

The Smithfield Town Council met in regular session on Tuesday, March 1, 2016 at 7:00 p.m. in the Council Chambers of the Smithfield Town Hall Mayor M. Andy Moore, presided.

Councilmen Present:

Emery D. Ashley, Mayor Pro-Tem
Marlon Lee, District 1
J. Perry Harris, District 2
Travis Scott, District 3
Roger A. Wood, District 4
John A. Dunn, At-Large
Stephen Rabil, At-Large

Councilmen Absent

Administrative Staff Present

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

Present:

Bob Spence, Town Attorney

Staff Absent:

Bill Dreitzler

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

APPROVAL OF AGENDA:

Councilman Harris made a motion, seconded by Councilman Scott to approve the agenda with the following amendments:

Add to Presentations: 2. Proclamation Recognizing the 2015 – 2016 Smithfield Selma Senior High School Boys' Varsity Basketball Team

Add to Business Items: 4. Authorization to apply for the SAFER Grant (Staffing for Adequate Fire and Emergency response) by the Fires Department.

Remove from the Consent Agenda and add as Business Item 5: *Bid Award and contract approval for the 2015-2016 Street Resurfacing Project.*

Unanimously approved.

PRESENTATIONS:

1. Smithfield Police Department's Officer of the Year – Richard Conerly

Chief of Police Michael Scott addressed the Council on the Smithfield Police Department's Officer of the Year, Officer Rick Conerly. This employee is nominated by secret ballot, completed by every member of the police department. The officer receiving the most votes is then reviewed by a recognition committee consisting of four lieutenants and the Patrol Commander. The committee then makes a recommendation for Officer of the Year to the Police Chief, who has the final say as to this award. The Officer of the Year for the Smithfield Police Department, 2015 is Officer Rick Conerly. This is Officer Conerly's second time to receive this award.

Officer Conerly is a member of Patrol Team "D". Officer Conerly has been extremely dedicated to the department and its mission during 2015. Officer Conerly often gives freely of his personal time to attend recognition announcements for new hires, as well as other officers. He has served as an acting sergeant on his squad, while also training several probationary officers through the department's field training program. He is also one of the two certified Drug Recognition Experts (DRE) who are members of the Smithfield Police Department.

Mayor Moore presented Officer Rick Conerly with a plaque identifying him as the 2015 Police Officer of the Year.

2. Proclamation – SSS High School Boys’ Varsity Basketball Team

Councilman Lee and Mayor Moore presented the 2015-2016 SSS High School Boys’ Varsity Basketball Team with a proclamation recognizing their outstanding accomplishments.

PROCLAMATION Recognizing the 2015 – 2016 Smithfield Selma Senior High School Boys’ Varsity Basketball Team

WHEREAS, the Smithfield Selma Senior High School Boys’ Varsity Basketball Team under Coach Cuddington and Assistant Coach Holder, is to be recognized and honored for their outstanding basketball season; and

WHEREAS, this has been an exciting; hard fought and successful basketball season for the 2015 – 2016 boys’ varsity team; and

WHEREAS, by its extraordinary efforts, this dynamic team was successful in being named the Two Rivers 3A Conference Champions and ending the season with an amazing record of 17-10; and

WHEREAS, the team’s accomplishments are consistent with Coach Cuddington’s and Coach Holder’s dedication to academic excellence, personal growth and team unity; and

WHEREAS, special commendation is due all team members, to Coach Cuddington and to Assistant Coach Holder; and

NOW, THEREFORE, I, M. Andy Moore, Mayor of the Town of Smithfield along with the members of the Smithfield Town Council congratulates the Smithfield Selma Senior High School, its boys’ varsity basketball team, its coaches, its athletic department and all people associated with the basketball team for the outstanding accomplishments

PUBLIC HEARINGS:

1. Rezoning Request by Royal Property: (RZ-16-01)

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

Planning Director Paul Embler addressed the Council on a rezoning request by Royal Property. Mr. Embler explained that the applicant is requesting to rezone approximately a .18 acre tract of land from the R-8 (Residential) zoning district to the B-3 (Highway Entrance Business) zoning district. The property considered for rezoning is located on the east side of Waddel Drive approximately 120 feet north of its intersection with North Brightleaf Boulevard. The property is further identified as Johnston County Tax ID# 15005031.

Planning Director Paul Embler has incorporated his entire record and provided it to Council in written form in the March 1, 2016 agenda packet.

The Planning Board, at its February 4, 2016 meeting, unanimously voted to recommend approval of the request to rezone approximately .18 acres of land from the R-8 (Residential) zoning district to B-3 (Highway Entrance Business) zoning district.

The Planning Department recommends approval of the request to rezone approximately .18 acres of land from the R-8 (Residential) zoning district to B-3 (Highway Entrance Business) zoning district.

Mayor Moore asked if there were any comments/questions from those present in the audience.

Mike McLamb, of Four Oaks, stated he is the applicant for the proposed project and owns Sun Auto Wash. Mr. McLamb was in agreement with the staff report offered by Mr. Embler.

Mayor Moore asked if there were any questions from Council.

