15.4. The definition of structure is: *Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, manufactured homes, fences, signs, swimming pools, and tennis courts.*

10.15.4. Encroachment into Setbacks.

10.15.4.1. If an existing structure is located within a setback where the implementation of the Street yard and/or Buffer yard requirements are physically impossible and the encroachment into the yard (street yard or buffer yard) allows for a minimum of three (3) feet of planting area, only the required shrubs shall be planted.

10.15.4.2. If an encroachment into the yard (street yard or buffer yard) allows for less than three (3) feet of planting area, no planting shall be required in that yard.

Mr. Wensman explained Section 10.15.4 was in direct conflict with Section 10.8.2.5 and makes it difficult for staff to hold any redevelopment project, or reuse of a property to current standards and therefore would allow nonconformities to persist indefinitely. Technically, the stricter of ordinances applies when in conflict, but knowing this conflict exists, it's better to eliminate it from the Code. If there was a real hardship that required exemptions to the street yard or buffer yard requirements, then an applicant can always apply for a variance which will be reviewed by the Board of Adjustment.

Planning Staff and the Planning Board recommend approval of the zoning text amendment ZA-19-03 with a statement declaring the request consistent with the Town of Smithfield Comprehensive Growth Management Plan and that the request is reasonable and in the public interest.

Planning Director Stephen Wensman has incorporated his entire record and provided it to Council in written form in the August 13, 2019 agenda packet.

Mayor Moore asked if there were any questions from the Council.

Councilman Ashley stated he did not want to cause any undue burden to the property owner if they had already suffered damage to their building. He further stated there were a lot of nonconforming lots in the Town of Smithfield and by striking this section could cause additional expenses to the property owner.

Mayor Moore questioned why the conflict in the two sections made it difficult for staff. Mr. Wensman responded in this situation; he would have to make a judgement call that could be questioned. Town Attorney Bob Spence responded if a developer hired a design expert, they could use Section 10.15.4 as an argument of why they did not have to comply with the required buffer yard and street yards. Mr. Spence recommended the Council adopt this Ordinance. He explained when Mr. Wensman found problems or conflicts with the UDO, he was trying to bring them before the Council so they could be corrected.

Councilman Barbour suggested rewriting the proposed amendment so that everything would be clearly defined.

Mayor Moore stated in this scenario a property owner used the conflicting sections to his/her advantage because the property wasn't actually damaged it was demolished by the property owner. Mr. Wensman responded in the affirmative. Mayor Moore suggested adding additional language such as "forces of nature to destruction of property" to section 10.8.2.5. He explained the Town

Council did not want to cause any undue burden to a property owner that had already experienced loss.

Mayor Moore asked if there was anyone in the audience that wished to speak on this matter.

Perry Harris of 1205 Baker Street asked if existing structures are grandfathered based on their structural foot print. Mr. Wensman responded if there was damage beyond 50% of the assessed value, the reconstruction would have to conform to the new construction standards.

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

Councilman Barbour made a motion, seconded by Councilman Dunn, to table this request to allow staff to add additional language to the proposed amendment. Unanimously approved.

CITIZENS' COMMENTS:

- Emma Gemmel of 207 Hancock Street, addressed the Council on concerns about the direction of the Town. She suggested the Town maintain its current assets instead of purchasing new. She suggested the Town Council review the Comprehensive Growth Management Plan of 2003 and compare it to the proposed Comprehensive Growth Management Plan of 2019. It was her opinion that the 2019 plan was not comprehensive enough. She also expressed concerns that the Comprehensive Growth Management Plan needed to include the whole Town and not just the Downtown and the Town's Parks stating the Town did not need additional parks and citizens did not want the Municipal Service District to encroach on their residential properties.
- Sarah Edwards Executive Director of the Downtown Smithfield Development Corporation responded to Mrs. Gemmel's comments stating she would be happy to discuss any concerns Mrs. Gemmel had, but it was never the intention of the DSDC to expand the Municipal Service District to include residential properties.