Mayor Pro-Tem Ashely questioned if any of the neighbors had contacted the Planning Department regarding this rezoning. Mr. Ember responded that the planning department staff had not been contacted.

Councilman Lee stated that he had no issues with the rezoning, but a nearby resident had expressed concerns because the building needed to be exterminated and it was causing problems with his property.

Mr. McLamb responded that he would speak with the resident because the intent was to demolish the residential structure currently on the property.

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

The Written Finding of Facts

Article 13 Section 13-17 of the Town of Smithfield Unified Development Ordinance requires all applications for a zoning map amendment to address the following eight findings. The Council has the responsibility to determine if the zoning map amendment is warranted. The Town Council of the Town of Smithfield decided the matter of this rezoning application by motion and vote on each of the following eight findings of fact.

Mayor Pro-Tem Ashley made a motion, seconded by Councilman Wood, to vote in the affirmative to the below Finding of Facts. Unanimously approved

Finding One of Eight: Approved

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

The rezoning request from a Residential zoning district to a Business zoning district meets all the Town's plans and policies and will blend in well with the adjacent land uses. The Comprehensive Land Use Plan directly indicates the subject property is adjacent to properties identified as best suited for commercial land uses.

Finding Two of Eight: Approved

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

Although no know compatibility issues with adjacent land uses have occurred in the past, rezoning the property to the B-3 (Business) zoning district will allow for wider range of land uses to include professional offices, retail sales, and car washes.

Finding Three of Eight: Approved

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

Rezoning petition is compatible with the changing neighborhood conditions that might warrant a rezoning because the North Bright Leaf Boulevard corridor is a heavily traveled corridor considered ideal for intense commercial endeavors. Most of the lots that existed from many years ago were very small and it is not uncommon for multiple lots to be rezoned and recombined into larger lots to accommodate modern commercial endeavors.

Finding Four of Eight: Approved

The rezoning request is in the community interest

The rezoning will allow for a wider range of commercial and office uses and provide additional office space and services for the residents of Smithfield. The development that will occur from the rezoning will increase the tax base as an additional benefit.

Finding Five of Eight: Approved

The request does not constitute “Spot Zoning”

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

Finding Six of Eight: Approved

Present regulations deny or restrict the economic use of the property

The property is currently zoned R-8 (Residential). The R-8 zoning district allows for single family dwellings and rezoning the property to B-3 (Business) will not create a nonconformity since single family dwellings are permitted in the B-3 (Business) zoning district as well. However, additional office and commercial uses such as those permitted in the B-3 (Business) zoning district cannot occur unless the property is rezoned.

Finding Seven of Eight: Approved

The availability of public services allows consideration of this rezoning request

In addition to public water and sewer being available to the site, the property is served by Town of Smithfield with electricity. CenturyLink and Time Warner also serve the area with phone and

Finding Eight of Eight: Approved

Physical characteristics of the site prohibit development under present regulations

There are no physical restraints to the area considered for rezoning such as wetlands, stream buffers, potential flood hazard areas and storm water. There is no limiting geological and hydrological formation that would prohibit development (rock outcrops, lakes, etc.).

Record of Decision: Approval of Rezoning Request #RZ-16-01

Mayor Pro- Tem Ashley made a motion, seconded by Councilman Scott that based upon satisfactory compliance with the above stated eight findings and fully contingent upon full incorporation of all statements entered into the record by the testimony of the applicant and applicant’s representative moved to approve the Rezoning Petition RZ-16-01. Unanimously approved.

2. Conditional Use Permit request by Run Right Auto (CUP-16-02)

Town Clerk Shannan Williams affirmed those that wished to offer testimony during the Public Hearing.

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

Planning Director Paul Embler addressed the Council on a request by Run Right Auto. Mr. Embler stated that the applicant was requesting a conditional use permit to allow for an outdoor storage yard of automobiles designed to accommodate 16 vehicles and located within a B-3 (Highway Entrance

Business) zoning district. The property considered for approval is located on the south side of Whitley Farm Road approximately 5200 feet southwest of its intersection with Brogden Road. The property is further identified as Johnston County Tax ID# 15K11026H. Mr. Embler explained that the applicant had submitted a revised site plan showing a paved and screened parking lot designed to accommodate 16 automobiles. Outdoor storage is consistent with the Comprehensive Land Use Plan and permitted at most locations providing screening requirements are met.

Planning Director Paul Embler has incorporated his entire record and provided it to Council in written form in the March 1, 2016 agenda packet.

The Planning Board at its February 4, 2016 meeting unanimously voted to recommend approval of the petition for an automobile storage lot on property located within the B-3 (Highway Entrance Business).

The Planning Department recommends approval of the proposed storage yard of automobiles providing that all parking spaces are paved and screening of the storage yard is installed in accordance with the minimum developments standards of the Town of Smithfield Unified Development Ordinance.

Mayor Moore asked if there were any comments/questions from those that had been duly affirmed to offer testimony.

Mr. Purmul, the applicant of 106 Muirfield Lane, Clayton, stated that he was in agreement with the testimony offered by Mr. Embler and asked that the Council consider allowing him to gravel the proposed parking lot instead of paving it.

Mayor Moore asked if there were any questions from Council.

Councilman Harris questioned if there would be a fence around the storage area. Mr. Purmul responded that there is a fence around the area and vehicles could not be seen from the road

Mayor Pro-Tem Ashley questioned if the applicant had any code violations. Mr. Embler responded that the applicant had code violations in the past, but he corrected those issues. Mr. Purmul stated that he just wanted to do it the right way.

Councilman Rabil questioned if there would be more than 16 cars in the storage area. Mr. Purmul responded that there would not be more than 16 cars in the storage area at any one time.

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

The Written Finding of Facts

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

Mayor Pro-Tem Ashley made a motion, seconded by Councilman Harris, to vote in the affirmative to the below Finding of Facts. Unanimously approved

Finding One of Four: Approved

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

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

Finding Two of Four: Approved

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

The proposed automobile storage lot at this location conforms to standards and practices of sound land use planning and the Town of Smithfield Unified Development Ordinances. The revised site plan shows a screened parking area designed to accommodate 16 vehicles and meets all other parking requirements of the Town of Smithfield Unified Development Ordinance.

Finding Three of Four: Approved

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

The proposed automobile storage lot at this location will not substantially injure the value of adjoining or abutting property and will not be detrimental to the use or development of adjacent properties or other neighborhood uses providing required landscape buffers, street yards and screening are maintained in accordance with minimum development standards and that no more than 16 automobile awaiting repair are on site at any given time and are located in the designated parking area.

Finding Four of Four: Approved

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

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

Record of Decision: Approval of Conditional Use Permit Application # CUP-16-02

Mayor Pro-Tem Ashley made a motion, seconded by Councilman Dunn, that based upon satisfactory compliance with the above four stated findings and fully contingent upon acceptance and compliance with all conditions (The applicant cannot have any more than 16 cars in the storage area and the lot must be paved) 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-16-02. Unanimously approved.

3. Financing of multiple Water and Sewer Projects and to allow citizen input on an application to the Local Government Commission for the financing of these projects and approval of Resolution # 577 (04-2016)

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

Finance Director Greg Siler addressed the Council stating that the North Carolina General Statute 160A-20 requires a unit of local government to hold a public hearing before entering into a contract involving the purchase or improvement of real estate. Mr. Siler explained that the Town of Smithfield was considering the financing of multiple water and sewer projects. The projects are as follows:

- Install NC210 Sewer Line and Pump Station #3 Upgrade (\$265,000)
- Install a Chlorine Dioxide System (\$130,000)
- Install SCADA System (\$60,000)
- Install a Bypass Lift Station (\$50,000)
- Purchase 9 Spare Pumps for Lift Stations (\$50,000)
- Purchase Gently Used Backhoe (\$81,500)
- Purchase Sludge Handling Equipment (\$100,000)
- Purchase Air Compressor/Concrete Saw/Trench Shoring Equipment (\$41,000)
- Replace Switch Gear Control at High Service Pump (\$62,000)
- Replace Electric Panels, Breakers and Elevate 2 Transformers (\$80,000)
- Replace Automatic Switch and Control Panels on Generator (\$90,000)
- Replace Valves around Plant (\$30,000)
- Replace Water Values Around Town (\$50,000)
- Replace 2 Inch Water Line Off Vermont Street (\$25,000)
- Upgrade SCADA for Modem Line (\$37,000)
- Rebuild Raw Water Pump (\$30,000)

Mr. Siler explained that the loan amount was approximately \$1,181,500. Interest is fixed at an indicative rate of 3 % for 7 or 10 years. Payments would be made twice a year, estimated at \$94,198 (\$188,396 annually) for seven (7) years or \$68,823 (\$137,646 annually) for ten (10) years if offered.

Mayor Moore asked if there were any questions/comments from those in attendance. There were none.

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

Councilman Harris made a motion, seconded by Councilman Lee, to close the public hearing. Unanimously approved.

Councilman Harris, seconded by Councilman Roger Wood, to approve Resolution # 577 (04-2016) authorizing the filing of an application for approval of a financing agreement authorized by NCGS 160A-20. Unanimously approved.

RESOLUTION # 577 (04-2016)

RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION FOR APPROVAL OF A FINANCING AGREEMENT AUTHORIZED BY NORTH CAROLINA GENERAL STATUTE 160A-20

WHEREAS, the Town of Smithfield, North Carolina, desires to secure financing for the Installation of NC210 Sewer Line and Pump Station #3 Upgrade, installation of a Chlorine Dioxide System, SCADA System and bypass Lift Station; the purchase of 9 Spare Pumps for Lift Stations, Gently Used Backhoe, Sludge Handling Equipment, Air Compressor/Concrete Saw/Trench Shoring Equipment; replace Switch Gear Control at High Service Pump, Electric Panels, Breakers and Elevate 2 Transformers, Automatic Switch and Control Panels on generator, Valves around Plant and Town, 2 Inch Water Line Off Vermont Street; Upgrade SCADA for Modem Line; and Rebuild Raw Water Pump and

WHEREAS, The Town of Smithfield, North Carolina, desires to finance the Projects by the use of an installment contract authorized under North Carolina General Statute 160A, Article 3, Section 20; and