CONSENT AGENDA:

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

1. The following minutes were approved
 - June 9, 2019 – Regular Meeting
2. Special Event – JoCo Works Career Expo: Approval was granted to allow the Triangle East Economic Development Foundation to hold a Career Expo at Johnston Community College on November 14th & 15th from 8:00 am until 5:00 pm. This event had amplified sound from 9:00 am until 5:00 pm
3. Approval was granted to hire the meter technician position above the minimum salary.
4. Approval was granted to remove stop signs at Evergreen Lane
5. Bid was awarded to Rhinehart Fire Services in the amount of \$154,582 for the purchase of 20 air packs (SCBA's) for the Fire Department. Bids received were as follows:
 - Rhinehart Fire Services \$154,582.00
 - Municipal Emergency Services \$172,834.00
 - Grainger Incomplete bid could, not provide all equipment
6. Bid was awarded to J.P. Edwards, Inc. in the amount of \$235,510 for restoration of the Spring Branch Wetland Facility damaged during Hurricane Matthew. Bids received were as follows:

- JP Edwards, Inc. \$235,510.00
 - R.D. Braswell Construction Co. \$256,200.00
7. Bid was awarded to J.P. Edwards, Inc. in the amount of \$11,090 for the repairs to Vermont Street. Bids received were as follows:
- J.P. Edwards Inc. \$11,090
 - Public Utility Solutions \$14,241
 - Narron Contracting \$33,200
8. Bid was awarded to the Wooten Company in the amount of \$21,420 for the surveying services for phase 2 of the Durwood Stephenson water line. Bids received were as follows:
- The Wooten Company \$21,420
 - SEPI Engineering and Construction, Inc. \$30,600
 - WSP Did not bid on the project
9. Bid Award to MasTec in the amount of \$69,225 for the elevation of the transformer at the Hospital. Bids received were as follows:
- MasTec \$69,225
 - Lee Electrical Construction, Inc \$75,000
 - Volt Did not bid on the project
10. Approval was granted to adopt Resolution #648 (15-2019 supporting HR 2825 Historic Tax Credit Growth and Opportunity Act (HTC-GO))

TOWN OF SMITHFIELD
 RESOLUTION #648 (15-2019)
 RESOLUTION IN SUPPORT OF HR 2825
 HISTORIC TAX CREDIT GROWTH AND OPPORTUNITY ACT (HTC-GO)

WHEREAS, the Town of Smithfield and the Downtown Smithfield Development Corporation (DSDC), along with other local and regional partners, are working toward the revitalization of our downtown area to establish it as a vital economic sector of the Town for the community's benefit; and

WHEREAS, the Town of Smithfield realizes that a healthy, vibrant downtown makes all other economic development initiatives in the community easier to achieve; and

WHEREAS, The Town of Smithfield, as well as many private investors, have made significant advancements toward downtown's improvement through strategic planning and reinvestment; and

WHEREAS, the Town of Smithfield understands that it is fortunate to retain historic commercial structures that offer unique opportunities by differentiating our community from other communities and thus, we wish to preserve them when appropriate for future use and reinvestment; and

WHEREAS, the Town of Smithfield recognizes that the highest concentration of our historic structure stock is in the downtown area and this area provides more tax base value per acre than any other segment of the community; and

WHEREAS, the Town of Smithfield is interested in building upon these established investments to strengthen our tax base thus decreasing the potential of future tax increases for our citizens to maintain existing levels of service throughout the community; and

WHEREAS, the historic commercial structures play a vital role in our capabilities to entice reinvestment and create our market niche; and

WHEREAS, the rehabilitation of historic structures is challenging in terms of acquiring needed bank financing, meeting building code regulations and overcoming general risks of unknown conditions and securing private investment for blighted properties; and

WHEREAS, the Town of Smithfield recognizes that the federal Historic Preservation Tax Credit (HPTC) program offers an often-necessary financial tool that levels the private investment risks and opportunities when competing for sites outside the build area and also provides the leverage needed to meet financial gaps experienced with traditional lending institutions; and

WHEREAS, the Town of Smithfield has experienced success with meeting these historic rehabilitation challenges due to the availability of the HPTC program and has experienced more than \$4.2 million of historic investments that utilized the HPTC program; and