WHEREAS, findings of fact by this governing body must be presented to enable the North Carolina Local Government Commission to make its findings of fact set forth in North

Carolina General Statute 159, Article 8, Section 151 prior to approval of the proposed contract;

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Smithfield, North Carolina, meeting in regular session on the 1 day of March, 2016, make the following findings of fact:

1. The proposed contract is expedient because the installation, replacement, upgrade, or purchase of items is needed to maintain the water and sewer system, and the proposed contract would make the project feasible while ensuring proper debt management.
2. The proposed contract is preferable to a bond issue for the same purpose because the Town can correct the maintenance items in a more timely manner while taking advantage of current purchase cost and practicing proper debt management. The Town can also service the debt on this project, fund other projects, and keep a healthy fund balance without significantly increasing the tax burden on the residents of the Town. The proposed amount of up to \$1,181,500 could not be prudently raised with current appropriations, unappropriated fund balance and non-voted bonds that could be raised in a timely manner.
3. The cost of financing under the proposed contract is expected to be approximately the same as the costs of issuing general obligation bonds.
4. The sums to fall due under the contract are adequate and not excessive for the proposed purpose. The Town will carefully review proposed financing rates with the help of the LGC and will closely monitor proposed construction costs to ensure sums are not excessive.
5. The Town of Smithfield debt management procedures and policies are good, as verified by the Town's Finance Director and through annual audits. The Town is in compliance with all applicable laws and will continue to manage its debt in such a manner.
6. The maximum increase in taxes necessary to meet the sums to fall due under the proposed contract will be no greater than 0 cents per \$100 valuation and is not deemed to be excessive.
7. The Town of Smithfield, North Carolina, is not in default in any of its debt service obligations.
8. The attorney for the Town of Smithfield has rendered an opinion that the proposed Project is authorized by law and is a purpose for which public funds may be expended pursuant to the Constitution and laws of North Carolina.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Interim Town Manager is hereby authorized to act on behalf of the Town of Smithfield, North Carolina, in filing an application with the North Carolina Local Government Commission for approval of the Project and the proposed financing contract and other actions not inconsistent with this resolution.

This resolution is effective upon its adoption this 1day of March 1, 2016.

The motion to adopt this resolution was made by Councilman J. Perry Harris, seconded by Councilman Roger Wood and passed by a vote of 7 to 0.

Bid Award to BB & T in the Amount of \$1,181,500 for multiple water and sewer projects and approval of Resolution # 579 (06-2016) and Resolution # 580 (07-2016)

Finance Director Greg Siler addressed the Council on consideration to award the lowest bid to BB&T for the financing in the amount of \$1,181,500 for multiple water and sewer projects. Mr. Siler explained that the Town received financing bids from 2 of 7 lenders on a \$1,181,500 loan request. BB&T proposed 1.79% for 7 years and 2.06% for 10 years while PNC Bank proposed 1.92% for 7 years. The bids were based on a 7 year or 10 year term with semi-annual payments. The fixed semi-annual payment using BB&T's rate of 2.06% for 10 years is \$65,671 or \$131,342 annually. The fixed semi-annual payment using BB&T's rate of 1.79% for 7 years is \$90,167 or \$180,334 annually. Mr. Siler recommended that in anticipation of higher water/sewer rates, a loan term of 10 years instead of 7 years to keep annual payments lower.

Councilman Harris made a motion, seconded by Councilman Wood, to approve Resolution # 579 (06-2016) declaring the Town's official intent to reimburse itself with the proceeds of the Borrowing for any of the expenditures incurred by it prior to the issuance of the borrowing. Unanimously approved.

**TOWN OF SMITHFIELD, NORTH CAROLINA
RESOLUTION # 579 (06-2016)
DECLARATION OF OFFICIAL INTENT TO REIMBURSE**

This declaration (the "Declaration") is made pursuant to the requirements of the Unified States Treasury Regulations Section 1.150-2 and is intended to constitute a Declaration of Official Intent to reimburse under such Treasury Regulations Section.

The undersigned is authorized to declare the official intent of The Town of Smithfield, North Carolina, (the "issuer") with respect to the matters contained herein.

1. **Expenditures to be Incurred.** The Issuer anticipates incurring expenditures (the "expenditures") for multiple water and sewer projects (the "projects").
2. **Plan of Finance.** The Issuer intends to finance the costs of the projects with the proceeds of debt to be issued by the Issuer (the "Borrowing"), the interest on which is to be excluded from gross income for Federal income tax purposes.
3. **Maximum Principal Amount of Debt to be Issued.** The maximum principal amount of the Borrowing to be incurred by the Issuer to finance the Projects is \$1,181,500.
4. **Declaration of Official Intent to Reimburse.** The Issuer hereby declares its official intent to reimburse itself with the proceeds of the Borrowing for any of the expenditures incurred by it prior to the issuance of the borrowing.

Adopted this 1st day of March, 2016.

Mayor Pro-Tem Ashley made a motion, seconded by Councilman Dunn, to award the bid to BB & T in the amount of \$1,181,500 at an interest rate of 2.06% not to exceed 10 years and to approve Resolution # 580 approving the financing terms with BB & T. Unanimously approved.