WHEREAS, the Town of Smithfield believes that more of this type of reinvestment will occur with the changes to the HPTC identified in the Historic Tax Credit Growth and Opportunity Act (HTC-GO); and

THEREFORE, BE IT RESOLVED that the Town of Smithfield endorses and supports passage of HR 2825, the Historic Tax Credit Growth and Opportunity Act to bring more value to historic preservation tax credits and increase access to the historic tax credits for smaller rehabilitation

11. The following advisory board appointments were approved:

- Thomas Stevens was appointed to a first term on the Planning Board as an In-Town Member
- Debbie Howard was appointed to a first term on the Planning Board as an In-Town Member
- Terri Lee was appointed to a three-year term on the Library Board of Trustees

12. New Hire Report

<u>Position</u>	<u>Department</u>	<u>Budget Line</u>	<u>Rate of Pay</u>
Police Officer I	Police	10-20-5100-5100-0200	\$17.71/hr. (\$39,599.96/yr.)

Current Vacancies

<u>Position</u>	<u>Department</u>	<u>Budget Line</u>
Meter Technician	Public Utilities – Electric	31-72-7230-5100-0200
Police Officer I	Police	10-20-5100-5100-0200
Sanitation Equipment Operator	PW – Sanitation	10-40-5800-5100-0200
Payroll/Accounting Technician	Finance	10-10-4200-5100-0200
	Public Utilities – W/S	30-71-7220-5100-0200
	Public Utilities - Electric	31-72-7230-5100-0200

Unanimously approved

Business Items:

1. Consideration and request for approval to adopt Resolution # 649 (16-2019) requesting CSX railroad to maintain its ditches and stormwater infrastructure within its right of ways

Town Manager Michael Scott addressed the Council on a request to adopt Resolution #649 (16-2019). The Town Manager explained that Town officials have been trying to work with CSX Railroad officials to improve storm water delivery leaving the Town of Smithfield and passing under and along the CSX Railroad Tracks. CSX Railroad has been a poor partner in this process and the attached resolution is intended to bring the matter to the attention of the public, as well as identify the lack of CSX cooperation regarding storm water maintenance in their right of ways and on their properties.

On July 12th, the Town experienced 5"-6"rain and businesses along the 1500 block of South Brightleaf Blvd, experienced flooding. This was due in part to CSX not maintaining its stormwater infrastructure. Town staff cannot clear the storm drains or ditches of debris on CSX property because it would be considered trespassing and it is also not the Town's responsibility to maintain CSX Railroad's property. Town Manager Michael Scott read the following resolution into the record:

TOWN OF SMITHFIELD
RESOLUTION #649 (16-2019)
REQUESTING CSX RAILROAD TO MAINTAIN
ITS STORMWATER INFRASTRUCTURE WITHIN THE TOWN

WHEREAS, within the Town of Smithfield, the railroad and its right-of-way is owned, maintained and controlled by CSX Corporation; and

WHEREAS, within the Town of Smithfield there is approximately 9.04 miles of railway and 5.8 miles of railroad right-of-way within the corporate Town limits; and

WHEREAS, the CSX Railroad infrastructure creates a manmade dam for storm water flowing from Smithfield into its natural tributaries to the Neuse River; and

WHEREAS, in recent years, the Town of Smithfield has experienced several major flooding events to businesses along US Highway 301 South which are adjacent to a portion of the CSX railway and right-of-way; and

WHEREAS, in February of 2017, Town staff worked with CSX to clean-up storm drainage paths along the railway which included the clean out of a 54" drainage pipe under the railroad tracks behind businesses along US Highway 301 South to prevent the potential flooding of those businesses; and

WHEREAS, on April 24, 2017, Town officials met with CSX officials to discuss drainage issues and requested the 54" drainage pipe be upgraded to a 72" drainage pipe to alleviate the potential for flooding; and

WHEREAS, CSX Railroad refuses to have an ongoing maintenance program to prevent its debris from being carried by storm water into its storm water pipes and ditches, decreasing or eliminating stormwater flow; and

WHEREAS, while CSX officials agreed to consider these requests, nothing has been updated and routine maintenance of the drainage pipes still does not occur; and

THEREFORE, BE IT RESOLVED that the Town of Smithfield is strongly urging CSX Corporation to properly and routinely maintain its stormwater infrastructure within the Town of Smithfield, update its stormwater pipes to accept the necessary stormwater flow from the surrounding areas and be a contributing neighbor of Smithfield.