**TOWN OF SMITHFIELD, NORTH CAROLINA
RESOLUTION # 580 (07-2016)
APPROVING FINANCING TERMS WITH BB & T**

WHEREAS: The Town of Smithfield ("Town") has previously determined to undertake a project for the financing of water and sewer equipment, (the "Project"), and the Finance Officer has now presented a proposal for the financing of such Project.

BE IT THEREFORE RESOLVED, as follows:

1. The Town hereby determines to finance the Project through Branch Bank and Trust Company ("BB&T"), in accordance with the proposal dated February 26, 2016. The amount financed shall not exceed \$1,181,500.00, the annual interest rate (in the absence of default or change in tax status) shall not exceed 2.06%, and the financing term shall not exceed 10 years from closing.
2. All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. The Town Manager, Interim Town Manager, and/or Mayor of the Town are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution.
3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by Town officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Officer shall approve, with the Finance Officer's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.
4. The Town shall not take or omit to take any action the Town of Smithfield or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The Town hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3).
5. The Town intends that the adoption of this resolution will be a declaration of the Town's official intent to reimburse expenditures for the project that is to be financed from the proceeds of the BB&T financing described above. The Town intends that funds that have been advanced, or that may be advanced, from the Town's general fund or any other Town fund related to the project, for project costs may be reimbursed from the financing proceeds.
6. All prior actions of Town officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Adopted this 1st day of March, 2016.

CITIZENS' COMMENTS:

- Mark Lee addressed the Council on conditions at the Smithfield Selma High School's field house. Mr. Lee explained that there is black mold and terrible conditions in an area that high school students frequented. He requested that the Town Council contact the school and the School Board to assist in getting the field house repaired/demolished. Mayor Moore responded that he would send a letter to the school and to the chairman of the School Board so that these issues can be addressed and corrected.
- Mickey Lamm expressed his concerns to the Council about the Planning Department staff and requirements of the Unified Development Ordinance.

In response to Mr. Lamm's complaints, Mayor Moore explained that the Council was investigating all issues with the UDO. At the last meeting, the Council approved hiring a consultant to update the UDO. Mayor Moore stated that he would like to appoint a committee of Council Members and possibly business owners to discuss and review the UDO with the consultant and staff. He stated that it was important for the consultant to get feedback at the beginning of the process instead of waiting until the end of the process. Mayor Pro-Tem Ashley and Councilman Dunn volunteered to serve on this committee.

Mayor Pro-Tem Ashley indicated that he received more complaints about the landscaping requirements and thus would like to review that section of the UDO first.

Mayor Moore asked Planning Department staff to do some benchmarking. He stated that he would like for staff to take the Family Dollar Store landscape plans of surrounding Towns and compare them to the requirements of the Town of Smithfield's UDO. Councilman Harris suggested that UDOs from other Municipalities be reviewed and compared.

Interim Town Manager Jim Freeman responded that he had conversation with the consultant and the update should be completed by September or October. Mr. Freeman also informed Council that by way of a required procedure, such Ordinance sections could be amended to address concerns if the Board desired.

Councilman Scott made a motion, seconded by Councilman Lee, to suspend the UDO, specifically the landscaping ordinance, and allow the Planning Board and the Town Council to look at each business on a case by case basis until the UDO is updated.

Mayor Pro-Tem Ashley asked if Councilman Scott would amend his motion stating that all landscape requirements for site plans be reviewed by the Council via e-mail. Mr. Scott agreed to that amendment stating that the committee could also review the site plans.

Mr. Freeman questioned the motions as stated and cautioned Council. According to Mr. Freeman, it appears the motions are not following a due procedural ordinance amendment process and may be an immediate ordinance moratorium and if so conflicts with requiring landscaping conditions reviewed on a case by case basis. Mr. Freeman generally explained that in order to pass an moratorium suspending an ordinance, there were legal procedural requirements such as a public hearing and evidence that the Ordinance was somehow related a threat to public health and safety.

Councilman Harris cautioned the Council about reviewing and approving site plans on a case by case basis. He explained that the landscape requirements are bases on a mathematical equation and it should be followed until the UDO is revised. Mr. Harris suggested the Council table any further discussion until the Council has had time to discuss this matter with the Interim Town Manager and the Town Attorney. Mayor Pro-Tem Ashley responded that he just wants to monitor the landscape plans and make sure they are in compliance with the UDO and investigate the problems related to those requirements.

Town Attorney Bob Spence cautioned the Council on passing a moratorium and/or immediately suspending the landscape ordinance at this evening's meeting. Mayor Moore highly recommended that the Council not take action on the proposed motion because the Town Attorney needs time to research the process of passing a moratorium.