AND BE IT FURTHER RESOLVED that the Town of Smithfield is requesting that CSX Corporation increase the 54" drainage pipe to a 72" drainage pipe along US Highway 301 South to limit the likelihood of future flooding events in this area of Town and undergo a normal and routine maintenance program to remove debris from its property that is likely to decrease storm stormwater flow.

Councilman Ashley asked if there was any reason why language wasn't added to the proposed resolution stating CSX's failure to maintain its infrastructure was causing significant damages to residents of Smithfield and continues to cause substantial damage. The Town Manager responded the suggested language could be added to the resolution.

Councilman Barbour asked if paragraph suggested by Councilman Ashley include the phrase "substantial financial damage". He further questioned if the Town Council take legal action against CSX Railroad. Town Attorney Bob Spence responded that those who had damages caused by the

Railroad could take legal action. He would have to investigate further to determine if the Town could take legal action against CSX Railroad

Councilman Ashley made a motion, seconded by Councilman Barbour, to adopt Resolution #649 (16-2019) with the added paragraph: "Whereas CSX Railroad's failure to maintain its right of ways and drainages ditches has caused substantial damage financial and otherwise to Smithfield residents and property owners". Unanimously approved. All members of the Council agreed to sign the resolution

TOWN OF SMITHFIELD
RESOLUTION #649 (16-2019)
REQUESTING CSX RAILROAD TO MAINTAIN
ITS STORMWATER INFRACTURE WITHIN THE TOWN

WHEREAS, within the Town of Smithfield, the railroad and its right-of-way is owned, controlled and has maintenance responsibilities by CSX Corporation; and

WHEREAS, within the Town of Smithfield there is approximately 9.04 miles of railway and 5.8 miles of railroad right-of-way within the corporate Town limits; and

WHEREAS, the CSX Railroad infrastructure creates a manmade dam for storm water flowing from Smithfield into its natural tributaries to the Neuse River; and

WHEREAS, in recent years, the Town of Smithfield has experienced several major flooding events to businesses along US Highway 301 South which are adjacent to a portion of the CSX railway and right-of-way; and

WHEREAS, in February of 2017, Town staff worked with CSX to clean-up storm drainage paths along the railway which included the clean out of a 54" drainage pipe under the railroad tracks behind businesses along US Highway 301 South to prevent the potential flooding of those businesses; and

WHEREAS, on April 24, 2017, Town officials met with CSX officials to discuss drainage issues and requested the 54" drainage pipe be upgraded to a 72" drainage pipe to alleviate the potential for flooding; and

WHEREAS, CSX Railroad refuses to have an ongoing maintenance program to prevent its debris from being carried by storm water into its storm water pipes and ditches, decreasing or eliminating stormwater flow; and

WHEREAS, while CSX officials agreed to consider these requests, nothing has been updated and routine maintenance of the drainage pipes still does not occur; and

WHEREAS, CSX Railroad's failure to maintain its right of ways and drainages ditches has caused substantial damage financial and otherwise to Smithfield residents and property owners.

THEREFORE, BE IT RESOLVED that the Town of Smithfield is strongly urging CSX Corporation to properly and routinely maintain its stormwater infrastructure within the Town of Smithfield, update its stormwater pipes to accept the necessary stormwater flow from the surrounding areas and be a contributing neighbor of Smithfield.

AND BE IT FURTHER RESOLVED that the Town of Smithfield is requesting that CSX Corporation increase the 54" drainage pipe to a 72" drainage pipe along US Highway 301 South to limit the likelihood of future flooding events in this area of Town and undergo a normal and routine maintenance program to remove debris from its property that is likely to decrease storm stormwater flow.

Councilman Stevens stated he had spoken with the Town Manager about the businesses that have been effected by the railroad not maintaining its infrastructure. He stated this was the first step for

the Town.