Councilman Scott stated that his motion stood. Councilman Scott and Councilman Lee voted in favor of the motion. Mayor Pro-Tem Ashley, Councilman Harris, Councilman Wood, Councilman Dunn and Councilman Rabil voted against the motion. Motion failed 5-2

CONSENT AGENDA:

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

1. Approved the following Minutes:

January 26, 2016 – Special Meeting
 January 26, 2016 – Closed Session
 February 2, 2016 – Regular Meeting
 February 2, 2016 – Closed Session
 February 17, 2016 – Closed Session
 February 22, 2016 – Closed Session

2. Bid award and purchase approval of three Police squad cars from Deacons Jones in the amount of \$24,200 per vehicle. This purchase was approved in the FY2015-2016 budget. Bids were received from the following vendors:

- Ilderton Dodge \$25,903 (1) vehicle (State Contract Dealership)
- Deacon Jones Dodge \$24,200 (1) vehicle

3. Bid award and purchase approval of a 2016 Ford F550 Dump truck from Deacons Jones, Inc. Goldsboro in the amount of \$ 63,268.90. This purchase was approved in the FY2015-2016 budget. Bids were received from the following vendors:

- Deacon Jones Inc. Goldsboro - \$63,268.90
- Deacon Jones Inc. Smithfield - \$65,493.00
- Classic Ford Smithfield - \$67,051.00

4. Approved the Pole Attachment agreement with Fiber Technologies Network LLC.

5. Bid award to Process Wastewater Technologies (PW Tech) for the purchase and start-up of Dewatering Screw Press Equipment, per the Specifications for this project, in the amount of \$200,000.00, to dewater the waste material at the Smithfield Water Treatment Plant before disposal.

6. Approved various FY 2015-2016

<u>GENERAL FUND</u>	<u>BEFORE</u>	<u>ADJ.</u>	<u>AFTER</u>
1. Exenditures			
10-4120-9529 Debt Service/EMS Building	\$ 26,424	\$ 241,892	\$ 268,316
10-4120-9530 Debt Service/Streetscape	<u>15,125</u>	<u>205,195</u>	<u>220,320</u>
	<u>\$ 41,549</u>	<u>\$ 447,087</u>	<u>\$ 488,636</u>
 Revenue			
10-3990-0000 General Fund - Fund Balance	<u>\$ 240,300</u>	<u>\$ 447,087</u>	<u>\$ 687,387</u>

To fund early payoff of two USDA loans using General Fund fund balance as approved by Council at the December 8, 2015 meeting. Paying off 22 years early.

2. Exenditures			
10-4100-0400 General Gov. - Professional Services	\$ 90,437	\$ 9,000	\$ 99,437
10-9990-5300 General Fund Contingency	<u>222,420</u>	<u>(9,000)</u>	<u>213,420</u>
	<u>\$ 312,857</u>	<u>\$ _____</u>	<u>\$ 312,857</u>

To fund DM2 Engineering, PLLC - a three (3) month trial basis for engineering and technical support

3. Exenditures

	\$	\$	\$
10-5100-1700 Police -Equip. Maint. & Repair	47,530	3,000	50,530
10-5100-3000 Police -			
Fuel	<u>105,000</u>	<u>(3,000)</u>	<u>102,000</u>
	<u>\$</u>	<u>\$</u>	<u>\$</u>
	<u>152,530</u>	<u>-</u>	<u>152,530</u>

To construst an Internet Purchase Exchange Zone in the front parking lot of the police department

4. Exenditures

	\$	\$	\$
10-4900-3501 Planning - Contract Services	15,000	30,000	45,000
10-4900-3700 Planning - Condemnation	<u>50,000</u>	<u>(30,000)</u>	<u>20,000</u>
	<u>\$</u>	<u>\$</u>	<u>\$</u>
	<u>65,000</u>	<u>-</u>	<u>65,000</u>

To fund the Unified Development Ordinance as approved by Council at the February 2, 2016 meeting

WATER FUND

5. Exenditures

	\$	\$	\$
30-7220-0400 Water/Sewer Professional Services	30,582	22,000	52,582
30-9990-5300 Water/Sewer Contingency	<u>183,325</u>	<u>(22,000)</u>	<u>161,325</u>
	<u>\$</u>	<u>\$</u>	<u>\$</u>
	<u>213,907</u>	<u>-</u>	<u>213,907</u>

To fund Water/Sewer Rate Study with The Wooten Company as approved by Council at the February 2, 2016 Council meeting.

7. Approved **Resolution # 578 (05-2016)** Authorizing the disposition of certain surplus property and auctioning of that property by the electronic auction service of GovDeals.com.

**TOWN OF SMITHFIELD RESOLUTION # 578 (05-2016)
Authorizing the Sale of Certain
Personal Property at Public Auction**

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

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

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

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

Dept.	Vin/Ser.#	Description
Gen Gov	NTDU82/NTDU92	52) Nortel Network Telephones
Gen Gov	T7316	10) Nortel Network Telephones

Gen Gov	T7298	2) Nortel Network Telephones
Gen Gov		3) Key indicator Modules
Gen Gov		Assorted Power Supplies & cables for telephones
Gen Gov		Assorted Desk Stands for telephones
Gen Gov		25) obsolete desktop computers –hard drives removed

- The 25 obsolete computers will be disposed and recycled instead of auctioned as they have no real value.