2. Bid Award to Carolina Power and Stabilization in the amount of \$602,746.75 for labor to construct the Electric North Circuit

Electric Distribution Superintendent Rodney Johnson addressed the Town Council on a request to award a bid to Carolina Power and Stabilization for the labor to construct the Electric North Circuit. Mr. Johnson explained in June 2018, Council approved the most recent 10-year Capital Improvement Plan (CIP) which included the construction of a North Circuit to serve future growth north of Booker Dairy Road. The circuit was needed as existing circuits are adequate; but, not suitable for large additional loads. For budgetary reasons, the project was split in two phases: Underground and Overhead. The first phase was bid and approved by Council in June. Materials are currently on order. Phase One will construct the circuit from the Brogden Road delivery point, along the Brogden Road right-of-way, then along the Old Dupree Road right-of-way, and ending as the wires come out of the ground approximately 1,000 feet south of I-95. Phase Two will take the circuit from the end of Phase One, through Town and all the way down Booker Dairy Road. Material for Phase Two will be ordered and should arrive around Thanksgiving. Construction of Phase Two will last for approximately 10 months. Once commissioned, the circuit will be ready for new customers by October 2020. Labor for Phase Two was open bid and bids were received on July 17, 2019. Seven total bidders submitted bids to provide the labor. The low bidder was identified as Carolina Power & Signalization. Staff was asking the Council to approve the low bidder so the project can continue to move forward. The circuit will serve customers on the north side of Town, with the majority of the new customers being north of Booker Dairy Road

Councilman Ashley stated this project has been a part of the Town's long term plan. Mr. Johnson responded this will allow the Town to provide electrical services to larger businesses and residential growth.

Councilman Rabil made a motion, seconded by Councilman Barbour, to accept the low bid and award the contract to Carolina Power Carolina Power and Stabilization in the amount of \$602,746.75. Unanimously approved.

3. Annexation Request Reid Smith (ANX-19-01): Consideration and request for Approval to Adopt Resolution #650 (17-2019) pursuant to G.S. 160A-31 accepting the Town Clerk's Certificate of Sufficiency and setting the public hearing

Planning Director Stephen Wensman explained this was the second step in the annexation process. Last month, the Council directed the Town Clerk to certify the annexation petition by Reid Smith. The Town Clerk did in fact certify the petition and found no issues with it. The next step will be to call for the public hearing to be held on September 3, 2019.

Councilman Barbour made a motion, seconded by Councilman Dunn, to adopt Resolution # 650 (17-2019) setting the public hearing on the request for annexation on September 3, 2019. Unanimously approved.

TOWN OF SMITHFIELD
RESOLUTION # 650 (17-2019)
FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION
PURSUANT TO G.S. 160A-31

WHEREAS, a petition requesting annexation of the non-contiguous area described herein has been received; and

WHEREAS, the Town Council has by Resolution # 647 (14-2019) directed the Town Clerk to investigate the sufficiency of the petition; and

WHEREAS, certification by the Town Clerk as to the sufficiency of the petition has been made;

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF

SMITHFIELD THAT:

Section 1: A public hearing on the question of annexation of the area described herein will be held in the Council Chambers of the Town Hall located at 350 East Market Street, Smithfield North Carolina at 7:00 pm on September 3, 2019.

Section 2: The area proposed for annexation is described as follows:

BEGINNING AT AN IRON PIPE WITH CAP, HAVING NC GRID COORDINATES OF N: 650708.13', E: 2199713.25' (NAD83/NSRS2011) THENCE S 19°34'19" W A DISTANCE OF 1143.21' TO AN IRON PIPE; THENCE S 89°26'23" W A DISTANCE OF 284.59' TO AN IRON PIPE; THENCE S 89°41'02" W A DISTANCE OF 210.42' TO AN IRON PIPE; THENCE N 89°50'16" W A DISTANCE OF 63.22' TO AN IRON PIPE; THENCE N 89°36'15" W A DISTANCE OF 750.00' TO AN IRON PIPE; THENCE N 89°36'15" W A DISTANCE OF 1095.02' TO AN EXISTING AXLE; THENCE N 53°05'31" E A DISTANCE OF 100.90' TO AN IRON PIPE; THENCE N 45°29'41" E A DISTANCE OF 203.12' TO AN IRON PIPE; THENCE N 38°44'59" E A DISTANCE OF 236.00' TO AN IRON PIPE; THENCE N 34°44'10" E A DISTANCE OF 181.09' TO AN IRON PIPE; THENCE N 26°35'47" E A DISTANCE OF 157.03' TO AN IRON PIPE; THENCE N 29°50'52" E A DISTANCE OF 455.65' TO AN IRON PIPE; THENCE N 37°13'33" E A DISTANCE OF 145.22' TO AN IRON PIPE; THENCE N 37°05'31" E A DISTANCE OF 60.31' TO AN IRON PIPE; THENCE N 43°05'41" E A DISTANCE OF 264.72' TO AN IRON PIPE; THENCE N 41°00'18" E A DISTANCE OF 473.57' TO AN IRON PIPE; THENCE S 64°03'50" E A DISTANCE OF 183.10' TO AN IRON PIPE; THENCE S 64°03'50" E A DISTANCE OF 900.00' TO AN IRON PIPE WITH CAP; THENCE S 64°03'50" E A DISTANCE OF 16.90' TO AN IRON PIPE; THENCE S 00°38'25" W A DISTANCE OF 59.59' TO AN IRON PIPE; THENCE S 66°33'31" E A DISTANCE OF 8.51' TO AN IRON PIPE; THENCE S 66°33'33" E A DISTANCE OF 436.50' TO THE POINT OF BEGINNING; HAVING AN AREA OF 3,052,413 SQUARE FEET, 70.07 ACRES AS SHOWN ON A SURVEY BY GREENBROOK SURVEYING, P.C. DATED FEBRUARY 23, 2018 AND RECORDED IN PLAT BOOK 87 PAGE 302, J.C.R.

Section 3: Notice of the public hearing shall be published once in the News and Observer Southeastern Edition, a newspaper having general circulation in the Town of Smithfield, at least ten (10) days prior to the date of the public hearing.

4. Discussion regarding the naming of Booker Dairy Road Extension

Mayor Moore informed the Council this item was on the agenda for discussion and staff was not expecting a decision by the Council at this meeting.

Planning Director Stephen Wensman explained there were some naming issues with the new section of roadway from Booker Dairy Road to Ava Gardner Avenue. Booker Dairy Road currently runs from Buffalo Road to Brightleaf Blvd. (US Hwy 301). Once the new road is completed, Booker Dairy Road will run from Brightleaf Blvd and dead end; eventually it will tie into Buffalo Road at another access point. If the Town chose to leave the name "Booker Dairy Road" as the name for the new road extension, it could create confusion in the future. Mr. Wensman stated one option would be to name existing parts of Booker Dairy Road and the new road extension up to Ava Gardner Avenue, Durwood Stephenson Highway since this was currently the name of the road from Buffalo Road to US 70 Business West. Another option would be to name the entire section Ava Gardner Avenue; from Ava Gardner Avenue to Buffalo Road. The north to south remnant of Booker Dairy Road could be renamed Old Booker Dairy Road or Booker Dairy Lane which would affect seven property owners. Staff believed the best option would be to name the road Ava Gardner Avenue. 12 properties would be affected by this.

Councilman Rabil suggested naming the new section of road as Booker Dairy Extension.

Councilman Ashley questioned if it was staff's recommendation to name the road Ava Gardner Avenue from Ava Gardner Avenue to Buffalo Road and leave Booker Dairy Road as is from Brightleaf Boulevard until it dead ends. Mr. Wensman responded in the affirmative.

Councilman Barbour suggested staff meet with the affected property owners to gain their input on the

naming of the roads. Mr. Wensman responded it was his intent to get a general idea of the Council's preference, but not make any decision at this meeting. Staff would then hold a public meeting with the property owners to gain their input. After gaining the property owner's input, he would bring it back to the Council for approval.

The Town Manager explained staff's timeline was relatively short on choosing a name. NCDOT informed the Town they anticipate completion of the road by November. Staff will need time to inform 911 communications of the address changes.