- The Interim Town Manager or his designee is authorized to receive, on behalf of the Town Council, bids via public electronic auction for the purchase of the described property.
- The public electronic auction will be held beginning no earlier than March 14, 2016.
- The Town Council further authorizes the disposal of Town surplus property by use of a public electronic auction system provided by GovDeals Inc. The property for sale can be viewed at **www.govdeals.com**. Citizens wanting to bid on property may do so at **www.govdeals.com**. The terms of the sale shall be: All items are sold as is, where is, with no express or implied warranties; All items will be sold for cash or certified check only; Payment must be received for all items sold before they may be removed from the premises; All items sold must be paid for and removed from the site of the sale within 5 business days of the sale, or they will be subject to resale.
- The Town Clerk shall cause a notice of the public auction for surplus property to be noticed by electronic means in accordance with G.S. 160A-270(c), available on the Town of Smithfield website **www.smithfield-nc.com**
- The highest bid, if it complies with the terms of the sale, may be accepted by the Finance Director or his designee and the sale consummated.

8. Advisory Board/ Committee Appointments

- Carolyn Ennis was reappointed to serve a fourth term on the Library Board of Trustees.
- Terri Lee was reappointed to serve a second term on the Library Board of Trustees.

9. North Carolina Eastern Municipal Power Agency Board of Commissioners Appointment: Consideration and approval to endorse the appointment of Public Utilities Director Ted Credle to serve as First Alternate Commissioner representing the Town of Smithfield

10. New Hire Report

<u>Position</u>	<u>Department</u>	<u>Budget Line</u>	<u>Rate of Pay</u>
Public Utilities Director	Public Utilities	31-7230-0200	\$43.269/hr (\$89,999.520/yr)
Fire Chief	Fire	10-5300-0200	\$33.654/hr (\$70,000.32/yr)
P/T Firefighter	Fire	10-5300-0210	\$10.00/hr
Water Plant Operator I	PU – Water Plant	30-7200-0200	\$13.49/hr (\$28,059.20/yr)
P/T Lifeguard	P&R – Aquatics	10-6220-0220	\$7.50/hr
P/T SRAC Staff	P&R – Aquatics	10-6220-0210	\$9.00/hr

Unanimously approved.

BUSINESS ITEMS:

1. Approval of an Internet Purchase Exchange Zone at the Smithfield Police Department

Chief of Police Michael Scott addressed the Council on a recommendation that the Town move forward with creating an "Internet Purchase Exchange Zone" in the front parking lot of the Smithfield Police Department. Chief Scott explained that the area will be video monitored and recorded and proper signage placed in the parking lot area. The total cost of the project is about \$3,000. The police department's expenditure line for fuel is under budget due to decreased costs in fuel during the current fiscal year. \$3,000 can easily be moved from the department's Fuel line item to pay for this expenditure. This is a non-budgeted expenditure that was to be recommended for FY 2016-17 however, due to the cost and the availability of funds within the police department's current budget, it is recommended we move forward with this initiative during the current fiscal year.

Councilman Scott made a motion, seconded by Councilman Wood, to approve the initiative to create an Internet Purchase Exchange Zone in the front (Fifth Street) parking lot of the Smithfield Police Department and approve a budget amendment to move the needed \$3,000 for this expenditure from the police department Fuel expenditure line to the police department's Equipment and Maintenance expenditure line to pay for this project. Unanimously approved.

2. Award of bid to S & C Electric Company for the purchase of 1 circuit switcher in the amount of \$89,521.00 as part of the second transformer project at the Brogden Road Substation

Interim Public Utilities Director Pete Connet addressed the Council on consideration of a bid award to S&C Electric Company for the purchase of (1) Circuit Switcher in the amount of \$89,521.00 as part of the second transformer project at the Brogden Road Substation. Mr. Connet explained that this is part of the Brogden Road Substation Project and is included in the overall budget for this Capital Project. The Circuit Switcher is installed on the power line that delivers power from the Duke Energy Progress (DEP) transmission line to the second transformer. It acts as a circuit breaker to protect DEP's transmission line from any problems that we may have at the substation. There is a fifteen to eighteen week delivery time on this equipment, which puts delivery about mid-June or early July.

Councilman Harris made a motion, seconded by Councilman Wood, to award the purchase of (1) Circuit Switcher to S&C Electric Company in the amount of \$89,521.00 as part of the second transformer project at the Brogden Road Substation, per the Engineer's letter of recommendation. Unanimously approved.

3. Downtown Revitalization State Grant Application Funds

Interim Town Manager Jim Freeman addressed the Council on a request to consider a downtown project activity for submission in the State's \$96,107 grant application and grant agreement. Mr. Freeman explained that at the February 2nd meeting, Council was presented with suggested downtown projects from the Appearance Commission and the Downtown Smithfield Development Corporation. Mr. Freeman stated that due to the nature of the grant, the Council should consider choosing a project to move forward with.

A decision was tabled at that meeting pending a more condensed list of projects. Attached hereto are the top three recommendations by the Appearance Commission, the Downtown Smithfield Development Corporation and a list of all suggested projects.

- 1st Appearance Commission Priority – *Market Streetscape Lighting*
- 2nd Appearance Commission Priority – *Streetscape (sidewalk) improvements to the 100 block of South 3rd Street*

- 3rd Appearance Commission Priority – *Parking Lot Improvements: Market Street across from the Court House*
- 1st DSDC Priority – *Market Streetscape Lighting as proposed by the Appearance Commission*
- 2nd DSDC Priority – *Greenway related enhancements such as benches, picnic tables, water fountains, etc....*
- 3rd DSDC Priority - *WayFinding System, Downtown components including monumental gateways*

Mayor Moore stated that he would also like to see the clock downtown repaired.