Mayor Moore state the general consensus of the Council was to follow staff's recommendation. Staff should have a meeting with the affected property owners to gain their feedback.

5. Discussion concerning the forming of a committee as defined in the Stormwater Management Plan

Planning Director Stephen Wensman addressed the Council on forming a Stormwater Management Action committee (SWAC). Mr. Wensman explained at the July Town Council meeting, the Council accepted the completed Stormwater Management Action Plan. Although the creation of the SWAC was listed as the third action step, staff was recommending the Town Council direct Staff to begin the process of forming the SWAC. Steps 1 and 2 would likely follow as part of next year's budgeting process and would be further evaluated at that time. The formation of a SWAC will likely take some time. The SWAC should be comprised of representatives of the varied community interest such as homeowner associations, developers, business owners, manufacturers, environmentalists, etc. Establishing an Advisory Committee will also help satisfy a requirement of the NSR program to educate the public. The purpose of the SWAC would be to review and discuss a range of municipal stormwater services including regulatory programs and make advisory-level recommendations to Town Management and Council regarding the extent and level of the Town's future stormwater program(s). The Council would approve the membership of the SWAC, and would ultimately make the final decision on the needed and desired future municipal stormwater management program that best fits Smithfield. The appendix covers in details of how the committee would progress.

Councilman Barbour stated the Council accepted the report, but that didn't mean the Council agreed with the report. Mr. Wensman responded the intent of the committee would be to help the Council better understand the report.

Councilman Ashley questioned what staff needed from the Council. Mr. Wensman responded he would like the Council to allow staff to identify potential committee members and to begin formulating the committee. Staff would follow the recommendation of the report and then bring it back to Council for approval.

It was the consensus of the Council to allow staff to move forward with formulating the committee. Council would approve the committee and its members at a later date.

Councilmembers Comments:

- Councilman Lee informed the Council the Smithfield Selma High School will be celebrating its 50th anniversary this year. He encouraged all alumni to be a part of the year-long celebration. Councilman Lee expressed his frustration with Johnston Community College's relationship with East Smithfield. He expressed frustration with the Smithfield Police Department and the Town Manager. He explained that no one wanted to talk about race relations in the Town. He suggested that during the budget, the Council should go to every part of Smithfield to know what is needed in the Town.
- Councilman Barbour reminded everyone of the Blood Drive at the SRAC and the Muddy Water Football scrimmage at Smithfield Selma High School. He stated it was important to support the local athletic teams. He stated the Town was still investigating sidewalks along Wilson's Mills Road. He informed the Council that he attended the NC Drone Summit. The Town currently has two drones and five employees trained to operate the Town's drones.
- Councilman Ashley informed the Council that he had the pleasure of attending the 50th Anniversary ceremony of the Pine Acres neighborhood. He stated it was an amazing event. Mayor Moore

thanked Councilman Ashley for attending this event of behalf of the Town.

- Councilman Stevens informed the members of the Council that Smithfield Middle School used funds given to them by the Town to purchase mats for the walls in the gym.

Town Manager's Report:

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

- Due to the heavy rain the River Rat Regatta is re-scheduled for Saturday, August 17th at 4:00 pm. A band will follow at 7:00. 22 boats are currently registered for the event.
- The new ladder truck delivery date has been moved to August 26th. Staff is inspecting the truck in Nebraska today to approve the delivery.
- National Night Out took place on August 6th. It was a very successful event and partnership with JCC. While an attendance count was not taken we know that over 1,000 hotdogs were cooked, and 40 pizzas distributed to those in attendance.
- A ground breaking ceremony is scheduled for the new Hampton Inn behind the Golden Coral for Wednesday, August 28th at 10:30 am on site.
- A highlight of each department's monthly activities was given to the Council

Adjournment

Being no further business, Councilman Rabil made a motion, seconded by Councilman Barbour, to adjourn the meeting. Unanimously approved. The meeting adjourned at approximately 9:41 pm.

ATTEST:

M. Andy Moore, Mayor

Shannan L. Parrish, Town Clerk