Councilman Scott made a motion, seconded by Councilman Harris, to move forward with the Appearance Commission's first priority – The Market Streetscape Lighting Project. Once cost estimates for that project are complete, the Council should discuss other projects that could be funded with any remaining grant funds. Unanimously approved.

4. Consideration and approval to allow the Fire Department to apply for the SAFER (Staffing for Adequate Fire and Emergency Response) Grant.

Fire Chief John Blanton addressed the Council on consideration to authorize the Fire Department to apply for the SAFER Grant. Chief Blanton explained that The SAFER grant process opened on February 22nd, 2016 and closes on March 25th, 2016. The SAFER grant allows fire departments to apply for personnel. We would be applying for 12 additional needed personnel (one additional engine company per shift). The amount for the grant application would be \$1,091,904.00. The Town's responsibility if, awarded, would be of no cost to the Town for two years. After the two years, the Town would have to continue employing the personnel for one additional year. The cost to the Town would be \$545,952.00 for the third year, the fourth year there is no obligation to the Town to continue employment. The process could take between 8-12 months before notification of awarded grants. This would put, if awarded, in the 2016-2017 budget year. The Town will be responsible for providing turnout gear and uniforms to meet the NFPA standards. The costs of the turnout gear and daily uniforms would be \$3,500. 00 per person that would total if awarded \$42,000.00. This grant would not cover overtime accrued during their employment and would be the responsibility of the Town.

Councilman Harris made a motion, seconded by Mayor Pro-Tem Ashley to table this request until the next available meeting.

5. Bid Award and contract approval with J P Edwards in the amount of for the 2015-2016 Street Resurfacing Project

Since this was removed from the Consent agenda by Councilman Lee, Mayor Moore questioned if he had specific questions about the project.

Councilman Lee questioned how the streets were chosen to be repaved. He stated that Lemay Street is in need of paving and it hasn't been paved in 30 years. Public Works Director Lenny Branch responded that in 2006 an outside firm rated all the streets in Smithfield from best to worst. Working from the list, staff paves the streets in order what it can with the available Powell Bills Funds.

Councilman Rabil asked if the pavement survey needed to be revisited. Mr. Branch responded that he would like to have a firm come back and rerate the Town streets. Councilman Harris questioned that cost associated with the study. Mr. Branch responded that he would provide that information to the Council.

Mayor Moore explained that he was on the Council when the pavement study was completed. An outside firm was used primarily to take the politics out of road paving. He suggested that Mr. Branch work with Bill Dreitzler to review the conditions of the streets in Town.

Councilman Scott made a motion, seconded by Councilman Harris, to approval (1) Award the bid to JP Edwards for the amount of \$255,325.80. (2) Grant staff permission to use the left over funds \$44,674.20 to repair 156LF of curb and gutter (\$5,000), full depth patch (FDP)

276LF of damaged asphalt (\$12,696), 1”1/2 overlay 3,250.3 SY of parking lot (\$23,565.00) and restripe spaces in town parking lot behind Wells Fargo. Also, Mr. Branch and Mr. Dreitzler to look at the other streets specifically Lemay Street and bring that information back to Council. Unanimously approved.

Councilmembers Comments:

- Councilman Lee expressed his appreciation to Tony Nixon and members of staff for attending the South Campus Walk to School event. Councilman Lee also questioned if Parks and Recreation staff was charging the non-resident fees for those that do not live in Town. Parks and Recreation Director Gary Johnson responded that non-residents are charged a higher rate for services than residents. Councilman Lee also questioned if the committee that was formed to review the Pine Acres buffer had met. Mayor Pro-Tem Ashley gave a brief update on the committee’s activities.
- Councilman Wood welcomed new Public Utilities Director Ted Credle to Smithfield and expressed his appreciation to Interim Public Utilities Director Pete Connet for his service to the Town.
- Mayor Pro-Tem Ashley made a motion, seconded by Councilman Wood, to appoint Councilman Scott, to serve on the NCEMPA Board of Directors as the 2nd Alternate Commissioner representing the Town of Smithfield

Town Manager’s Report:

Mr. Freeman submitted a written report to the Council and offered a brief update on the Town Manager hiring process.

- **Department Reports**

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

Closed Session: Pursuant to NCGS 143-318.11 (a) (6)

Councilman Harris made a motion, seconded by Councilman Lee, to go into closed session pursuant to NCGS 143-318.11 (a) (6) to discuss Town Manager applications. Unanimously approved at 9:32 pm.

Reconvene in Open Session:

Mayor Pro-Tem Ashley made a motion, seconded by Councilman Scott, to reconvene in open session. Unanimously approved at 10:49pm.

Adjourn

There being no further business, Councilman Rabil made a motion, seconded by Councilman Dunn, to adjourn the meeting. Unanimously approved.

The meeting adjourned at approximately 10:50 pm.

M. Andy Moore, Mayor

ATTEST:

Shannan L. Williams, Town Clerk